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Legal & Regulatory Group

February 13, 2012

U.S. Environmental Protection Agency (EPA)  
EPA Docket Center (EPA/DC),  
Air and Radiation Docket (MC 28221T)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

National Highway Traffic Safety Administration (NHTSA)  
Docket Management Facility (M-30)  
U.S. Department of Transportation  
West Building, Ground Floor, Rm. W12-140  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Re: 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas  
(GHG) Emissions and Corporate Average Fuel Economy (CAFE); 49  
CFR Parts 523, 531, 533, 536, and 537 and 40 CFR Parts 85, 86 and 600;  
Doc. Nos. NHTSA-2010-0131 and EPA-HQ-OAR-2010-0799.

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents approximately 17,000 franchised automobile and truck dealerships that sell new and used motor vehicles and engage in service, repair, and parts sales. Together they employ around 1,000,000 people nationwide yet many are small businesses as defined by the Small Business Administration (SBA).

Last year, NHTSA and EPA jointly proposed new CAFE and GHG mandates equivalent to an overall fleet average of 54.5 mpg for light-duty vehicles produced for model years (MY) 2017-2025.<sup>1</sup> The proposal rests on authority set out in the Energy Independence and Security Act of 2007 (EISA), an amendment to the Energy Policy and Conservation Act (EPCA), which specifically required NHTSA to set annual maximum feasible, attribute-based passenger car and light truck CAFE levels, including a combined standard of *at least* 35 mpg for MY 2020.<sup>2</sup>

Importantly, two other sets of standards have issued since EISA was enacted. In 2009, NHTSA established an average light-duty car and truck standard of 27.3 mpg for MY 2011. Later that year, EPA issued the endangerment finding which serves as the basis for its ability to concurrently regulate motor vehicle GHGs pursuant to Title II of the Clean Air Act (CAA). The

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<sup>1</sup>79 Fed. Reg. 74854, *et seq.* (December 1, 2012).

<sup>2</sup> Pub. L. No. 110-40, 121 Stat.1492 (2007); 49 USC §32901, *et seq.*

following year, NHTSA and EPA jointly issued light-duty CAFE and GHG standards for MYs 2012-2016, which ramp up to a fleet-average target of 35.5 mpg.<sup>3</sup>

While these federal rules were being developed, EPA considered whether to grant a State of California (CARB) petition for a waiver of preemption to regulate motor vehicle fuel economy and GHGs independently, pursuant to Section 209(b) of the Clean Air Act. EPA initially denied CARB's preemption waiver petition, only to later reverse itself.<sup>4</sup> Consequently, CARB has established a redundant and potentially conflicting light-duty vehicle fuel economy/GHG program, which has been adopted by several other states, and which includes standards recently proposed for MYs 2017-2025.

In mid-December, NADA petitioned NHTSA and EPA for a 30 day extension of the 60 day comment period. A month later, a 14 calendar day extension was granted.<sup>5</sup> Hearings on the proposal were held on January 17, January 19, and January 24, 2012, with NADA dealer-directors presenting testimony at each. The hearing records remain open for 30 days.<sup>6</sup>

## I. INTRODUCTION

Since the enactment of EPCA in 1975, NADA has supported the goal of continuous fuel economy improvements. At the same time, NADA recognizes the constraints inherent in a "push" approach to achieving such improvements. The success of mandates on vehicle manufacturers to research, develop, design, and manufacture vehicles to meet fuel economy performance targets is limited necessarily by the fact that their regulatory obligations end when those vehicles are delivered to the 17,000+ independent businesses licensed to sell or lease them to the motoring public. Real life fuel economy improvements cannot be achieved, and related policy benefits cannot be realized, unless and until consumers actually buy (or lease) and use those new vehicles.

"Push" mandates do not necessarily mean that "if they build them, they will come." It is this simple fact that serves as the basis for NADA's concern. First, prospective new light-duty vehicle purchasers must *need* or *desire* to purchase or lease a new vehicle for there to be demand. And, the demand for new light-duty vehicles is and always will be constrained by choices, including the used vehicle marketplace, vehicle service and repair options, and alternatives to light-duty vehicle transportation. Second, prospective new light-duty vehicle purchasers must have the *ability* to make a purchase or lease. Ability involves critical factors like financial wherewithal (for most consumers, this means creditworthiness), a driver's license, and for certain alternative and new technology vehicles, the availability of convenient refueling. Third, prospective new light-duty vehicle purchasers must be *willing* to purchase, assuming they have the need and/or desire and the ability to do so.

