

TESTIMONY BY
NADA CHAIRMAN JOHN McELENEY
BEFORE THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
ARLINGTON, VA
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As Chairman of the National Automobile Dealers Association (NADA), I am pleased to present testimony today on EPA's reconsideration of its denial of a preemption waiver for California's motor vehicle greenhouse gas rules. NADA represents over 19,000 franchised automobile and truck dealers who sell new and used motor vehicles, and who engage in service, repair and parts sales. Those dealers employ more than 1,000,000 people nationwide. In addition to being Chairman of NADA, I am president of McEleney Autocenter, of Clinton, Iowa. We operate General Motors, Toyota, and Hyundai franchises and have been in business for 94 years.

NADA intends to file written comments raising key legal and practical issues involving this reconsideration proceeding. Today, I'll make just three main points:

1. Good public policy demands a single, national fuel economy/greenhouse gas standard.
2. The retail automobile industry's dire financial straits make the need for a single, national standard even more compelling.
3. CARB's "patchwork" approach is fraught with inherent flaws.

I. GOOD PUBLIC POLICY DEMANDS A SINGLE, NATIONAL FUEL ECONOMY/GREENHOUSE GAS STANDARD.

Logic and common sense dictate that EPA conclude this proceeding reaching the same conclusion it did a year ago; that only a single, well-designed, national standard can enhance new vehicle fuel economy, emissions performance, and safety. Last year's decision was based on truths that still exist today. Nothing has changed.

The Energy Independence and Security Act of 2007 (EISA) set a very ambitious fuel economy goal for cars and light trucks, equating to an increase in the standard of at least 40 percent, with commensurate decreases in greenhouse gases. EISA also requires an attribute-based approach that encourages manufacturers to improve the fuel economy for each light-duty model segment they sell, thus allowing them to be more responsive to customer buying preferences. Finally, under EISA manufacturers are free to meet their fuel economy mandates by adjusting the number and types of vehicles they sell across the entire country, providing further flexibility to meet consumer demand. These are critical provisions for any fuel economy/greenhouse gas regulatory scheme as benefits can be achieved only if, and only when, new vehicles are sold to end users.

By way of contrast, a state-by-state patchwork approach would, for several reasons, result in dealers in states that adopt CARB's rules having lots filled with unsold vehicles. First, the CARB approach relies on a flat standard that fails to afford manufacturers the same flexibility to meet consumer demand that they would have under an attribute-based approach.

Second, the lack of flexibility inherent in a flat standard would be amplified by a patchwork regime requiring manufacturers to deliver to dealers separate and unique fleets in *each* "CARB" state. A patchwork results because consumers buy different vehicles in different quantities in different states. As an auto dealer, I can attest that what people buy in Iowa is different than what they buy in California. Simply put, the CARB approach would force manufacturers to deliver vehicles to dealers that their customers may not want and to ration the vehicles they would want.

Note, however, that while dealer inventories would be constrained under a CARB regime, consumer choice would not be. Why? Because of the cross border sales loophole. Remember, compliance is measured by what manufacturers *deliver for sale* to dealers, not by what retail customers actually *buy or lease*. Consumers unable to obtain new vehicles of choice from inventory-constrained CARB state dealers would be free to purchase those vehicles from out-of-state dealers. Bottom line: in-state dealers lose sales and the CARB state loses any environmental benefit.

Alternatively, consumers facing a CARB-constrained mix at their local dealership may elect to buy a CARB-exempted brand, to purchase a late-model used vehicle (including out-of-state Federal vehicles with more than 7,500 miles), or to defer vehicle purchases altogether. Again, to the extent consumers choose one of these options, little (if any) greenhouse gas and fuel economy benefits would be achieved.

A national program that accounts for and leverages consumer preferences would avoid perverse interstate sales distortions. A national program also would ensure that sought-after greenhouse gas and fuel economy benefits are fully realized.

II. THE RETAIL AUTOMOBILE INDUSTRY'S DIRE FINANCIAL STRAITS MAKE THE NEED FOR A SINGLE, NATIONAL STANDARD EVEN MORE COMPELLING.

Earlier I said that nothing has changed since EPA correctly denied CARB's waiver request. Actually, much has changed. Since last March, the country has plunged into an economic recession and the companies that build and sell new motor vehicles have suffered dire impacts. This time last year new vehicles were being sold in this country at an annualized rate of 15 million units; today that rate has fallen to less than 10 million units. Almost a thousand dealers went out of business last year and many more lost money. This year will see even more dealers closing their doors.

The problem is simple: many consumers lack the confidence to go out and shop for a new motor vehicle. And those who are shopping often do not qualify for the credit they need. It's not that consumers do not want to buy new vehicles; it's just that many can't afford to buy, or at least believe they can't. The result: consumers are holding onto vehicles longer than they typically would, or are turning to the used vehicle marketplace.

I know you all read the papers, watch TV, and surf the net, so I'm not going to belabor how bad things are. Suffice it to say that most dealers are in survival mode. This fact is critical for it is dealers, not manufacturers, who will sell the motor vehicles subject to any new fuel economy/greenhouse gas rules. Please understand that because dealers buy the vehicles we hold in inventory, typically through expensive inventory financing arrangements, we take the direct economic hit if consumers fail to buy or lease them.

What else has happened since last March? Well, we had a wild swing in fuel prices that saw customers chasing after more fuel efficient vehicles in the first half of the year when gas rose above \$4.00/gallon, only to run back to less efficient cars, SUVs and trucks later in the year when prices fell below \$2.00/gallon. If nothing else, this clearly demonstrates the degree to which fuel prices can affect new vehicle sales, and the fact that it is consumers who ultimately decide what, if any, vehicles they purchase, notwithstanding what governments choose to do.

Any rule designed to reduce greenhouse gases or to increase fuel economy must account for customer needs and purchasing behaviors. To achieve policy success, consumer demand must be recognized and leveraged. Policies that attempt to force the manufacture and sale of new vehicles that consumers are reluctant to buy will ultimately fail. Given the dire economic situation we currently face, we cannot afford to pursue policies that are as market-resistant as CARB's. Rather, EPA must only consider policy options involving feasible regulatory burdens and a reasonable chance of success.

III. THE CARB PROGRAM IS FRAUGHT WITH INHERENT FLAWS

Any state-by-state, patchwork approach to regulating new motor vehicle fuel economy/greenhouse gases, by definition, cannot succeed. Moreover, the program CARB has adopted is rife with additional flaws. These are outlined in a report entitled "Patchwork Proven," copies of which I will leave with you today. These flaws include:

1. Giving little or no consideration to real occupant safety concerns. Unlike EISA's attribute-based scheme, CARB's rules undermine safety by the incentivizing of vehicle downsizing or downweighting.
2. Giving no consideration of economic conditions or impacts outside of California.
3. Exempting many vehicle manufacturers until at least MY 2016.

To conclude, unless and until new vehicles are sold, greenhouse gas/fuel economy benefits cannot be realized. A well-designed national program can effectively leverage consumer demand to help achieve real-world improvements. A state-by-state patchwork approach, due to its inherent structure, cannot. The CARB approach reflects numerous poor policy choices. Especially in light of the severe challenges faced in the auto sector, California's waiver request should be denied, in favor of a strong, single, national fuel economy/greenhouse gas standard.

Thank you for your consideration of my remarks.