

1 **COMMITTEE:** **Environment**

2 **POLICY:** **Air Quality**

3 **TYPE OF POLICY:** **Draft Policy Directive**

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5 **The Clean Air Act Implementation**

6 The National Conference of State Legislatures (NCSL) fully supports the goals embodied in
7 the Clean Air Act Amendments of 1990 (CAAA). ~~The CAAA represent a major step toward~~
8 ~~addressing important environmental, air quality, and public health issues. NCSL fully supports~~
9 ~~CAAA goals~~ and urges the U.S. Environmental Protection Agency (EPA) to proceed diligently
10 with full implementation of the law to achieve clean air for our citizens. It is essential that
11 Congress and the EPA fulfill their responsibilities to facilitate implementation by the states.
12 NCSL makes the following recommendations:

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14 • Implementation of the CAAA is the responsibility of the states, ~~who have a wealth of~~
15 ~~experience in implementing control programs~~. NCSL encourages Congress and the
16 EPA to pay particular attention to the voices of that state expertise and experience.

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18 • Communication with state legislators is of utmost importance because only state
19 legislators can enact enabling legislation for state programs and appropriate state
20 funds. Congress and the EPA should regularly and directly work with state legislators
21 during federal action on air quality issues.

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23 • EPA should work closely with states to assist them in developing all regulations,
24 technical assistance and funding necessary for compliance. Furthermore, EPA should

25 support any state regulation that enables that state to meet or exceed the CAAA
26 standards.

- 27
- 28 • Federal grants authorized under the CAAA provide financial resources to the states for
29 development and implementation of air quality programs and other clean air
30 responsibilities. Congress and the EPA must ensure that states continue to receive
31 adequate funding to cover all costs of program management including monitoring.
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 - 33 • Because the states have existing air pollution control programs to administer with
34 current federal funding, any new air quality programs or responsibilities mandated by
35 Congress or EPA should be accompanied by additional federal funding.
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 - 37 • ~~The CAAA contain many sweeping and general mandates which will involve the~~
38 ~~exercise of broad discretion and interpretation by the EPA for their implementation.~~
39 NCSL urges EPA to provide as much administrative flexibility as the law allows in
40 order to achieve clean air goals in the most cost effective and efficient manner.
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 - 42 • Cost-effectiveness should be permitted as a factor in state selection of transportation
43 control measures and emissions control strategies.
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 - 45 • ~~Numerous sections of the CAAA require the EPA to develop regulations and technical~~
46 ~~guidance for the states to follow in their implementation process. The regulations and~~
47 ~~guidance are essential to state efforts to implement complete and adequate state~~
48 ~~programs that fully comply with the CAAA. Often the EPA is very late in publishing~~
49 ~~regulations and technical guidance for state programs and responsibilities. Such~~

50 ~~delays leave little or no time between the publication of the documents and the~~
51 ~~statutory deadlines for state compliance.~~ NCSL urges EPA to meet all deadlines for
52 publication of documents required under the CAAA. NCSL urges Congress to amend
53 the law to replace statutory deadlines for state action with language that provides a
54 specific time period for state compliance after document publication.

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56 • NCSL urges EPA to act expeditiously to enact the required regulations necessary to
57 reduce emissions from federally preempted sources. Failure to act to require emission
58 reductions from federally preempted sources can impede a state's ability to achieve
59 attainment in some areas despite any and all actions available to a state in
60 development of their state implementation plans.

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62 • NCSL urges Congress to develop and implement sustainable management policies
63 which will reduce fuel loadings on federal lands, thereby reducing emissions from
64 catastrophic wildfires and improving carbon sequestration on those lands.

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66 • EPA should provide training opportunities for states to help develop the skills and
67 understanding needed to properly implement the CAAA. In addition, EPA should
68 provide informational resources to help the public understand its role in achieving
69 CAAA goals.

- 70
71 • ~~To address ozone nonattainment problems, the CAAA require significant nitrogen~~
72 ~~oxide (NOx) and volatile organic compound (VOC) emission reductions to be obtained~~
73 ~~from both stationary and mobile sources. Since any reductions that are not obtained~~
74 ~~from mobile sources must be obtained from stationary sources,~~ Congress and EPA

75 should take maximum advantage of tools and strategies to reduce emissions from
76 mobile sources including but not limited to promoting alternative fuels and encouraging
77 strict exhaust standards for light duty vehicles.