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<sup>3</sup> 74 Fed. Reg. 14196, *et seq.* (March 30, 2009); 42 USC §7521, *et seq.*; 74 Fed. Reg. 66496, *et seq.* (December 15, 2009); 75 Fed. Reg. 25324, *et seq.* (May 7, 2010). The endangerment finding and MY 2012-2016 rules are under challenge in the U.S. Court of Appeals for the District of Columbia Circuit.

<sup>4</sup> 42 U.S.C. §7543(b); 73 Fed. Reg. 12156, *et seq.* (March 6, 2008) and 74 Fed. Reg. 32744, *et seq.* (July 8, 2009).

<sup>5</sup> 77 Fed. Reg. 2028-9 (January 13, 2012).

<sup>6</sup> 76 Fed. Reg. 76932-3 (December 9, 2011); 42 USC §7607(d)(5).

The proposal gives remarkably short shrift to these marketplace realities. A cynical view would argue that, under a “push” mandate, regulators need not care if the vehicles they are mandating actually get sold or leased. These comments do not take that position, but instead suggest that a careful consideration of actual customer behaviors and marketplace realities will enable NHTSA and EPA to leverage customer demand to maximize fleet turnover, thus maximizing program effectiveness. Doing so is critical given that, by a wide margin, the proposal is the costliest of any ever considered for the U.S. automobile industry.

Among other things, the following comments and suggestions address:

1. Average per vehicle costs.
2. Prospective purchaser constraints and behaviors, including the ability and willingness to pay up-front for fuel economy improvements.
3. Total operating costs and fuel economy “paybacks.”
4. Consumer information and communication.
4. Technological fairness and compliance flexibility.
5. Lead time, duration, and the proposed mid-term review.
6. The need for an actual single national program

These comments do not devote much attention to technological feasibility, largely taking on faith the proposal’s assumptions in that regard. Likewise, little attention is paid to the proposal’s assumptions regarding program benefits, except to stress that if and to the extent vehicles covered by the program rule are not sold and used as predicted, those benefits will be reduced.

## **II. THE PROPOSAL UNDERSTATES AVERAGE PER VEHICLE COSTS**

### **A. The Government’s Cost Estimates**

The proposal is drafted in a manner that makes it difficult to tease out the per vehicle costs associated with compliance. There are several reasons for this:

1. As with all estimates made in the proposal and in supporting documents, NHTSA and EPA struggle to forecast costs based on assumptions involving vehicles that will hit the market 5 to 13 years out into the future. Given the potential for extreme variability for any number of factors, MY 2017-2025 predictions of average per vehicle cost/price are inherently suspect.

2. Each agency uses different models to calculate different and, in some cases, a variety of average per vehicle costs that do not mesh well together. This is just one example of why the so-called “single national program” is a misnomer. The final rule should harmonize and clearly delineate a single set of average per vehicle costs, for both light-duty cars and trucks, using only one marginal “cost-to-consumer” number. NHTSA and EPA should strive to ensure that these cost figures accurately depict for prospective purchasers what the final rule will cost, on average.

3. The proposal and related fact sheets and press releases obfuscate cost projections. Instead of appropriately delineating costs, separately delineating benefits, and comparing the

two, NHTSA and EPA go out of their way to emphasize gross and net benefits with little or no reference to costs. While by no means excusable, perhaps the unprecedented per vehicle and total costs have influenced EPA and NHTSA to do so. Regardless, the final rule should clearly show the average per vehicle costs prospective consumers should expect to have to pay up front.

