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## The issue is pollution, not jurisdictional disputes

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By Henry A. Waxman

**F**OR MORE than a decade, I have stood shoulder to shoulder with environmentalists in trying to improve our nation's Clean Air Act. The heart of this fight has been tighter emission standards for cars and trucks, which are the primary cause of air pollution.

With each passing year of inaction, our frustration grew and our air quality deteriorated. Now there's finally some good news. Last month I joined with many of my colleagues in crafting a historic compromise. This agreement, which requires tough new automotive controls, should pave the way for Congress to enact a new law. This means that Californians — and all Americans — can start breathing easier.

The new agreement strengthens the president's clean-air proposal and California's own standards in a number of significant ways.

First, the compromise adopts a new, two-phase program of tighter federal tailpipe standards. The initial phase applies California's strict tailpipe standards nationally to all cars and light-duty trucks, starting in 1994. And, as in California, motor vehicle pollution controls must be certified to last the full useful life of the vehicle (100,000 miles).

This national requirement of cleaner cars and more durable pollution equipment will significantly reduce nitrogen oxide and hydrocarbon emissions. This is particularly important to California, since such a large percentage of our cars — over 20 percent — originate out of state and pollute at levels that exceed California's standards.

The second phase of standards, which are written into the law and will be required in the year 2003 unless the Environmental Protection Agency decides they are not needed or feasible, are more than double the stringency of even any proposed California standards. These tough standards surely will be needed and will be both feasible and cost-effective by that date. They will provide significant air-quality benefits.

While the most vital component of the agreement is the strong tail-

pipe standards, it contains many other crucial components that will benefit California, among them:

- A new mandatory program to control vehicle-evaporative emissions — which are not now regulated by California or EPA.

- Mandatory use of on-board vapor recovery to control refueling emissions. Although California does not require on-board controls, the EPA has concluded that this is the most effective way to control refueling emissions, which contribute to ozone smog and present a toxic-air health threat.

- A new mandatory program to control air toxic emissions, especially benzene and formaldehyde, from motor vehicles. These emissions are largely unregulated in California.

- Elimination of provisions to "average" motor vehicle emissions. President Bush's proposal permitted manufacturers, even in California, to meet emission standards, not on every car, but on the averaged emissions of all cars in a fleet, which would have allowed higher auto emissions in many cars than we have today and would have dramatically increased pollution.

- Elimination of provisions in the Bush proposal allowing the EPA to override the authority of California and other states to establish tailpipe standards more stringent than federal standards.

**U**NFORTUNATELY, those who criticize the tailpipe agreement, including the California Air Resources Board, disregard the compromise's long list of strengthening improvements and concentrate instead on our provisions for controlling pollution for "off-road" vehicles, such as locomotives or construction equipment.

Because off-road engines are now unregulated and can be big polluters, Congress' compromise would impose federal controls. If properly implemented, this is the most effective and inclusive regulatory system. The ARB's complaint is that, in the process, state regulation is pre-empted.

No agency — especially one as well-regarded as the ARB — is ever happy to lose jurisdiction. But who controls off-road sources is far less important than assuring that they are effectively controlled. In fact, up to two-thirds of off-road vehicle emissions in California's south coast come from interstate sources, which are already beyond ARB's jurisdiction and subject only to federal control.

Comprehensive federal regulation of all significant off-road sources is far more effective than state regulation of only a percentage of these sources. This is particularly true since, to date, California has not issued any regulations on the off-road vehicles within its jurisdiction.

Especially disturbing is ARB's bewildering misconstruction of the pre-emption language on non-road sources. ARB maintains, with absolutely no foundation, that this provision precludes California from obtaining emission reductions from the full range of oil-well pumps and other stationary engines in the state.

**I**N FACT, the pre-emption in this area is very limited, applying only to new off-road or non-vehicle engines. The ARB's authority to regulate existing stationary engines is unchanged in the compromise. Moreover, the ARB still can control emissions even from new non-vehicle sources by means other than requiring specific changes in the engines themselves — for instance, by requiring offsetting emission reductions elsewhere before any new stationary engine is permitted to operate.

Criticism of congressional action on important issues is a vital part of the legislative process in our democracy. But public agencies such as the ARB should base their criticisms on thorough analysis. Cleaning the air effectively is much more important than jurisdictional pettiness or political exploitation.

If the ARB re-examines the subcommittee agreement more carefully, it will appreciate the range of important new motor-vehicle controls proposed and have a more accurate understanding of the non-road provisions. In short, most of the ARB's substantive concerns would be allayed.

The landmark motor-vehicle agreement will be an immense boost to the effort to pass strong legislation to clean up our nation's air. With so many new programs to reduce pollution from motor vehicles under this compromise, the people of California have more to gain than anyone else.

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