



June 28, 2021

Mr. Pete Buttigieg  
Secretary, U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Mr. Michael S. Regan  
Administrator, U.S. Environmental Protection Agency  
Mail Code 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**Subject: Harmonization of Corporate Average Fuel Economy (CAFE) and Light-Duty Vehicle Greenhouse Gas Stringency**

Dear Secretary Buttigieg and Administrator Regan,

The Alliance for Automotive Innovation (Auto Innovators)<sup>1</sup> writes today to reinforce the need for maximized harmonization between future Corporate Average Fuel Economy (CAFE) and greenhouse gas (GHG) emission standard stringency. As we have previously discussed with you, Auto Innovators and our member companies are committed to the goals of a net-zero carbon transportation future, expanded electrification of the light-duty fleet, and year-over-year improvements in fuel economy and GHG emissions. As the Biden Administration proceeds with efforts to revise GHG and CAFE standards,<sup>2</sup> we seek an efficient and effective pathway towards these goals that balances environmental progress, safety, affordability, innovation, and U.S. jobs.

In 2010, the U.S. Environmental Protection Agency (EPA), the U.S. Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA), and the California Air Resources Board (CARB), created the first "One National Program" (ONP) for regulation of fuel economy and GHG emissions. For their part, EPA and NHTSA issued a joint final rule with separate standards that generally accounted for statutory differences, resulting in roughly equivalent required fuel economy improvements under both programs. In other words, a manufacturer, in theory, could build a single fleet of vehicles that complied with both the EPA and NHTSA programs without undue additional

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<sup>1</sup> The Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The organization is directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, as well as technology and other automotive-related companies. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

<sup>2</sup> Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions, RINs 2060-AV13 and 2127-AM34.

burden under either program. CARB, for its part, adopted a “deemed-to-comply” provision to its regulations that allowed manufacturers to demonstrate compliance with its regulation by meeting the EPA’s GHG regulation.

As the previous ONP signified, coordination among the regulatory agencies can create public and private benefits. Harmonized regulations allow manufacturers to focus their planning and investments to achieve fuel economy and GHG improvements while reducing the added challenge of meeting three differing federal and state regulations across the U.S. Environmental benefits can be achieved at a lower cost to consumers while supporting jobs in manufacturing. Lower costs also result in faster fleet turnover, replacing older vehicles with more efficient, cleaner, and safer new vehicles.

As EPA and NHTSA develop and finalize their proposals for revised GHG and CAFE standards, it is essential that both DOT and EPA coordinate efforts now to ensure continued harmonization between the two separate federal standards. This is of particular importance as automakers invest hundreds of billions of dollars in vehicle electrification and engine efficiency over the next several years, resulting in an expected tripling of the number of electric models by 2025.

Key differences between EPA’s and NHTSA’s statutes and resulting regulations include electric vehicle compliance calculations, credits for air conditioning system improvements, the CAFE credit transfer and trading system, and NHTSA’s separate regulation of domestic and import car fleets. These statutory constraints generally make CAFE regulations more challenging than a numerically equivalent GHG regulation under EPA’s statutory authority.

While neither DOT nor EPA can change or ignore their underlying statutes, they can and have adjusted their respective regulatory structures to account for these differences to provide greater, albeit partial, harmonization. As NHTSA noted in the 2012 joint EPA/NHTSA rulemaking,

... the rates of increase in stringency for CAFE standards are lower than EPA’s rates of increase in stringency for GHG standards. As in the MYs 2012-2016 rulemaking, this is for the purposes of harmonization and in reflection of several statutory constraints in EPCA/EISA.<sup>3</sup>

Moving forward, we believe that both DOT and EPA should maintain the practice of adjusting the standards to account for statutory differences that otherwise would frustrate harmonization. Specific differences that EPA and NHTSA should work together to address are described in the attachment to this letter.

The impact of a lack of harmonization is not just theoretical. To date, no manufacturer has fallen out of compliance with GHG regulations, although, even with record GHG reductions from the auto sector, many manufacturers have now failed to meet annual GHG targets for several years and are relying on previously banked over-compliance credits to remain compliant.<sup>4</sup> In contrast, manufacturers have paid civil penalties of approximately \$193 million for non-compliance with CAFE regulations

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<sup>3</sup> 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 77 Fed. Reg. 62,639 (October 15, 2012).