For purposes of understanding how the proposal will impact prospective new vehicle purchasers, these comments use the average per vehicle estimates NHTSA has set out in the proposal, adjusted to 2010 dollars. Moreover, NADA takes the position that the MY 2011, 2012-2016, and 2017-2025 standards constitute a single post-EISA program. Thus, for purpose of its analyses, NADA characterizes the government's total average per vehicle cost estimate to be \$2936 (in 2010 dollars), reflecting \$91 dollars for MY 2011 adjusted to \$95, \$903 for MY 2016 adjusted to \$945, and \$1876 for 2025 adjusted to \$1896.<sup>7</sup>

## **B. Cost Estimates Reflecting the Use of Retail Price Equivalent**

The proposal fails to fully account for all of the up-front marginal costs prospective new vehicle purchasers can expect to face due to the MY 2017-2025 CAFE/GHG mandates. In doing so, it fails to appropriately recognize the potential impacts those mandates will have on light-duty vehicle affordability and sales. Specifically, the proposal uses a non-traditional approach to estimating light-duty retail cost/price called the Indirect Cost Multiplier (ICM) method.

The traditional approach, used for at least 30 years by NHTSA and EPA and vehicle manufacturers to calculate the cost of regulations impacting motor vehicles, involves an accounting method known as Retail Price Equivalent (RPE). The RPE method appropriately estimates the ratio of indirect costs (marketing, indirect labor, etc) to the retail price for the whole vehicle, adjusting accordingly the direct costs (engineering, manufacturing, etc.) associated with new components.

The ICM method, which NHTSA and EPA first attempted to use to develop their MY 2012-2016 program, involves a somewhat arbitrary selection and allocation of indirect costs to certain compliance-related components. Under this approach, by no means the standard accounting method used by vehicle manufacturers, the whole cost of the vehicle rarely if ever reflects the sum of its parts. In addition, as detailed in the attached paper comparing the use of the RPE method to the ICM method, NHTSA and EPA use their ICM method differently for this proposal than they did for the MY 2012-2016 rule.<sup>8</sup> For these and other reasons detailed in Exhibit A, NHTSA and EPA should recalculate average per vehicle costs for the proposal using the RPE method of accounting. To assist with that effort, the paper in Exhibit A attempts to do so, and even assumes NHTSA and EPA's projections of the technologies manufacturers will have to adopt to achieve compliance with the proposed standards.

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<sup>7</sup> 74 Fed. Reg. 14196, 14413 (March 30, 2009); 75 Fed. Reg. 25324, 25635 (May 7, 2010); 76 Fed. Reg. 74854, 74889 (December 1, 2011)

<sup>8</sup> See Exhibit A. Whinihan, Drake, and Aldorfer, *Retail Price Equivalent and Incremental Cost Multipliers: Theory and Reality as Applied to Federal CAFE and GHG Standards*, February 2012.

Bottom line: an appropriate application of the RPE method of accounting will result in average per vehicle regulatory costs for MY 2025 (in 2010 dollars) of \$4970 per car, \$4439 per truck, or \$4803 per vehicle.<sup>9</sup> As one might expect, these cost estimates are considerably higher than those found in the proposal and referred to above, and are that much more concerning. In fact, as the attached paper suggests, such costs approximate an amount equal to one half of all regulatory costs imposed on light-duty vehicles over the past 40 years, and are more than twice the current \$1,700 average per vehicle cost for all light-duty emissions controls.

### **C. A Worse Case Scenario Reflecting the Risks of Forecasting Far Into the Future**

NADA is also urging NHTSA and EPA to conduct and include in its final rule a worse case cost scenario reflecting a \$12,349 average per vehicle cost to comply with the proposed mandate for MY 2025. This suggestion is being made to reflect the fact NHTSA and EPA are engaged in a rulemaking earlier than necessary<sup>10</sup> aimed at applying mandates further out than necessary where many dynamic and hard to forecast variables are involved. These factors include conventional fuel costs, alternate fuel availability and costs, compliance technologies and their costs, interest rates, the general economy, etc.

If NHTSA and EPA were practiced at setting far-in-the-future standards based on hard to forecast variables, NADA would not be concerned. However, both agencies have historically set new CAFE and emissions mandates consistent with specific statutory time frames and in conformance with the statutory requirements for lead time and duration discussed in detail below. That is, with one major exception.

