



October 9, 2020

James Owens, Esq.  
Deputy Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

**Re:    Comments on Petition for Rulemaking – 49 C.F.R. Part 578**

Dear Mr. Owens:

On behalf of Jaguar Land Rover North America, LLC (“JLRNA”), I am writing in support of the Alliance for Automotive Innovation’s (“Auto Innovators”) petition to amend 49 C.F.R. Part 578 to clarify and establish that the civil penalty rate of \$14.00 per 0.1/mpg for 49 U.S.C. § 32902 fuel economy standard violations be applied commencing with the 2022 model year (“MY”) and not retroactively to 2019MY.

### **Background**

In October 2017 and May 2018, JLRNA filed comments with NHTSA concerning the adverse economic impact of increasing the CAFE civil penalty rate from \$5.50 per 0.1/mpg to \$14.00. The CAFE standards remain challenging for small manufacturers such as Jaguar Land Rover (“JLR”) despite the continuous improvement to our fleet’s fuel economy performance and the reduction in CAFE annual targets as a result of the final SAFE2 rule.

Since 2012 JLR has proven itself as the leader within the industry as we have delivered among the greatest gains in efficiency and GHG improvement of any automobile manufacturer. This was accomplished by, among other things, maximizing off-cycle technologies across all our models including 100% of all internal combustion engine vehicles having engine idle stop-start, implementing 8/9 speed transmissions in all vehicles, and the highest use of lightweight in the industry. JLR has implemented off-cycle technologies to the extent that our light truck fleet is operating well within the regulatory cap for these technology credits. Unfortunately, this means JLR vehicles are fitted with real-world MPG improving technologies that we cannot count towards our compliance position, despite their benefits.



Moreover, JLRNA has transformed from a company with approximately 90% of our 2012 vehicles sales having a V8 engine to less than 10% of our [YEAR] vehicle sales having a V8 engine. But JLRNA has not stopped there. JLRNA's 2019MY product offerings include our first ever all-electric vehicle - the Jaguar I-Pace - in addition to Range Rover Sport and Range Rover Plug-in Hybrid Electric Vehicles ("PHEV"). Furthermore, JLRNA has offered electrified variants of additional Jaguar and Land Rover models beginning in 2020MY.

JLR has invested significantly in technologies to increase our fuel efficiency and GHG emissions performance. A significant increase in the CAFE penalty rate, especially one retroactively applied to JLR's already produced 2019MY and 2020MY and just launched 2021MY, could severely impact our ability to invest in future fuel saving technologies and have the opposite impact of what the increased fine seeks to achieve.

### Support for Auto Innovators' Request to Establish MY 2022 as the First Year for Penalty Increases

Please note that any of the following information highlighted and bracketed in [yellow is Confidential Business Information ("CBI")]. A separate CBI redacted copy has been provided under separate cover.

JLRNA's first opportunity to adjust its fleet in response to the higher CAFE penalties is 2022MY because the 2019MY and 2020MY vehicles have already been produced and sold and the production of 2021MY vehicles is underway. There is no time or opportunity for JLRNA to impact the 2019MY-2021MY CAFE results. The higher penalty rate would be a significant extra cost to JLRNA's business that we cannot now control or otherwise manage.

From 2019-2021MY JLR forecasts [ ]. At the \$5.50 penalty price, this would cost [ ], while the \$14 penalty price (including annual inflation adjustment) would result in [ ]. This equates to an [ ] for our business should the higher fines be introduced in 19MY instead of 22MY. The breakdown by MY can be seen below:

Model Year:	2019 (Final MY report)	2020 (Pre MY report)	2021 (forecast)
Penalty fine @ \$5.50	\$13.7 M	[ ]	[ ]
Penalty fine @ \$14*	\$34.8 M	[ ]	[ ]
Cost difference of penalty fine rates	\$21.2 M	[ ]	[ ]

\* The \$14 penalty fine includes an annual inflation adjustment of 1.764% year-on-year.

#### **JAGUAR LAND ROVER NORTH AMERICA, LLC**

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Despite JLR's continued investment and ongoing commitment to improve fuel economy, we continue to be in a challenging position with regards to CAFE. There are four reasons for this:

1. In 2019MY and 2020MY, the targets are increasing at the higher Obama Administration standards.
2. Battery Electric Vehicle ("BEV") sales have been below the automotive industry forecast. In 2018, JLRNA forecasted an 8% BEV sales mix by 2020MY. However, the current forecast is [ ] of JLRNA's sales mix.
3. There has been a notable consumer purchasing shift from passenger cars to light trucks. In 2017, JLRNA's sales were 77% light truck and by 2020 the forecast increased to [ ] and we expect this trend to continue. Within the light truck category, consumers are purchasing large light trucks over small light trucks. These trends were unexpected and can partially be attributed to lower fuel prices that allow large light trucks to operate more affordably. This has hindered JLRNA's position as we had specifically invested in efficient technologies for our smaller SUVs/Crossovers in anticipation that these models would constitute a majority of our sales.
4. [ ]:





The cost impact of the increased penalty could have an unintended consequence on JLR's investment in electric vehicles and more fuel-efficient technologies to improve our fleet's CAFE performance.

[ ]. If JLR is required to divert funds to pay retroactive CAFE penalties for 2019MY-2021MY, which we have no ability to manage or control from a product planning standpoint, it will prevent us from investing in similar technologies and make closing the gap to future targets more difficult.

Additionally, the cost to JLRNA from the retroactive application of the penalty increase could decrease our marketing investments for new efficient fuel technologies, powertrains, or electrified products. A limited investment in this area means JLRNA would not be able to drive demand to meet our sales goals for the more efficient vehicles.

Finally, the Covid-19 Pandemic has had an adverse effect on JLR. It has forced JLR to close showrooms, manufacturing plants, and pause significant engineering work for a period of months. This has reduced JLR's sales revenue and delayed critical investment in future product programs with new fuel-efficient technologies. In short, increasing the penalty fine for the 2019MY-2021MY would exacerbate an already difficult company position (and related future investments) due to Covid-19.

JLRNA respectfully requests NHTSA establish that the first year in which the \$14.00 penalty rate will be implemented is 2022MY.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Marchand".

Chris Marchand  
VP, Government and Industry Relations

cc: Joe Eberhardt, President and CEO