



May 3, 2018

The Honorable Dominic J. Mancini
Deputy Administrator,
Office of Information and Regulatory Affairs
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Deputy Administrator Mancini:

I write with respect to the anticipated Notice of Proposed Rulemaking (NPRM) to address Corporate Average Fuel Economy (CAFE) and Greenhouse Gas Emissions (GHG) standards for light duty trucks and for passenger cars, which have been identified as being under development, pursuant to the U.S. Department of Transportation's (USDOT) Report on Significant Rulemaking,¹ as well as the U.S. Environmental Protection Agency's (EPA) April 13, 2018 Federal Notice concluding the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light Duty Vehicles.² The Mid-Term Evaluation recently concluded that current GHG standards for those years "are not appropriate and should be revised" via a future rulemaking done in conjunction with the National Highway Traffic Safety Administration (NHTSA).

The Alliance of Automobile Manufacturers (Alliance) supported the Administration's effort to restart the Mid-Term Evaluation because the previous EPA rushed to complete the Final Determination over a year ahead of schedule and failed to coordinate with NHTSA. Furthermore, the underlying data supporting the previous Final Determination did not accurately take into consideration changes in the price of gas, consumer acceptance of advanced technology vehicles, and various other factors directly related to the affordability of new vehicles.

The Alliance appreciates that this forthcoming rulemaking adheres to the Mid-Term Evaluation process, which was a key component of the auto industry's 2012 commitment to develop light duty vehicle regulations for 2017-2025, as part of "One National Program" (ONP). The 2012 rule stated that "NHTSA and EPA fully expect to conduct this Mid-Term Evaluation in coordination with the California Air Resources Board, given our interest in maintaining a National Program to address GHG emissions and fuel economy and to ensure that estimates relied upon from 2012 were still accurate or whether they warranted adjustment up or down."³

¹ <https://www.transportation.gov/sites/dot.gov/files/docs/regulations/308851/april-2018-internet-report.docx>, RIN 2127-AL76

² <https://www.gpo.gov/fdsys/pkg/FR-2018-04-13/pdf/2018-07364.pdf>

³ https://one.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/2017-25_CAFE_Final_Rule.pdf

Automakers remain committed to increasing fuel efficiency requirements, which yield everyday fuel savings for consumers, while also reducing emissions – because climate change is real, and we have a continuing role in reducing greenhouse gases and improving fuel efficiency. Fuel economy for cars and light duty trucks remains at an all-time high, and has increased by 5.4 miles per gallon, or about 28%, since 2004, with a 22% reduction in carbon emissions.⁴ Also important are the respective obligations pursuant to the Energy Policy and Conservation Act (EPCA)⁵ of 1975 and the Energy Independence and Security Act (EISA) of 2007.⁶

As in 2012, we continue to strongly support the framework of the ONP to establish these requirements through a harmonized program between EPA, NHTSA, and California concerning CAFE and GHG standards that continue to increase year-over-year while protecting consumer choice, vehicle safety, auto jobs, and keeping new vehicles affordable to Americans. This structure, which seeks to streamline implementation of CAFE Standards pursuant to EPCA and EISA, and the regulation of tailpipe emissions under the Clean Air Act (CAA) and state law, provides manufacturers and vehicle owners with the benefits of a single set of rules and lower associated implementation costs. As such, maintaining a single national program of increasing vehicle efficiency standards that take into account market realities is critical to ensuring that cars remain affordable.

By contrast, the erosion of the ONP could have disruptive and costly consequences for the auto industry and workforce, as well as for consumers and the driving public. Operating under two or three sets of regulations would be inefficient and disrupt a period of rapid innovation in the auto industry that is improving safety, efficiency, and mobility. In fact, such a fractured regulatory environment could negatively impact the roughly 7 million individuals who are employed directly or indirectly as part of the U.S. auto sector via jobs tied to vehicle manufacturers, suppliers, or dealers.⁷ Additionally, prolonged contention or litigation between federal agencies and states would create uncertainty for manufacturers. Ultimately, consumers would pay the price for a fragmented program, because inefficiencies translate into higher retail costs.

In keeping with the original agreement that was reached in 2012, we have urged the Administration and California to work together to increase standards year over year and keep new vehicles affordable to more Americans. We believe that an agreement is within reach that ensures continuation of the One National Program, with automakers subject to increasing, yet attainable, fuel efficiency standards.

