IN SUPPORT OF STATE DISCRETION TO REGULATE POLLUTANTS WITHIN STATE BORDERS, THE RETENTION OF THE CLEAN AIR ACT WAIVER OF CALIFORNIA EMISSIONS STANDARDS, AND THE STATE ADOPTION OF CALIFORNIA STANDARDS

WHEREAS, states are the preferred implementing entities for national environmental regulatory programs for which federal statutes authorize their delegation; and

WHEREAS, states should have the flexibility, consistent with federal law and oversight to determine the best way for their programs to achieve and surpass national minimum standards that enables them to incorporate and integrate their unique geophysical, ecological, social, and economic conditions; and

WHEREAS, states should be the primary enforcement authority for programs delegated to the states; and

WHEREAS, consistent with Constitutional principles, states should be encouraged through flexible federal requirements to develop, pursue, and implement state innovations to effectively and efficiently achieve protections for public health and the environment; and

WHEREAS, states should generally have the ability to set standards that are more stringent or that are broader in scope than federal standards; and

WHEREAS, specifically under section 209(b) of the Clean Air Act (CAA), the United States Environmental Protection Agency (U.S. EPA) shall waive preemption if a qualified state (i.e., California) vehicle emissions standard is at least as protective of public health and welfare as applicable Federal standards; and

WHEREAS, CAA section 177 permits other states to adopt California’s vehicle emissions standards; and

WHEREAS, on June 30, 2009, U.S. EPA granted California’s request for a waiver of preemption allowing California to enforce its adopted GHG emissions standards and allowing other states to enforce as permissible under CAA section 177 (74 Fed. Reg. 32744 (July 8, 2009)); and
WHEREAS, U.S. EPA’s waiver enables California and other states to manage GHG emissions within their state boundaries in a way that best meets each specific states’ needs, and recognizes that these reductions are a large part of those states efforts to lower GHG emissions.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Finds that states must be allowed to exercise their discretion to regulate pollutants within their borders and develop standards at or more stringent than federal regulations, as long as these standards do not conflict with federal law;

Urges the U.S. Congress to retain and not limit: 1) any state’s authority to adopt or enforce pollutant standards that are more stringent than the federal standards; 2) California’s authority to adopt or enforce emissions standards for any air pollutant from any mobile source; and 3) any state’s ability under CAA section 177 to adopt California’s vehicle emissions standards.