



**U.S. Department  
of Transportation**

Office of the Secretary  
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.  
Washington, D.C. 20590

JUN 12 2007

The Honorable Henry A. Waxman  
Chairman, Committee on Oversight and Government Reform  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Mr. Chairman:

This responds to your June 12, 2007, letter questioning the Department of Transportation's (DOT) actions in contacting members of Congress and encouraging them to consider providing formal comments to the U.S. Environmental Protection Agency (EPA) concerning a pending waiver request by the State of California. California's request seeks EPA's permission to regulate greenhouse gas emissions from motor vehicles. Your letter appears to question whether DOT's efforts to make members of Congress aware of this waiver petition is a violation of anti-lobbying restrictions, found in 18 U.S.C. 1913, commonly known as the Anti-Lobbying Act, and provisions routinely contained in annual appropriations acts restricting the use of appropriated funds for "publicity or propaganda purposes" to support or defeat pending legislation. DOT officials sought my advice before contacting members of Congress regarding this matter, and I advised them that such action is clearly not a violation of these anti-lobbying restrictions. These officials, including Heideh Shahmoradi, whom you mention in your letter, acted pursuant to that legal advice in making contacts with members of Congress.

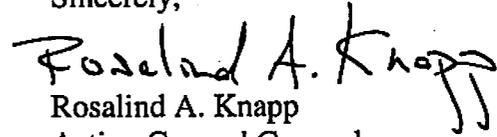
DOT contacted members of Congress to inform them of the pending petition so they could consider providing formal comments to EPA. DOT communicated the potential implications that a waiver might have on the current nationally uniform regulatory scheme for fuel economy established through National Highway Traffic Safety Administration regulations.

DOT's actions in no way violated anti-lobbying restrictions, as those provisions apply to and prohibit "grass roots" lobbying intended to encourage third parties, members of special interest groups, or the general public to contact members of Congress or State legislatures in support of or opposition to a legislative matter. These restrictions do not apply to direct contacts between Executive Branch officials and members of Congress, nor do they apply to contacts concerning matters pending within the Executive Branch, as opposed to legislative matters. In this case, DOT officials themselves contacted members of Congress, and the matter at issue involved a proceeding pending before the Executive

Branch, not legislative action. This activity simply does not implicate the anti-lobbying provisions.

Should you wish to discuss this matter further with me or my staff, please do not hesitate to contact us at (202) 366-4702.

Sincerely,

  
Rosalind A. Knapp  
Acting General Counsel