⁴ <https://www.epa.gov/fuel-economy-trends/highlights-co2-and-fuel-economy-trends#Highlight1>

⁵ <https://www.gpo.gov/fdsys/pkg/STATUTE-89/pdf/STATUTE-89-Pg871.pdf>

⁶ <https://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>

⁷ <https://spea.indiana.edu/doc/research/working-groups/fuel-economy-policy-022016.pdf>, p. 19

To that end, we continue to reiterate that EPA and NHTSA, in an upcoming joint NPRM, evaluate a set of alternatives sufficient to encapsulate the range of options that could be considered as part of such a negotiation – utilizing and sharing the best and most current data available to support various alternatives and seeking public comments. In that spirit, we ask the Office of Information and Regulatory Affairs, upon review of the upcoming draft NPRM, to ensure that the NPRM preserves options by:

1) Including a sufficient range of stringency alternatives to fully evaluate the “maximum feasible average fuel economy level” that can be achieved each model year, pursuant to 49 U.S.C. § 32902:

In recent rules, agencies have often considered stringency alternatives in 1% increments for passenger cars and light trucks, respectively, sometimes selecting a preferred alternative between two 1% increments.

Given that history, we believe that it is important for the upcoming NPRM to include all 1% annual increments up to the current augural standards, as well as the augural levels. Doing so will facilitate the identification of a maximum feasible alternative for fuel economy standards.

2) Retaining the option of extending the ONP beyond 2025 in order to reach an agreement:

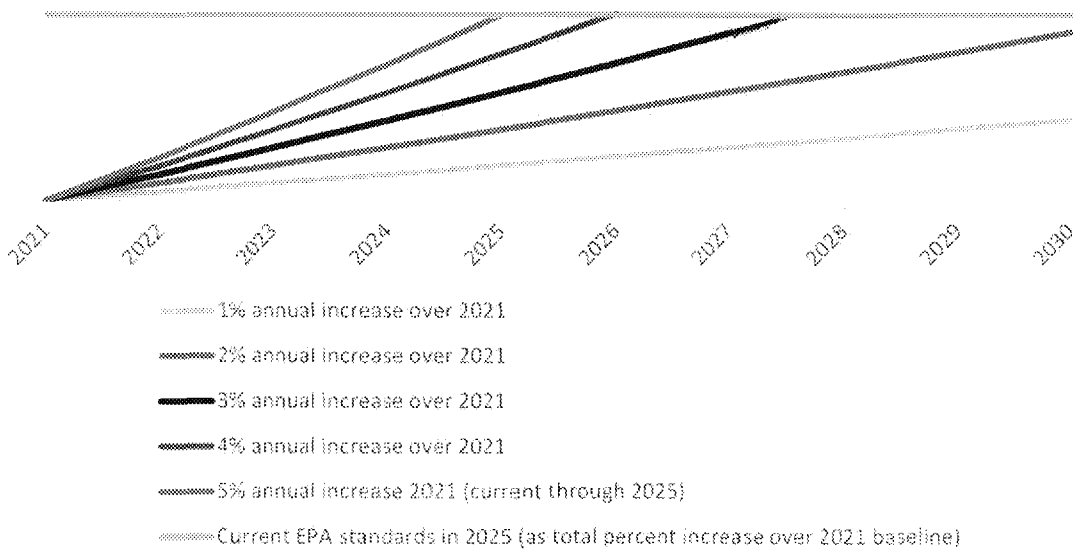
As Mitch Bainwol, president of the Alliance, has consistently stated, “the industry is committed to ongoing progress in a journey that has no end date. After all, we have invested substantially in energy-efficient technologies that we would like to see consumers embrace. We expect that fuel economy will keep rising. The only issue is at what speed.”⁸ Program duration can be an effective consideration when negotiating towards long-term fuel efficiency and emissions reduction goals, and could ease the path towards consensus, as California Air Resources Board Chairwoman Mary Nichols has repeatedly noted as well, stating recently that, “the one precondition we laid down that is still applicable is that if there is going to be any change to the overall stringency of the program, it needs to be done in the context of where we’re headed after 2025.”⁹

⁸https://www.realclearpolitics.com/articles/2018/04/03/revisiting_of_fuel_standards_is_not_a_rollback_136688.html

⁹ https://www.wsj.com/articles/california-actively-considers-challenge-to-epa-on-vehicle-emissions-1523309090?mod=nwsrl_management_careers&cx_refModule=nwsrl

By way of conceptual illustration, the table below depicts total current ONP 2025 targets (measured as total percent increase relative to a 2021 baseline), and shows the different points in time at which various “slopes” would achieve that threshold.

Illustrative Comparison of Total Percent Increase Over 2021 Baseline Under Sample Stringency Scenarios, Relative to Current EPA Standards in 2025



3) Preserving the option of current and new flexibilities, including the encouragement of advanced vehicle technologies that reduce carbon emissions:

While the stringency of annual fuel economy improvements forms the basis of NHTSA’s statutory program, certain crediting authorities exist in both programs – with a greater variety permitted to EPA under the CAA for efficiencies such as air conditioning leakage. It is important that the NPRM evaluate alternatives

that contemplate factors such as air conditioning refrigerant leakage, nitrous oxide and methane emissions, the ability to consider alternative fuels in establishing standards, and leave open the possibility both for continuation of current credits, as well as the innovation of additional flexibilities, including for advanced vehicle technologies.