<sup>4</sup> EPA, “The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology Since 1975”, EPA-420-R-21-003 (January 2021), available at <https://www.epa.gov/automotive-trends> (accessed June 17, 2021).

between model years 2012 and 2017, even as the industry sets records when it comes to internal combustion engine efficiency.<sup>5</sup>

In closing, Auto Innovators and our member companies are committed to the goals of a net-zero carbon transportation future and expanded electrification of the light-duty fleet. Thus, we ask for an efficient and cost-effective pathway to achieving these goals, building off the long-standing process designed by the Obama Administration to provide equivalent stringency between the GHG and CAFE programs. Such alignment is especially important in protecting manufacturing jobs, ensuring vehicle affordability, and addressing social equity as standards become more stringent and the lack of harmonization becomes more costly.

Thank you for your consideration of this concern. If you have any questions, please contact Michael Hartrick, Sr. Director of Energy & Environment at (248) 357-4717 or at [mhartrick@autosinnovate.org](mailto:mhartrick@autosinnovate.org).

Sincerely,



John Bozzella  
President and CEO  
Alliance for Automotive Innovation

Cc.

Dr. Steven Cliff  
Acting Administrator, National Highway Traffic Safety Administration

Richard Corey  
Executive Officer, California Air Resources Board

Brian Deese  
Director, National Economic Council

Joseph Goffman  
Acting Assistant Administrator, U.S. Environmental Protection Agency

Brenda Mallory  
Chair, Council on Environmental Quality

Janet McCabe  
Deputy Administrator, U.S. Environmental Protection Agency

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<sup>5</sup> NHTSA, "MY 2019 Industry CAFE Compliance" (October 15, 2019), available at [https://one.nhtsa.gov/cafe\\_pic/AdditionalInfo.htm](https://one.nhtsa.gov/cafe_pic/AdditionalInfo.htm) ("MY 2011 - MY 2019 Credit Shortfall Report") (accessed June 17, 2021).

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Gina McCarthy  
White House National Climate Advisor

John Putnam  
Acting General Counsel, U.S. Department of Transportation

Shalanda Young  
Deputy Director, White House Office of Management and Budget



## **Attachment**

### **Key Differences Between NHTSA CAFE and EPA GHG Regulations**

The following describes some of the key differences between CAFE and GHG programs that impact their underlying stringency and harmonization of the two regulatory programs. Each of these should be carefully considered and aligned in the context of standard setting for both programs and in achieving balance between environmental progress, safety, affordability, innovation, and jobs.

1. Air conditioning system refrigerant leakage. EPA's underlying statute allowed it to adopt regulations that provide a credit for reducing the leakage of air conditioning system refrigerants and for the substitution of lower global warming potential refrigerants. NHTSA's statute focuses exclusively on fuel economy, precluding NHTSA from adopting a similar credit. To address this difference, NHTSA CAFE standards have been offset from EPA GHG standards by approximately the level of anticipated use of air conditioning system refrigerant leakage credits. This practice should be continued.
2. Treatment of electric vehicles. EPA's statute allows it to correctly assign a "zero" GHG tailpipe emissions value for electric vehicles. In contrast, CAFE fuel economy is an energy-equivalent calculation, including an incentive for the use of an alternative fuel. The CAFE calculation results in a relatively high fuel economy level that is nevertheless not equivalent to the tailpipe emission value of zero. Further, the current GHG program additionally provides a production multiplier to encourage electric vehicle production that is not included in the CAFE statute. Past joint GHG/CAFE rulemakings have acknowledged the statutory difference in the treatment of electric vehicles can affect program stringency. However, it is unclear how much of an adjustment has been applied to account for the greater GHG program flexibility. A clearly defined offset will become critical to address these differences as manufacturers strive to increase the market share for electric vehicles.
3. Minimum domestic passenger car standards. The CAFE statute requires NHTSA to set a non-attribute-based standard for the domestic car fleet, further increasing compliance burdens. EPA's statute has no such requirement, nor should EPA adopt one in regulation.
4. CAFE credit transfer caps. The Energy Independence and Security Act of 2007 (EISA) created a flexibility to transfer credits from one compliance fleet to another, but limits such transfers. These caps constrain manufacturers from moving credits from one fleet to another despite the preservation of total fuel savings. This results in less flexibility and greater compliance challenges in the CAFE program. These limitations do not exist (and should not be created) in the GHG program.
5. CAFE credit carry-forward and carry-back. CAFE regulations do not adjust credit values to preserve fuel savings when credits are simply carried forward or back. This practice discounts the fuel savings associated with over-complying with CAFE standards in earlier years. In contrast, EPA credit accounting preserves tons of avoided emissions regardless of how and when the credits are used.
6. Passenger car standards. The CAFE statute splits passenger cars into domestic and import fleets, exacerbating the constraints created by credit transfer caps. EPA's statute does not require this split, nor should EPA adopt such a split by regulation.