



October 26, 2021

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The Honorable Steven Cliff
Acting Administrator
National Highway Traffic Safety Administration
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: Corporate Average Fuel Economy Standards for Model Years 2024-2026
Passenger Cars and Light Trucks, (NHTSA–2021–0053; RIN 2127-AM34)**

Dear Administrator Cliff:

NATSO, Representing America’s Travel Centers and Truckstops, and SIGMA: America’s Leading Fuel Marketers, (together, the “Associations”) respectfully submit these comments in response to the National Highway Traffic Safety Administration’s (“NHTSA’s” or the “Agency’s”) proposed rule on corporate average fuel economy (“CAFE”) standards (“Proposed Rule” or the “Proposal”).¹ The Associations believe that to best achieve the Agency’s stated objectives, any review of fuel economy standards should be technology-neutral and grounded in science. The most expeditious and economical way to improve fuel economy is through market-oriented, consumer-focused policies that encourage: (1) all technologies to improve their respective emissions consequences therefore increasing the fuel economy for vehicles that use them and (2) retailers (and thus consumers) to gravitate toward the most environmentally and economically attractive solutions.

All fuels and technologies should be treated equally within the context of establishing performance specifications. Once those specifications are set, however, policy should harness the market’s ingenuity to identify the optimal means of satisfying them. NHTSA should work with the Environmental Protection Agency (EPA) to establish a carbon intensity standard for transportation energy that declines over time and is reflected in increased fuel economy standards. A declining carbon intensity standard will allow vehicle manufacturers to improve fuel economy in new vehicles while also reducing emissions in the current fleet. Moreover, a carbon intensity

¹ National Highway Traffic Safety Administration, Department of Transportation, *Corporate Average Fuel Economy Standards for Model Years 2024-2026 Passenger Cars and Light Trucks*, 86 Fed. Reg. 151 (September 3, 2021) available at <https://www.govinfo.gov/content/pkg/FR-2021-09-03/pdf/2021-17496.pdf> [hereinafter “Proposed Rule” or the “Proposal”].

standard will allow the market to reduce carbon in the most cost-effective and efficient way—which ultimately benefits consumers.

If the goal is to improve the fleet’s fuel economy, NHTSA should not establish unbalanced regulatory incentives that skew the market towards a particular technology. Instead, NHTSA should create a technology-neutral, performance-based framework that provides a level playing field upon which all technologies can compete fairly for market share. In particular, the Associations urge NHTSA to fully account for the environmental benefits of all fuel-vehicle pathways, including renewable natural gas (“RNG”) and high octane fuels. These technologies have the potential to provide compliance flexibility for automakers and expanded choice for consumers while also delivering increased environmental benefits.

I. About the Associations

NATSO currently represents more than 4,000 travel centers and truck stops nationwide, comprised of both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. The Associations’ members are responsible for approximately 90 percent of the motor fuel sold in the United States.

To be successful, the Associations’ members must be attuned and responsive to their customers’ demands. The Associations’ members’ sole objective, therefore, is to sell legal products, in a lawful way, to customers who want to buy them. This means the Associations’ members are agnostic as to what types of fuel they sell to satisfy consumer demand, but they do have a bias: it is best for the American consumer and America’s industrial position in the world marketplace to have reasonably low and stable energy prices. The Associations’ experience with these issues is valuable because they bring a technology-agnostic perspective with an underlying attention and loyalty to consumer preferences and low prices.

II. CAFE Standards Should be Fuel-Neutral

Fuel economy standards should not favor one technology over another. The Agency’s preference for electric vehicles (“EVs”) over other technologies counterproductively undermines meaningful opportunities to improve the transportation sector’s emissions footprint and the fleet’s fuel economy. Providing one technology a “leg up” over others will preclude markets from identifying and gravitating to the most attractive, economical option. While it may be tempting to prematurely pick winners and losers from an energy technology standpoint, sound policy must be grounded in science and recognize that the state of technology can change rapidly.

NHTSA should incorporate a “well-to-wheels” approach that considers various fuel pathways to meet fuel economy standards. Creating a carbon intensity standard for transportation energy is an opportunity to do so. What policymakers think is the best solution today may be surpassed by subsequent innovation. Sound policy should not stifle innovation by mandating specific fuel solutions. Instead, NHTSA should set standards tied to lower carbon intensity and therefore higher fuel economy and let the market – guided by consumers – innovate to find the best way to meet those goals.

A. Renewable Natural Gas

The Proposal includes policies that disincentivize expanded natural gas vehicle (“NGV”) production. RNG should be a meaningful component of the mix of technologies and fuels that the Proposal incentivizes. The latest data available from the California Low Carbon Fuel Standard Program indicates that the average carbon intensity of bio-CNG sold in 2020 was $-5.85\text{gC}/2\text{e}/\text{MJ}$.² In the coming years, the carbon intensity of RNG is expected to be even lower as greater amounts of low-carbon dairy gas is produced and used in NGVs.

This rulemaking represents an important opportunity to incentivize the production of vehicles that operate on RNG. The Proposal, unfortunately, misses that opportunity. Although the Agency includes a 2.0 multiplier for NGVs, NHTSA acknowledges the incentive is “inconsequential” because there are no NGVs in the baseline fleet.³ This is not the approach the Agency has taken regarding EVs and hybrid vehicles. NHTSA should base fuel economy standards on science and fully account for all of the environmental benefits of NGVs. Doing so would require the Agency to provide a sufficient incentive for auto manufacturers to produce NGVs, which the Proposed Rule does not do.