In the mid to late 1990s, EPA began the process of setting new tailpipe standards for on-road commercial trucks and engines, culminating in rules issued in 1997, 2000, and 2001 for MYs 2004-2010.<sup>11</sup> Largely due to EPA's failure to accurately forecast compliance technologies and costs far into the future, these rules underestimated compliance costs by some 2-5 times what actually were incurred. In addition to detailing this forecasting failure, the attached look-back paper reviews some of the devastating impacts these truck mandates generally had on the new truck marketplace, and in particular on new truck customers, on truck and engine manufacturers and suppliers, and on dealers.<sup>12</sup>

In summary, given this recent and devastating example of what can happen when mandates are set too far into the future, the final rule should include a worse case MY 2025 cost scenario of \$12,349 per vehicle, which approximates roughly 4.2 times the \$2,936 NHTSA cost estimate discussed above.

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<sup>9</sup> Ibid at 12.

<sup>10</sup> The next round of CAFE standards actually are not due until April 1, 2015.

<sup>11</sup> 62 Fed. Reg. 54694, *et seq.* (October, 21, 1997); 65 Fed. Reg. 59896, *et seq.* (October 6, 2000); 66 Fed. Reg. 5001, *et seq.* (January 18, 2001).

<sup>12</sup> See Exhibit B. NADA/ATD, *A Look Back At EPA's Cost and Other Impact Projections for MY 2004-2010 Heavy-Duty Truck Emissions Standards*, February, 2012.

### **III. THE PROPOSED MY 2017-2025 STANDARDS WILL DRAMATICALLY IMPACT THE ABILITY AND THE WILLINGNESS OF CUSTOMERS TO PURCHASE NEW LIGHT-DUTY MOTOR VEHICLES.**

As noted above, the demand for new light-duty motor vehicles, not unlike for most consumer goods, derives solely from and to the degree prospective purchasers *need* or *desire* them. Moreover, the demand for new light-duty vehicles is and always will be constrained by choices, including the used vehicle marketplace, vehicle service and repair options, and a variety of transportation alternatives that conceivably may satisfy those same needs and desires.

Assuming the requisite need or desire, prospective purchasers of new light-duty vehicles must have the *ability* to buy. For most households, a light-duty car or truck is the most expensive consumer purchase they make. Unlike for most other consumer goods, in excess of 90% of purchasers finance the new light-duty vehicles they acquire by means of a credit sale or lease, with less than ten percent involved in all-cash transactions. Thus, the single most important *ability* factor is creditworthiness. When prospective purchasers lack sufficient creditworthiness to enable a lender or lessor to finance the new light-duty vehicle they need or desire, they must consider other options. In addition to the alternate transportation choices noted above, prospective purchasers may be able to consider a less expensive new vehicle option that meets their needs or desires but, as discussed below, at some point no such new vehicle option will be available.

Lastly, prospective new light-duty vehicle purchasers must be *willing* to make a purchase, assuming they have the need and/or desire and the ability to do so. Factors influencing customer willingness to purchase a new light-duty motor vehicle include, but are not limited to, consumer confidence, perceived operating costs, and expected residual values.

#### **A. The Ability of Prospective Purchasers of New Light-Duty Purchasers to Pay for the Costs of the Proposed Standards**

However much prospective purchasers may need or desire new vehicles covered by the proposal, they must be able to afford them. Of course, other *ability* factors often come into play, such as meeting legal requirements for a license and obtaining liability insurance, or having reasonably available refueling options for alternative fuel and plug-in vehicles. Importantly, it matters not whether the new vehicles in question offer improved fuel economy performance characteristics compared to the transportation options currently being used by prospective purchasers. When underwriting loans or leases, lenders and lessors simply do not account for whether new vehicles offer more torque or horsepower, improved fuel economy, reduced GHGs, ubiquitous cup holders, or prettier paint. All that matters is whether prospective purchasers are creditworthy, that is, whether they will comply with their payment obligations as spelled out in the loan or lease. Regarding the new vehicles themselves, these decisions principally involve objective criteria and one key factor: the total amount of the up-front cost being financed.