- 78
- 79 • Federal highway legislation should be made consistent with CAAA objectives. The
80 EPA and the Department of Transportation (DOT) should work together to ensure
81 coordination of federal policy.

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- 83 • NCSL urges the adoption of national energy, transportation and other policy that
84 emphasizes energy conservation in order to help achieve the goals of the CAAA. This
85 should include strengthening of emission standards for automobiles as technologies
86 improve, more energy-efficient lighting, buildings, and transportation, and more
87 research and use of alternative forms of energy.

- 88
- 89 • NCSL urges the federal government to expeditiously apply the same CAAA
90 requirements to federal facilities and motor vehicle fleets that are required for state
91 facilities and fleets.

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93 **Multi-Pollutant Legislation**

94 The National Conference of State Legislatures (NCSL) fully supports the underlying goals of
95 the Clean Air Act Amendments of 1990 (CAAA) which represent a major step toward
96 addressing important environmental, air quality, and public health issues. NCSL further
97 believes that national efforts to fully implement the CAAA, to maintain and enhance air quality
98 at the local, state and national level requires Congressional action on multi-pollutant
99 legislation.

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NCSL urges Congress to act expeditiously on multi-pollutant legislation to provide certainty in a time of limited federal and state resources and to enhance the impact of this federal program which is implemented at the state level. As technology progresses, efforts to reduce and/or eliminate one set of emissions often produce co-benefits that affect the emission rates of other pollutants. These advancements should be taken into consideration when establishing uniform minimum federal standards for reduction of air pollutants within the context of the existing state-federal partnership of the CAAA. New legislation enacted by Congress should ensure the ability of all stakeholders to move forward with air pollutant emission reductions, enhance the environment and protect public health while providing a stable planning environment for energy providers and consumers.

NCSL recommends that:

- New federal standards should maintain and renew the commitment to statutory authority for states to enact state environmental standards that are more stringent than their minimum federal counterparts.
- New federal standards should acknowledge the existence of state programs and agreements in accord with these standards and should not preempt their continued implementation.
- New federal standards should be accompanied by adequate federal funding and technical assistance that are essential to state efforts to implement complete and adequate state programs that fully comply with these standards.

- 125 • New federal standards should provide states with maximum flexibility to apply the law
126 effectively to all sources of emissions and ensure achievement of clean air goals in the
127 most cost effective, timely and efficient manner for each state.

- 129 • New federal standards should allow states to maintain all of the enforcement tools
130 available to states under the CAA to ensure compliance with state implementation of
131 federal regulations.

- 133 • New federal standards should permit states to allow sources to trade emissions
134 reductions and protect state authority to restrict which emissions may or may not be
135 traded within a state's borders.

- 137 • New federal standards should allow for regional air planning coordination among
138 states whenever they agree to address and act on issues with regional air quality
139 implications. *(Language incorporated from existing NCSL Multi-Pollutant*
140 *Legislation Policy)*

142 **Sanctions**

- 143 • States should not be sanctioned for non-compliance if state's failure to comply was the
144 result of EPA's failure to adhere to CAAA deadlines for promulgation of regulations or
145 technical guidance that provide details and requirements of state programs.

- 147 • EPA should have the authority to waive sanctions on states that EPA determines are
148 making reasonable good faith efforts to comply with CAAA requirements and
149 deadlines.

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151 **New Source Review Program**

152 The National Conference of State Legislatures (NCSL) urges the Environmental Protection
153 Agency (EPA) to reform the NSR program to achieve improvements that enhance the
154 environment and increase production capacity, while encouraging efficiency, fuel diversity
155 and the use of resources without weakening the requirements intended to reduce emissions
156 from new or modified sources of air pollution. Routine maintenance, repair or replacement
157 activities which are not major modifications should not trigger NSR requirements. *(Language*
158 *incorporated from the existing NCSL New Source Review Program joint policy)*

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160 **Motor Vehicle Inspection and Maintenance**

161 NCSL believes that:

- 162 • States should be granted flexibility to design inspection and maintenance (I/M)
163 programs that achieve air quality targets and should receive full credit for emissions
164 reductions those programs achieve.