The Associations urge the Agency to expand the NGV sales multiplier to allow vehicle manufacturers to meet fuel economy standards based on the life-cycle emission benefits of NGVs, consistent with the amount of RNG being utilized by them. Expanding the enhanced sales multiplier for NGVs would augment the Agency’s objectives. For example, commercial pickup trucks and work vans operating in rural parts of the country where extended range is essential are a viable RNG opportunity today. Even if that fleet may one day be electrified, it is likely many years in the future, and it is unnecessary to forfeit emissions improvement opportunities in the intervening years. We should be able to do both.

B. Octane

The Associations urge NHTSA to consider the opportunities associated with high octane fuels coupled with increased use of high compression engines. This would not only improve motor fuel’s emissions characteristics, but it would enhance fuel economy as well. The Associations are eager to work with the Agency to explore ways that do this in a cost-effective manner that is feasible for both retailers and consumers. In so doing, it will be important that the Agency consider and address a variety of uncertainties around what fuel octane levels would appropriately balance feasibility, cost, and environmental concerns, and how such fuel can be integrated into the existing fuel infrastructure and markets. NHTSA should specifically address these issues, including:

- Cost-Effectiveness for Retailers – Higher octane fuels can only achieve significant market penetration if it is cost-effective for fuel retailers to sell such fuels. Done properly, higher

² California Air Resources Board, Low Carbon Fuel Standard Program, LCFS Pathway Certified Carbon Intensities available at <https://ww2.arb.ca.gov/resources/documents/lcfs-pathway-certified-carbon-intensities>.

³ Proposed Rule at 49656.

octane fuels and vehicles that must run on them could gain consumer acceptance over time, and fuel retailers will respond accordingly.

- **Retailer Liability** – Retailers would need to be assured that they will not be held responsible for customers that misfuel (*e.g.*, dispensing less expensive, lower octane fuel into vehicles that must run on higher octane fuels).
- **Labeling Requirements** – Federal dispenser labeling requirements would have to be streamlined, and state requirements would have to be preempted.
- **Vehicle Warranties** – Auto manufacturers would have to warrant all new higher octane vehicles up to at least E15 depending upon vehicles' capabilities, and would have to affirmatively state which cars in the existing fleet can run on E15 and ensure that the cars are warrantied or retroactively warrantied as such.

III. The Proposal Does Not Acknowledge the Consequences of CAFE Standards that Favor EVs over Other Technologies

Fuel economy standards that favor EVs over other technologies have led to unintended consequences that ultimately run counter to NHTSA's regulatory objectives. For example, the 2012 Final Rule⁴ encouraged regulated utilities to aggressively pursue offering EV charging on the backs of lower-income Americans. Regulated utilities are seeking to convince public utility commissions that they should be able to charge all of their ratepayers – regardless of income – a higher dollar figure on their monthly electric bill in order to underwrite the utilities' investment in EV charging stations. Unfortunately, the cost burden will hit hardest on those least able to afford it. Individuals who struggle to pay their monthly bills should not be required to underwrite investments that the private sector is willing and better equipped to make. EV drivers – who today have above-average incomes and drive cars that cost much more than average – can and should pay the costs of charging their vehicles.

Absent more meaningful guardrails around regulated utilities' ability to own and operate EV charging stations, it is reasonable to believe that the Proposal would perpetuate this activity throughout the country. There is no public policy rationale for pursuing this approach with respect to refueling, as it will only decrease transparency and competition, increase costs, and stifle innovation. And, this model of utilities adding charging stations funded by ratepayers will stunt the growth of such infrastructure because the private sector will have no way to compete and therefore not invest. Because the private sector cannot operate electric charging competitively with infrastructure underwritten by ratepayers, the private market will not build new infrastructure in states using that model. The result will be fewer, not more, EV charging stations. This undermines NHTSA's regulatory objectives.

⁴ National Highway Traffic Safety Administration, Department of Transportation, Final Rule, *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 Fed. Reg. 199 (October 15, 2012) available at <https://www.govinfo.gov/content/pkg/FR-2012-10-15/pdf/2012-21972.pdf> [hereinafter "2012 Final Rule"].

The Proposal does not sufficiently acknowledge the costs that all ratepayers will inevitably absorb in order to underwrite their regulated utility's investment in EV charging stations. A competitive, private recharging market will lower the overall costs that consumers pay for electricity as a transportation fuel. The retail fueling industry provides approximately 150,000 locations across the country for drivers to currently refuel. This refueling capacity drives aggressive price competition that, in turn, keeps prices low for consumers.

The overarching structure of the wholesale and retail electricity market is not designed for – and thus incompatible with – the retail fuels market. If the regulated utilities' practice of charging all of their ratepayers more money to underwrite the utilities' investment in owning and operating charging stations were to become the prevalent model, the country would risk replacing one of the most price-transparent and price-competitive consumer markets in the world (retail fuel pricing) with one of the least price-transparent and price-competitive markets in the United States (utility electricity pricing).

Because the Proposal's cost analysis limits the discussion to costs that EV drivers will bear, it understates the true public costs of refueling EVs. In reality, many American businesses and individuals will subsidize those costs through higher electricity bills, and the amount of that subsidy will be unnecessarily high because it will be divorced from the competitive forces that keep prices down.

IV. Conclusion

NATSO and SIGMA, representing fuel retailers, travel centers, and marketers across the country, look forward to working with NHTSA to improve fuel efficiency standards. Thank you for the opportunity to provide these comments.

Sincerely,



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NATSO, Representing America's Travel Centers and Truck Stops

SIGMA: America's Leading Fuel Marketers