Nowhere does the proposal properly account for ability to pay. Consequently, the proposal significantly understates potential impacts on prospective new vehicle purchasers and

overstates regulatory benefits. The paper Attached as Exhibit C lays out, for three cost-increase scenarios, how the proposal will impact on the ability of consumers to pay for vehicles covered by the rule, assuming the need or desire, and willingness, of those prospective purchasers to do so.<sup>13</sup> Note that these cost increase scenarios only reflect what it will cost prospective purchasers up front due to the mandates imposed by the MY 2011-2025 standards. They do not take into account other potentially significant regulatory costs above the assumed baseline, including compliance with expected Tier III emissions standards and an array of new safety standards.

The attached paper analyzes Bureau of Labor Statistics Consumer Expenditure Survey data to show how each average per vehicle cost increase scenario will impact the least expensive new vehicle in the market. For example, a regulatory cost of \$2,937 (in 2010 dollars) could increase the cost of the least expensive new vehicle to approximately \$15,700 versus the current \$12,750. In doing so approximately 6.8 million licensed drivers will no longer qualify for a loan on that least expensive new vehicle and thus will have to turn to the other transportation options discussed above. In fact, projected per vehicle average cost increases will knock licensed drivers out of the market for all new light-duty vehicle segments, as illustrated by the fact that, at the same average per vehicle price increase of \$2,937, another 6.8 million licensed drivers will no longer qualify for the purchase of the minimum cost new vehicle that accommodates more than 5 people (or more than 2 child safety seats), currently selling for approximately \$20,000. EPA and NHTSA must take these significant economic impacts into account, especially given that they have will have the greatest effect on lower income families at the margins of the market.

#### **B. Assuming a Need or Desire, and the Ability to Purchase a New Vehicle Covered by the MY 2017-25 Standards, Will Consumers Be Willing to Do So?**

Notwithstanding the very significant impact the MY 2017-2025 proposed rule could have on the ability of consumers to purchase or lease new vehicles subject to the rule, many other prospective purchasers with a need or desire to do so will have the ability to buy. For those customers, the issue is whether and to what extent they will be *willing* to “pay-up” for fuel economy improvements. Answering this question is not a simple task in that it involves several key hard-to-predict variables and is dependent on the circumstances of individual consumers.

A couple of facts are clear, however. First, as described above, vehicle lenders and lessors do not account for any potential reductions in vehicle operating costs, such as may result from lower household fuel costs, since they cannot predict actuarially if those avoided costs will be saved, let alone be applied to the loan or lease. Second, when assessing the willingness of prospective new vehicle purchases, it is neither appropriate nor fair to rely on surveys of what consumers say they might do if and when offered a new vehicle with improved fuel economy performance. This is especially true when the questioner neglects to note that the respondent must pay a premium up front for that improved fuel economy performance, or fails to accurately quantify that up-front cost premium, or the higher operating costs associated with that premium

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<sup>13</sup> See Exhibit C. NADA, *The Effect of Proposed MY 2017-2025 Corporate Average Fuel Economy (CAFE) Standards on the New Vehicle Market Population*, February, 2012.

(additional interest, insurance, taxes, etc.). Indeed, many pollsters in this area fail to accurately inform the respondent of the degree to which the up-front cost premium and higher operating costs will off-set any potential reductions in household fuel expenses, or may fail to remind those polled of any trade-offs that may be involved with vehicles designed to achieve improved fuel economy performance, let alone that they always have used vehicle, vehicle service and repair, and alternative transportation choices. Of course, consumer surveys can play a valuable role in assessing actual behavior, such as when used to evaluate why consumers do what they do or did what they did. But surveys with queries aimed at determining consumer willingness to pay for fuel economy performance 5 to 13 years into the future, which fail to provide respondents with information appropriate to make reasoned responses are of no value and should be considered as such by NHTSA and EPA.