We support modernizing regulations to take into account certain flexibilities that can be used to reduce fuel use and carbon emissions. These flexibilities can even be applied differently between NHTSA and EPA to encourage the adoption of alternative powertrains and other technologies that have an impact on vehicle efficiency – even when not captured as part of the static testing structure used for vehicle certification. As an example, attached you will find various additional flexibilities that could be included for public comment to provide additional credits towards a final agreement above maximum feasible.

With the proper application of these parameters, we believe that the upcoming NPRM can establish a firm basis for Federal agencies and California to identify a final proposal that is mutually agreeable and preserves the critically important framework of the ONP, without the uncertainty associated with prolonged litigation risk. We encourage the Federal agencies as well as California to seize that opportunity to work together to establish standards that increase in the future, without jeopardizing consumer demand for affordable vehicles that provide increased safety and efficiency – especially due to the fact that the average age of vehicles on American roadways is growing (roughly 12 years).

Thank you for your consideration, and the Alliance looks forward to following up once the NPRM has been received for OIRA review, as well as after the Alliance files comments based on the various proposed ranges that are included during the public comment process.

Sincerely,

A handwritten signature in black ink, appearing to read "David Schwietert". The signature is fluid and cursive, written over a white background.

David Schwietert
Executive Vice President of Federal Government Relations and Public Policy
Alliance of Automobile Manufacturers, Inc.

Enclosure:

Request to Open Certain Issues for Comment in a GHG NPRM

Given the importance of maintaining One National Program (ONP), this request was developed with the intent of preserving potential elements for a Final Rule after the input of all stakeholders has been considered. These elements will allow stakeholders to discuss appropriate standards (including attribute-based vehicle emission targets and program flexibilities) without precluding any decision regarding the terms of ONP. Also included are several key principles for consideration and a list of issues with the existing flexibilities which we believe should be addressed.

Key Principles for Consideration

- Program flexibilities must be obtainable without undue post-rulemaking analysis and constraint by agency staff
 - Fix on-going issues with existing flexibilities
 - New or expanded flexibilities must provide certainty if included in assessing feasible standards
- Flexibilities should include elements to encourage the development of a robust and sustainable market for electrified vehicles
- Modifications to the standards should not be undermined by other agency actions (e.g. adding carbon to laboratory test measurements when E10 fuel is used or changes in regulatory interpretation)

Include Discussion and Request Comment on Expanded Flexibilities in the NPRM

- Removal of upstream emission factors for electricity and hydrogen
- Expansion and extension of advanced technology vehicle multipliers
- Expanded credit carry-forward provisions that reflect the long life-cycle of CO₂
- Expansion of the A/C efficiency credit program to reflect new technologies and data
 - Increase of the A/C efficiency credit cap
 - Inclusion of new A/C technologies
- Expansion of the off-cycle credit program
 - Increase or removal of credit caps for technologies with predetermined values
 - Increase or removal of credit caps for thermal control technologies
 - Inclusion of additional technologies in the predetermined credit list
 - Reassessment of engine stop-start credit based on higher on-road idle time
 - Greater flexibility for alternative methodology applications
 - Development of safety / efficiency convergence credits (e.g. ADAS, CAVs, etc.)
- Additional and extended incentives for stepping-stone technologies
 - 40 CFR § 86.1870-12: Removal of minimum penetration requirements
 - Extension of full-size pickup mild hybrid and over-performance credits to other light trucks and for additional years
 - Additional incentives for strong hybrids in all vehicle classifications

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- Address compliance challenges associated with 2-wheel drive SUVs / CUVs that provide truck-like capability for payload, towing, road clearance, or other utility-adding features
- Potential increase in minimum octane of market fuels

Address Issues with Existing Flexibilities in the NPRM

- 40 CFR § 86.1866-12: Correct equations for advanced technology vehicle multipliers.
- 40 CFR § 86.1865-12: Track fleet average and flexibility-related credits separately.
- 40 CFR § 86.1869-12: Address implementation issues in the off-cycle credit regulation which are preventing or unduly constraining manufacturer use of the program:
 - Correct 5-cycle test procedure equations
 - Reduce time required to process alternative methodology applications
 - Provide for general approval of measurement and calculation methodologies for alternative methodologies
 - Clarify that the predetermined credit table requires no data beyond that specifically requested under the definitions of technology
 - Clarify that credit granted under the alternative methodology application process are simply required to demonstrate on-road benefits, not improvements beyond current technology
 - Clarify that thermal control technology caps can be assessed on a fleet basis
 - Clarify that air conditioning technology credits approved under the off-cycle alternative methodology process do not apply to the A/C efficiency credit caps
 - Allow suppliers to submit applications for alternative methodologies which could generally be applied by all manufacturers
- 40 CFR § 1066.845: Address AC17 test issues