- 166 • Congress and EPA should not require the states to use specific I/M technologies.
167 Such rigid federal requirements may fail to account for technological advances in
168 emissions testing programs and equipment.

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170 **Alternative Fuels and Alternatively Fueled Vehicles**

171 The National Conference of State Legislatures NCSL urges the federal government to
172 encourage an increase in the research, development and promotion of alternative fuels
173 derived from domestic sources and alternatively fueled vehicles, including their commercial
174 production and use, and to devote federal funds to evaluate the environmental and economic

175 impacts of alternative fuels and alternatively fueled vehicles. Alternative fuels and
176 alternatively fueled vehicles can reduce the level of toxic and other emissions from vehicular
177 use, reduce our dependence on imported oil, improve our national security, help to balance
178 our trade deficit and help cities, counties and local governments comply with the Clean Air
179 Act Amendments and other legislative mandates. This research, development and promotion
180 of alternative fuels and alternatively fueled vehicles should have as its primary purposes-The
181 **primary purpose of these efforts should be** reducing the level of air pollutants and other
182 emissions, reducing U.S. dependence on foreign oil, and providing a low cost, reliable energy
183 source. NCSL further urges Congress to develop policies to encourage domestic
184 manufacture of the infrastructure and equipment necessary to produce alternative fuels.

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186 The Clean Air Act Amendments (CAAA) attempt to address the issue of air quality by
187 requiring states and regional authorities to develop comprehensive plans to control air
188 pollution. A significant number of metropolitan areas in the United States have been identified
189 by the U.S. Environmental Protection Agency (EPA) as not meeting health based standards
190 for carbon monoxide, nitrous oxides, ozone and sulfur oxides, particulates and other
191 pollutants. According to the EPA, much of the pollution in these nonattainment areas can be
192 directly traced to mobile source emissions. By themselves, traditional methods apparently are
193 no longer capable of effectively ameliorating the increasingly negative impact of these
194 emissions. As a result, NCSL recommends the exploration and evaluation of all forms of
195 alternative domestic fuels and alternatively fueled vehicles in order to reduce the incidence of
196 toxic air emissions. NCSL recommends caution in promoting the replacement of traditional
197 fuels with alternative fuels that could result in other pollution problems.

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199 NCSL supports a federal Clean Alternative Fuels program that includes but is not necessarily
200 limited to methanol, ethanol, or other alcohols, reformulated gasoline, ultra-low sulfur diesel,
201 biodiesel, natural gas, liquefied petroleum gas, and hydrogen or other power source
202 (including electricity). However, NCSL recommends that this program take into account other
203 uses of source products, i.e. grains, when making recommendations for fuel usage or setting
204 new national standards. Furthermore, NCSL urges Congress to improve the availability of
205 source materials from our federal lands in accordance with multiple use mandates.

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207 NCSL is concerned that the further development of alternative domestic fuels, alternatively
208 fueled vehicles and conservation devices will depend, at least in the near future, upon the
209 continued availability of tax credits designed to encourage investment in these technologies.

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211 While tax credits and exemptions are important to the creation of an alternative fuels market,
212 NCSL recognizes their negative fiscal impact on the overall federal budget, as well as
213 inequities in the Highway Trust Fund. Consequently, NCSL urges Congress to:

- 214 • **Encourage** encourage the use of alternative fuels through incentives that will increase
215 the production and development of new vehicles with alternative fuels capability and
216 vehicle conversion, in lieu of alternative fuels tax exemptions.
- 217 • **Make federal** Federal tax credits available to alternative fuel production facilities
218 should be extended for a limited time.
- 219 • Congress is urged to phase **Phase** out the tax credits for the research and
220 development of alternative domestic fuels and alternatively fueled vehicles when the
221 technology or changing policies relating to petroleum-based fuels makes the product
222 competitive in the market place.

223 • In an effort to mitigate the state-specific impact of these and other federal policy
224 changes, states should retain taxing authority to ensure that alternative fuels are
225 competitively priced.

226 • Retain state taxing authority to ensure that alternative fuels are competitively priced in
227 an effort to mitigate the state-specific impact of these and other federal policy
228 changes.

