



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
8400 Westpark Drive • McLean, VA 22102-3591

March 1, 2010

The Hon. Lisa Murkowski
Ranking Member
U.S. Senate Committee on Energy and Natural Resources
Washington, DC 20510

Dear Senator Murkowski:

We are writing in support of S.J. Res. 26, a resolution you introduced to prohibit the Environmental Protection Agency (EPA) from regulating greenhouse gas (GHG) emissions under the Clean Air Act (CAA). Among other things, passage of your resolution would prevent EPA from instituting its own fuel economy regime in addition to the Department of Transportation's (DOT) Corporate Average Fuel Economy (CAFE) program. The National Automobile Dealers Association (NADA) supports a higher CAFE standard, and enactment of your resolution would not adversely affect the Administration's fuel economy/GHG goals for vehicles. NADA does not support redundant and different fuel economy regimes by EPA and the California Air Resources Board (CARB). In other words, our concerns are over the *structure* of the proposed fuel economy/GHG regulations, not their *stringency*.

Recently, Administration officials have written letters to the Senate opposing S.J.Res. 26, claiming that deleterious impacts on the auto industry would result. As representatives of an important segment of the auto industry, we hold a contrary view. Accordingly, we provide below a rebuttal of the Administration's claims related to the auto industry.

*1. The Murkowski Resolution would leave "the automobile industry without the explicit nationwide uniformity that it has described as important to its business."*¹

Passage of the Murkowski Resolution would be a step towards actual uniformity, as there would be one less redundant fuel economy standard (EPA's) with which the industry must comply.

The industry had "explicit nationwide uniformity" under the CAFE program when this Administration took office. That uniformity was lost when the EPA decided last year to allow states to regulate fuel economy by granting the California waiver, and when EPA elected to regulate fuel economy pursuant to the *Massachusetts v. EPA* decision.²

¹ Letter from EPA Administrator Lisa Jackson to Senator Jay Rockefeller, page 2. (February 22, 2010)

² Please note that nothing in the Supreme Court's *Massachusetts v. EPA* decision required EPA to regulate auto GHG emissions by establishing a fuel economy regime that is independent of and in addition to the CAFE program set by DOT.

Moreover, the proposed joint DOT/EPA fuel economy rulemaking – which actually consisted of two separate rules, one from each agency – was never uniform to begin with. For example, one key difference between the two programs is that under the proposed EPA rule, certain manufacturers would have compliance standards that are lower than those of their competitors. Under the CAFE program, the law does not permit such favoritism and none exists in the proposed DOT rule.

2. Passage of the Murkowski Resolution would have “profoundly adverse effects on the... economically distressed automobile manufacturing industry.”³

Actually, passage of the Murkowski Resolution would have an immediate salutary effect industry-wide, as Congress lifts a huge and duplicative regulatory burden from the industry. It strains credulity to believe that the “economically distressed automobile manufacturing industry” would be better off regulated by three different fuel economy standards with three different sets of rules administered by three different agencies rather than being subject to one CAFE program.

3. Fuel savings and GHG emission benefits would be “substantially erode[d]” if the Murkowski Resolution passed.⁴

The GHG and fuel economy goals of the Obama Administration can be achieved using existing statutory authority under the CAFE program. We agree with the National Highway Traffic Safety Administration’s (NHTSA) view that passage of S.J. Res. 26 “does not directly impact” the Administration’s authority to raise fuel economy standards (and thus reduce GHG emissions) from vehicles.⁵ These facts make EPA’s separate and different fuel economy standards unnecessary.

4. Passage of the Murkowski Resolution risks California moving forward with its own fuel economy regime.

There is no need for California regulators to continue to insist on their separate and completely different state fuel economy regime, when the entire nation will soon have to meet an Obama standard that is higher than the one California regulators themselves set. Furthermore, the Administration agrees that California’s regime is “inconsistent with Federal standards, thus creating confusion, encouraging renewed litigation, and driving up the cost of compliance to automobile manufacturers and consumers alike.”⁶ If California’s policy goal is to reduce GHG emissions from automobiles, it should defer to the Obama Administration which has the authority to achieve that goal under the CAFE program. If need be, the Administration can use its authority to prevent California from moving forward independently.

³ Letter to Senator Dianne Feinstein’s office from NHTSA, page 1. (February 19, 2010)

⁴ Ibid, page 2.

⁵ Ibid, page 1

⁶ Ibid, page 2.

5. *“It is unlikely that NHTSA would have sufficient time to decouple its rulemaking from the joint rulemaking effort [with EPA] in time to meet the April 1 deadline.”*⁷

We are quite confident that if NHTSA can publish a final rule for the “Cash for Clunkers” program within 30 days from enactment of the law by Congress, it can readily decouple its CAFE rule and easily make the April 1 statutory deadline.

In 2009, NADA publicly pleaded for a “single national fuel economy standard set by the Obama Administration” under CAFE.⁸ Without relief from S.J. Res. 26, what we may have soon instead is EPA regulating fuel economy under the Clean Air Act (a law never designed nor intended to regulate fuel economy) and California regulators effectively picking the fuel economy standard for the entire country by seeking to enforce its own patchwork regime.⁹ Congress should be concerned that this Administration is reducing the restructured and renewed CAFE program, passed by Congress with great bipartisan support just over two years ago, to a near nullity.

America’s auto dealers support raising fuel economy standards under the CAFE program. We do not support unnecessary EPA and state regulations. Apart from being duplicative and wasteful, the EPA and California regulations will increase compliance costs, which are eventually passed along to consumers. Enactment of S.J.Res. 26 would not adversely affect the Administration’s fuel economy/GHG goals for vehicles. We urge its adoption by the Senate.

Thank you for your consideration.

Sincerely,



Ed Tonkin
Chairman

⁷ Ibid.

⁸ NADA, *“Patchwork Proven: Why A Single National Standard is Better for America than a Patchwork of State Fuel Economy Regimes,”* page 31. (January 2009). See <http://www.nada.org/legislativeaffairs/fuel-economy-environment/california-waiver/>

⁹ Justin Hyde, *“California: May pull out of fuel economy standard,”* Detroit Free Press, January 20, 2010.