Congress of the United States
Washington, DC 20515

March 23, 2009

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C.

Dear Mr. President:

One of the most important energy decisions your Administration will make in the next few months is setting final fuel economy standards for cars and light trucks for model year 2011 and beyond. In establishing the maximum feasible fuel economy standard that was required by the 2007 Energy Independence and Security Act (EISA), we urge you to base this decision on realistic assumptions about future gas prices and the ability of technology to produce fuel economy gains in a cost-effective matter. The draft CAFE regulations proposed in 2008 were lacking in this regard, and that reliance on flawed assumptions was used to justify a lower fuel economy standard that would, if finalized unaltered, shortchange American consumers, national security and the environment.

As you know, on April 22, 2008, the National Highway Traffic Safety Administration (NHTSA) issued a Notice of Proposed Rulemaking (NPRM) that included proposed standards for model years 2011-15 which should result in a projected fleet-wide average of 31.6 mpg by 2015. The fundamental problem with this proposal is that it is based on a systemic overestimation of the costs of implementing fuel efficient technologies and a systemic underestimation of its benefits. Before your Administration finalizes these regulations, we ask that the following flaws be addressed:

1) Unrealistic gasoline prices

In its NPRM, NHTSA based its proposed regulations using Energy Information Administration (EIA) assumptions about gas prices that defy reality, using a range of $2.42/gallon in 2016 to $2.51/gallon in 2030. Since using higher gasoline prices would have the largest impact of all the factors that could be considered on how high standards could be cost-effectively raised, NHTSA's reliance on these highly unrealistic projections have the effect of artificially lowering the calculated "maximum feasible" fuel economy standards that NHTSA is directed by law to promulgate. The effect is dramatic. For modeling purposes only, NHTSA used EIA's higher gasoline price scenario: A range of $3.14/gallon in 2016 to $3.74/gallon in 2030 demonstrates that the technology is available to cost-effectively achieve a much higher fleet wide fuel economy of nearly 35 mpg in 2015.

Our position of using a high estimate for gasoline prices is shared by the energy experts at the Department of Energy (DOE). On June 11, 2008, Guy Caruso, Administrator of EIA, testified before the Select Committee on Energy Independence and Global Warming. During questioning, Administrator Caruso agreed that NHTSA should use EIA's *high* gas price scenario

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in setting fuel economy standards. On June 26, 2008, Representatives Markey, Platts, Rahm Emanuel, and forty other Members of Congress wrote a letter urging the Department to use more realistic gas price estimates. We urge you to ensure that any standards promulgated by NHTSA use the most recent high gas price scenario developed by EIA, and to continue to revise these estimates as needed.

2) Undue reliance on auto industry estimates of technologies' costs and benefits

To develop cost-effective fuel economy standards, NHTSA compares the costs of implementing fuel efficient technologies to the benefits reaped from them. Independent validation of the automakers' claims is critical, since an overstatement of these costs would tilt the analysis against consumers and fuel economy savings. Experts at EPA and DOE, with whom NHTSA is directed to consult, have in the past questioned the validity of many of NHTSA's estimates, as have independent experts.

We urge you to carefully evaluate all claims made by automakers related to the costs, benefits and rate of introduction of fuel efficient technologies using the assistance of experts at the Environmental Protection Agency (EPA), DOE and independent consultants and stakeholders.

3) Inappropriate Stance on Global Warming

As you know, the NHTSA proposals contained extensive language that is in direct conflict with the *Massachusetts v. EPA* Supreme Court decision that carbon dioxide is a pollutant under the Clean Air Act and that thus EPA (and, by extension and assuming a waiver is granted, California) has the authority to regulate these emissions from automobiles.

Additionally, NHTSA revised the benefit projected to result from a lower emitting automobile fleet from $7/ton of carbon dioxide in the NPRM to $2/ton in the fall 2008 draft, although climate experts at EPA and elsewhere recommend that higher values than both these numbers be used.

We urge you to ensure that any final fuel economy regulations contain global warming provisions that are consistent with authority provided under other statutes and are based on the sound scientific advice of independent experts.

Thank you for your consideration of these important matters. This decision on fuel economy standards provides you with an historic opportunity to promote the development of more efficient, climate-friendly and technologically advanced vehicles that will put the American automotive industry back on a path to commercial viability. We look forward to working with you to achieve that goal.

Sincerely,

Edward J. Markey

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