



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
412 First Street, SE • Washington, DC 20003

June 9, 2010

Dear Senator:

On behalf of the 17,000 new automobile dealers, including over 2,000 medium- and heavy-duty truck dealers represented by the National Automobile Dealers Association, we are writing in support of S.J. Res. 26, a joint resolution introduced by Sen. Lisa Murkowski that would help restore a single national fuel economy standard, with rules set by Congress.

In 2007, Congress passed a landmark bill (the Ten-in-Ten Fuel Economy Act, P.L. 110-140) that raised fuel economy standards by at least 40 percent, and set out a single national fuel economy program administered by a single agency (the National Highway Traffic Safety Administration, or NHTSA). Today, due to the actions of the judicial and executive branches, there are three different agencies that set fuel economy standards – NHTSA, the Environmental Protection Agency (EPA), and the California Air Resources Board (CARB). Passage of S.J. Res. 26 would be an important first step in Congress reasserting its constitutional role to set national fuel economy policy.

The Ten-in-Ten Fuel Economy Act provided the auto industry with nationwide regulatory uniformity for fuel economy until 2030. That uniformity was lost when EPA allowed states to regulate fuel economy by granting California a waiver from preemption under the Clean Air Act for its fuel economy rules, and when EPA elected to regulate fuel economy pursuant to the U.S. Supreme Court's *Massachusetts v. EPA* decision. Passage of S.J. Res. 26 would move the industry towards again having a single national fuel economy standard.

The Administration touts its "National Program" on fuel economy as being "harmonized and consistent," with officials referring to the three-different-fuel-economy-standards program as a "single national standard" on more than one occasion. To be clear, NHTSA and EPA recently issued joint yet separate rules, with significant differences between each. In fact, the U.S. Energy Information Administration's April 2010 Annual Energy Outlook states that, "[a]lthough the two separate standards were issued jointly, there are important differences between them." Because these agencies' fuel economy programs are governed by different laws written for different purposes, the fuel economy requirements contained in the National Program can never be harmonized and consistent. A chart is attached showing the major differences between NHTSA's Corporate Average Fuel Economy (CAFE) program, and the EPA and CARB programs.

Opponents of S.J. Res. 26 assert that passage of this legislation would have harmful effects on automakers, yet they fail to explain how being regulated by **three** different fuel economy standards with **three** different sets of rules administered by **three** different agencies is more beneficial than a single national fuel economy standard.

In a similar vein, EPA officials have warned of grave consequences if S.J. Res. 26 is enacted. Yet, according to NHTSA, the Murkowski Resolution “does not directly impact” the Administration’s authority to raise fuel economy standards and thus reduce greenhouse gas emissions from vehicles. In fact, the Administration already has demonstrated that it can raise the CAFE standard substantially and is on track to easily exceed Congress’ goal of at least 35 mpg in 2020. The Energy Policy and Conservation Act (the law that established the CAFE program) is a separate statute that must be followed and in no way depends on the regulatory aspirations of EPA or California regulators for implementation.

America’s auto dealers support raising fuel economy standards under the CAFE program. Our concerns are over the *structure* of the fuel economy program, not the *stringency* of the fuel economy standard. The Senate should not allow the recently passed Ten-in-Ten Fuel Economy Act, a law specifically designed for the purpose of regulating fuel economy, to be reduced to a nullity in favor of EPA regulating fuel economy under the Clean Air Act, a statute that was neither intended nor designed for such a purpose.

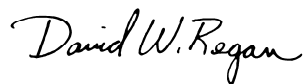
Three different fuel economy standards is regulatory overkill that the American public does not need. Apart from being duplicative and wasteful, the EPA and California rules will impose unnecessary compliance costs, which will inevitably be passed along to consumers. Moreover, the EPA and CARB regulations create an unfair competitive advantage for certain automakers. Under EPA’s rule, some manufacturers receive lower fuel economy standards, and under California’s rule, a dozen automakers are exempt completely. Enactment of S.J. Res. 26 would help end this regulatory favoritism.

The EPA and CARB fuel economy standards in effect today have been foisted on the American people by bureaucratic fiat. It is extremely unlikely any Senator would even propose a three-different-fuel-economy standards framework, especially one filled with exemptions, lower standards for some, and conflicting policies. Passage of S.J. Res. 26 would partially correct this onerous and redundant policy.

Most importantly, passage of the Murkowski Resolution would indicate that the Senate is reasserting its constitutional role in setting national fuel economy policy. The numerous flaws of the “National Program” aside, that reason alone justifies passage of S.J. Res. 26.

Thank you for your consideration.

Sincerely,



David W. Regan
Vice President, Legislative Affairs

The National Fuel Economy Program is Neither Harmonized Nor Consistent

AREA OF DIFFERENCE	CAFE	CARB	EPA
Complying With One Standard Ensures Compliance with the Other Two Standards?	No	No for MY09-11 Yes for MY12-16 Unknown for MY17+	No
Automakers Must Report To?	NHTSA	14 Different State Agencies and DC	EPA
Production of E-85 vehicles (FFV credit)	Allows credit for manufacturing E-85 vehicles. Phased out in 2019	Automaker must prove motorist is using E-85 to receive credit	Allows credit for manufacturing E-85 vehicles. Phased out in 2015
Allowed to <u>willingly</u> pay fines in lieu of compliance with standards?	Yes	Yes	No
Penalty for Non-Compliance	Penalty of \$5.50 per tenth of a mile under the fleet average times number of vehicles	Penalty of \$10,000 per vehicle	Fine of up to \$37,500 per vehicle/revocation of certificate to sell in the U.S.
Exemption for Major Manufacturers?	No	Yes	Lower standard for some till '15; lower standard for others till '16; no standard for small automakers
Potential exemption for Chinese automakers?	No	Yes	No

Three Different Laws + Three Different Agencies = Three Standards That Are Impossible To Harmonize

AREA OF DIFFERENCE	CAFE	CARB	EPA
Basis for Setting Standard	Attribute-based	“Flat” Standard	Attribute-based
Statutory Limit on Length of Rule	5 years	No Limit	No Limit
Cross-Border Sales Loophole?	No	Yes	No
Compliance based on State-by-State sales?	No	Yes	No
Some light trucks regulated as passenger cars?	No	Yes	No
Rationing of vehicles likely in some states to comply?	No	Yes	No
Import/Domestic Fleets Separate?	Yes	No	No
Transfer of Credits Between Car and Truck Fleets Allowed?	Limited	Unlimited	Unlimited
Credit for Air-Conditioning? (new refrigerant, lower leaks, improving efficiency)	No	Yes	Yes
Underlying Statute Designed to Regulate Fuel Economy?	Yes	Yes, in CA only	No

6/9/2010