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230 NCSL believes that the development, promotion and use of alternative fuels derived from
231 domestic sources and alternatively fueled vehicles is consistent with the primary goals of a
232 national energy policy that calls for the most efficient use of energy, a comprehensive energy
233 conservation strategy and the development and promotion of alternative renewable energy
234 sources.

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236 NCSL believes that there should be no warranty invalidation incurred by a provider if ASTM
237 standards are met for the fuel and the vehicle is approved for that fuel.

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239 In areas required under CAAA to utilize reformulated gas (RFG) or oxygenated fuels,
240 selection of alternative fuel additives should be left to the discretion of the affected state,
241 where costs, safety, and economic and environmental impacts can be considered.

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243 With regards to fuel additives, NCSL recommends the following:

244 • Prior to approval of fuel additives, U.S. EPA should examine public health benefits and
245 cross-media implications.

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247 • Any fuel requirements should be in the form of performance-based goals. No specific
248 chemicals or other additives should be prescribed in order to maximize state flexibility
249 to achieve the goals.

251 • Any fuel requirement should be based on anticipated air quality benefits. (*Language*
252 *incorporated from existing NCSL Alternative Fuels and Alternatively Fueled*
253 *Vehicles Policy*)

255 **Low Emission Vehicles and Zero Emission Vehicles**

256 NCSL believes that:

- 257 • EPA should maintain national Low Emission Vehicle (LEV) standards, referred to as
258 the 49-state car, that are stricter than the law requires. States should be allowed, but
259 not required, to adopt Zero Emission Vehicles (ZEV) requirements.

261 Clean Diesel

262 Over the past decade, progress has been made with curbing diesel fuel emissions. The U.S.
263 Environmental Protection Agency's (EPA) Clean Air Non-road Diesel Rule and a 2000 rule
264 requiring the reduction of sulfur levels in highway diesel fuel stand as two significant
265 examples. State anti-idling and state diesel inspection and maintenance programs, EPA's
266 National Clean Diesel Campaign and Clean School Bus USA program, as well as various
267 private sector initiatives further serve as critical examples of efforts that are of enormous
268 benefit to the public health, the economy and the environment and assist states with meeting
269 Clean Air Act ambient air quality standards.

271 ~~To produce even greater environmental and health benefits and to assist states with~~
272 ~~managing local nonattainment problems, the National Conference of State Legislatures The~~
273 ~~NCSL supports the priority given to diesel retrofit projects under the Congestion Mitigation~~
274 ~~and Air Quality Program. NCSL believes that, due to the cost-effectiveness of diesel retrofit~~
275 ~~projects, funding should be substantially increased and provided for the Diesel Emissions~~
276 ~~Reduction Program administered by the EPA and that this funding should not jeopardize the~~
277 ~~availability of retrofit funding through federal supplemental environmental projects. The~~
278 ~~program has been tremendously oversubscribed and leveraged millions of additional dollars~~
279 ~~in matching funds. As a result, NCSL supports the reauthorization of the Diesel Emissions~~
280 ~~Reduction Program for another five years from FY2012 to FY2016. NCSL further believes~~
281 ~~that the EPA should maximize efforts to ensure that diesel-fueled vehicles entering the United~~
282 ~~States from bordering and other foreign countries should meet or exceed U.S. and state~~
283 ~~environmental standards. (*Language incorporated from the existing NCSL Clean Diesel*~~
284 ~~*Policy*~~

286 **Transportation Conformity with State Air Quality Plans**

287 NCSL supports the principles underlying transportation conformity provisions of the Clean Air
288 Act that requires new or revised state transportation implementation plans (TIPs) to conform
289 to the purpose of state air quality plans, also referred to as state implementation plans (SIPs).

291 Furthermore, NCSL believes that:

- 292 • Adequate funding should be made available to cover the cost of the resource-intensive
293 requirements for development, revision and implementation of conforming TIPs.

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295 | • In evaluating the emissions budgets submitted by states, EPA should ensure state
296 | flexibility in balancing the burden of reduction among all air pollution sources.

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298 | • Conformity requirements should be limited to nonattainment areas and areas at risk of
299 | becoming nonattainment.

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