

Memorandum



U.S. Department of Transportation
National Highway Traffic Safety
Administration



Subject: EO 12866 Meeting with the Alliance for
Automotive Innovation and OIRA

Date: March 17, 2022

From: Michael Kuppersmith, Trial Attorney
Office of the Chief Counsel

To: Docket No. NHTSA-2021-0001

On December 28, 2021, a representative from NHTSA attended an Executive Order 12866 meeting with representatives of the Alliance for Automotive Innovation (the Alliance) and the Office of Information and Regulatory Affairs (OIRA). The meeting occurred telephonically to discuss issues relating to the Corporate Average Fuel Economy (CAFE) civil penalties rulemaking, which was pending EO 12866 regulatory review at the time. NHTSA was represented by Michael Kuppersmith, Trial Attorney, Office of Chief Counsel. The Alliance was represented by David Schwietert, Michael Hartrick, Julia Rege, and Catherine Palin. OIRA was represented by Kimberly Wilson.

In the meeting, the Alliance's representatives discussed their views on NHTSA's supplemental notice of proposed rulemaking on CAFE civil penalties, 86 FR 46811 (Aug. 20, 2021). Specifically, the Alliance expressed that an increased penalty rate for CAFE violations should apply prospectively beginning in 2022. The Alliance noted that similar concerns it raised in 2016 regarding the timing of the increased rate were partially granted then. The Alliance emphasized the particular challenges with the domestic minimum passenger car standard, which cannot be covered by traded or transferred credits. The Alliance also mentioned that additional factors are present now that exacerbate the difficulties in meeting the fuel economy standards, such as ongoing global supply chain issues and a chip shortage. Additionally, the Alliance discussed other actions being taken by the Administration related to fuel economy and asked NHTSA to consider the totality of the economic impact of the policies on the automotive industry and its jobs. The Alliance also identified other potential downsides to the increased penalty rate, such as reducing the cost-sharing benefits with unions and shifting funds away from investments in electrification and other fuel economy improvements.

After the meeting, the Alliance provided additional materials in support of its points. These materials have been added to Docket No. NHTSA-2021-0001 as well.