



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
Office of Legislative Affairs
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March 30, 2011

The Hon. Mitch McConnell
Senate Republican Leader
361-A Russell Senate Office Building
Washington, DC 20510

Dear Senator McConnell:

On behalf of the nearly 17,000 new car and truck dealers represented by the National Automobile Dealers Association, including over 2,000 medium- and heavy-duty truck dealers, I am writing in support of the McConnell amendment to S. 493. This amendment is identical to S. 482, the Energy Tax Prevention Act of 2011. America's auto dealers support the McConnell amendment because it would return regulation of fuel economy to a single national standard under the CAFE program. A single national fuel economy standard is vital to the long term health of the auto industry, as only the CAFE program can most effectively increase fuel economy, protect passenger safety, and meet consumer demand.

Today, as the result of actions by the judicial and executive branches, there are *three* different fuel economy programs administered by *three* different agencies – NHTSA, EPA, and the California Air Resources Board – under *three* different sets of rules, pursuant to *three* different laws. This tangle of fuel economy regulations was cobbled together in 2009 under the rubric of the “National Program.” Although the National Program is often mistakenly referred to as a “single standard” or as being “harmonized and consistent,” it is in fact a **set** of different fuel economy programs. Enactment of the McConnell amendment would eventually return the regulation of fuel economy to a single regulator (NHTSA) under rules set by Congress, not unelected officials.

In 2007, Congress passed the bipartisan Ten-in-Ten Fuel Economy Act. This law raised the fuel economy standard by at least 40 percent, restructured the CAFE program, and reaffirmed NHTSA as the sole administrator of this program. Before 2010, fuel economy had never been regulated by EPA, and no state, including California, had authority to promulgate regulations related to fuel economy since the CAFE program was enacted in 1975. The McConnell amendment would restore the statutory clarity that was lost in 2009 when EPA allowed states to begin regulating fuel economy by granting California a waiver from preemption under the Clean Air Act for its fuel economy/greenhouse gas rules, and when EPA elected to also regulate fuel economy as part of its voluntary response to the remand in *Massachusetts v. EPA* by the U.S. Supreme Court. The McConnell amendment would reestablish the historical system of a single national fuel economy standard, once the triple regulation of fuel economy embodied in the National Program has run its course after model year 2016.

There are numerous advantages to returning to a single national fuel economy standard:

- First, the CAFE program was specifically written to regulate fuel economy, while the Clean Air Act, for all its virtues, was not. To be sure, California's regulation was written to regulate fuel economy – but only in California. Its application in other states results in what EPA Administrator Lisa P. Jackson calls “a patchwork of state standards.” Additionally, California's “patchwork” regime does not consider job loss or consumer choice outside of California when setting a standard, which could put jobs in others states at risk.
- Second, a single national fuel economy program under CAFE is by definition uniform and consistent, unlike the three different fuel economy programs that we have today. In fact, the U.S. Energy Information Administration's Annual 2010 Energy Outlook states that, “[a]lthough the two separate [NHTSA and EPA] standards were issued jointly, there are important differences between them.”
- Third, the Administration would retain the authority to raise the fuel economy standard annually to its “maximum feasible” level. The Administration has already raised the CAFE standard to 34.1 mpg in 2016 at a cost of \$51.7 billion, and could continue to raise the fuel economy standard under the McConnell amendment.

To justify maintaining the current duplicative bureaucratic structure in perpetuity, opponents of the McConnell amendment have made dire predictions about lost fuel savings which would “massively increase America's oil dependence.” This assertion is not supported. The CAFE program alone provides virtually all of the fuel economy increases/GHG reductions in the current National Program, since raising the fuel economy of a vehicle automatically reduces its GHG emissions.¹ EPA's rule provides only minor incremental GHG reductions by also regulating vehicle air conditioners. To our knowledge, EPA has never offered any evidence demonstrating that giving credits to automakers for installing improved air conditioners after 2017 would save, as EPA claims, “hundreds of millions of barrels of oil.” To the contrary, under EPA's MY 2012-2016 rule, air conditioning credits are extended to automakers primarily for switching to coolants that are less greenhouse gas intensive, which has a negligible impact on oil savings.

Opponents of a single national fuel economy program use this minor difference between NHTSA and EPA's rules regarding vehicle air conditioners to justify EPA also regulating the fuel economy of the *entire* light-duty fleet. Such duplication is unnecessary and contrary to congressional design.

Additionally, opponents of the McConnell amendment may assert that passage of this legislation would have harmful effects on the auto industry. However, foes of a single national fuel economy standard fail to explain how being regulated by **three** different fuel economy

¹ According to the Administration's fuel economy rule: “...to the extent the GHG standards set by EPA and California result in increases in fuel economy, they would do so almost exclusively as a result of inducing manufacturers to install the same types of technologies used by manufacturers in complying with the CAFE standards. The primary exception would involve lower-GHG producing air conditioners.” 75 Fed. Reg. 25556 (May 7, 2010).

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programs with **three** different sets of rules administered by **three** different agencies pursuant to **three** different laws is more beneficial than a single national fuel economy standard.

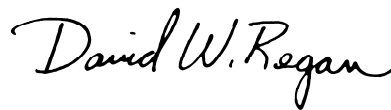
Apart from the inherent waste of taxpayer's money that occurs when two agencies regulate the same activity, Congress should be concerned that redundant fuel economy regulation by EPA and California could have a negative impact in the future on jobs and highway safety. When setting a fuel economy standard, NHTSA considers job loss, consumer choice, consumer acceptability, and highway safety. Congress mandated that NHTSA consider these important factors to ensure that fuel economy increases do not needlessly put people out of work or limit sales of certain types of vehicles. This balancing of protections for workers, consumers, and highway safety is not replicated in the Clean Air Act, as that statute was *not designed to regulate fuel economy*. Passage of the McConnell amendment would ensure that jobs and highway safety are given the consideration Congress mandated.

The McConnell amendment would end the regulatory duplication (and the millions in taxpayer dollars spent on such redundancy) inherent in the triple regulation of fuel economy under the National Program. Competing amendments that may be offered are well-intentioned but fail to address California's "patchwork" problem and responsibly phase out EPA's unnecessary fuel economy program.

If consumers do not buy the vehicles mandated by regulators, there will be no enhanced environmental or energy security benefits. Only the CAFE program, which was designed by Congress specifically to meet consumer demand and increase fuel economy, can ensure our nation's energy security and environmental goals are met without unduly frustrating consumer demand and disrupting the economy. We urge the Senate to reestablish its primacy over the fuel economy program by adopting the McConnell amendment.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "David W. Regan". The signature is written in a cursive, flowing style.

David W. Regan
Vice President, Legislative Affairs