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April 23, 2008

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
U. S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable John A. Boehner
Minority Leader
U. S. House of Representatives
Washington, DC 20515

Dear Senator Reid, Senator McConnell, Madam Speaker, and Mr. Boehner,

We are writing to bring to your attention a cynical attempt by the U.S. Department of Transportation (DOT) to unilaterally rewrite the Clean Air Act and claim authority over greenhouse gas emissions.

Yesterday, the National Highway Traffic Safety Administration (NHTSA) used a proposed rulemaking implementing the Energy Independence and Security Act's Corporate Average Fuel Economy (CAFE) provisions to attempt to preempt California and states across the nation that are taking steps to control greenhouse gas emissions. NHTSA's proposed action is a direct assault on the authority of the United States Congress and the states.

In passing the Energy Independence and Security Act (EISA), Congress expressly provided that increasing fuel economy standards would not limit the authority of existing laws and regulations. Yet DOT has taken the charge given it by Congress – to issue new fuel-economy rules – and used it to propose a radical redefinition of federal law that would sabotage critical provisions of the Clean Air Act. NHTSA argues that, because fuel economy is “related to” greenhouse gases, DOT has the authority to deny state greenhouse gas regulations.

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NHTSA's proposal flies in the face of court rulings on existing law. The U.S. Supreme Court found in *Massachusetts v. EPA* that the authority on which the states rely in regulating greenhouse gases from automobiles is "a statutory obligation wholly independent of DOT's mandate to promote energy efficiency." Two federal district courts have also specifically ruled that state vehicle regulations are not preempted by Congress's improvements to CAFE.

In issuing this interpretation, NHTSA is also doing an end run around Congress in claiming authority over greenhouse gas regulation from automobiles. In the Clean Air Act, Congress granted the Environmental Protection Agency – not NHTSA – authority over air pollution, including greenhouse gases. While Congress is in the midst of careful deliberations on its approach to greenhouse gas regulation in the future, it should not permit the executive branch to dictate an outcome to that discussion.

This action by the administration would directly usurp congressional authority and patently subvert the clear intent of Congress in important legislation related to energy use. We urge you to protest this provision of the NHTSA rulemaking and insist on a CAFE regulation in keeping with the intent and prerogative of Congress.

Sincerely,



Governor Arnold Schwarzenegger
California



Governor Janet Napolitano
Arizona



Governor M. Jodi Rell
Connecticut



Governor Martin O'Malley
Maryland



Governor Deval Patrick
Massachusetts



Governor Jon S. Corzine
New Jersey

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Governor Bill Richardson
New Mexico



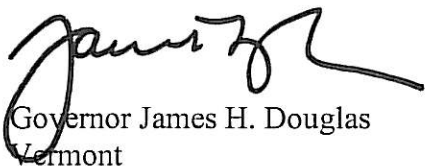
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New York



Governor Theodore R. Kulongoski
Oregon



Governor Edward G. Rendell
Pennsylvania



Governor James H. Douglas
Vermont



Governor Christine O. Gregoire
Washington

cc: Members of the California Congressional Delegation
Members of the Arizona Congressional Delegation
Members of the Connecticut Congressional Delegation
Members of the Maryland Congressional Delegation
Members of the Massachusetts Congressional Delegation
Members of the New Jersey Congressional Delegation
Members of the New Mexico Congressional Delegation
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