If and to the extent prospective purchasers are unwilling to pay some or all of a regulatory premium for mandated fuel economy improvements, it will negatively impact new vehicle sales and reduce forecasted regulatory benefits. The proposal characterizes increased fuel economy performance (i.e., fuel cost reductions, discounted to the present) as the future benefit that offsets the higher up-front and operating costs needed to buy such performance. In and of itself, this cost/benefit analysis is problematic given that correct estimates of future fuel savings are not simple financial calculations in which one can estimate a discount rate as a corporation might for its cost of money when calculating the net present value of a potential project. It is incumbent upon EPA and NHTSA to accurately consider the expectations of able and willing prospective purchasers, because those expectations will ultimately determine their behavior in the marketplace. As illustrated in and supported by the paper attached as Exhibit D, prospective purchasers form expectations of the net present value of future fuel savings that are related, but not closely related, to a standardized financial calculation.<sup>14</sup> During dramatic upward swings in the price of gasoline followed by heavy media coverage, consumers place a large value on fuel economy, as revealed by shifts in demand to more fuel efficient portion of the market. During slow and steady increases in the price of gasoline with little or no media attention, consumer demand shifts reveal a much diminished value for fuel economy.<sup>15</sup>

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<sup>14</sup> See Exhibit D. Walton and Drake, *Willingness to Pay for MY 2025 Fuel Economy Mandates: Government Estimates vs. Economic Reality*, February 2012.

<sup>15</sup> Analysis of wholesale used vehicle transaction data show that demand reactions to significant changes in gasoline prices between 2005 and 2011 vary significantly depending on media reaction, the speed at which the price of gasoline changes, and other economic circumstances. For example between February and July 2008, the price of gasoline (regular, national average) increased by \$1.14/gal. At that time, approximately 70% of the price change for a given vehicle relative to the market average can be explained by its MPG rating, equivalent to a 1.7% relative price per MPG variation for a \$1.00/gal. change in the price of gasoline. But when gasoline increased by \$0.97/gal. in 2007, consumer reaction was less distinct, with just 8% of the price change for a given vehicle relative to the market average explained by its MPG rating, equivalent to a 0.3% relative price per MPG variation for a \$1.00/gal. change in the price of gasoline. Media coverage played a role in the difference in these reactions, as coverage in 2008 was significantly stronger than in 2007. For the 2008 events, a Google News search found approximately 21,700 gasoline price articles (an average of the total referencing “Gas Prices” and the total referencing “Gasoline Prices”), while a search for 2007 shows less than half that amount or 8,745.



In addition, when assessing the valuation of fuel economy improvements by prospective purchasers, the financial benefits of reduced future fuel savings cannot be separated from the utility lost by necessary reductions to other vehicle qualities and performance. For example, if a consumer values an increase in fuel economy of 1 mpg at \$500, but gaining this 1 mpg forces a reduction in power or safety valued at \$600, then for this consumer the value of the fuel economy gain is negative.

Consumer behavior indicates how these tradeoffs are valued. Indeed, these tradeoffs are available today in dealership showrooms which offer new light-duty vehicles with a wide variety of fuel economy performance, along with variations in other safety and performance features. A classic example of actual prospective purchaser willingness to pay involves a look at sales of models with both a hybrid electric and a conventional powertrain (e.g., Honda Civic, Ford Escape or Focus, Toyota Camry). The average fuel economy spread is approximately 20 mpg at a cost premium of approximately \$5,000. In virtually every instance, hybrid sales have been very small and in total, have made up well below 3% of annual light-duty new vehicle sales. The proposed regulations will mandate this tradeoff for all new vehicle buyers. Admittedly, some of this lack of consumer willingness to pay may derive from concerns about new technologies, as suggested by sales experience with the Mercury Milan hybrid which had an up-front price close to a similar, but conventionally-powered model.

Exhibit D includes a review of the pertinent “willingness to pay” literature, finding that statistical models that do not properly account for the tradeoff between fuel economy and other vehicle attributes will generate a false positive relationship between price and fuel costs, highlighting the significance of these tradeoffs in the mind the average consumer. Based on these revealed preferences, consumers are unlikely to value the proposal’s mandated fuel economy improvements more than the sum of the higher up-front costs for such improvements and other reductions to vehicle quality. In fact, when more reasonable estimates of per vehicle regulatory costs are used, the perceived net benefit will be negative for the average consumer.<sup>16</sup> As a result, many prospective purchasers of new light-duty motor vehicles will be unwilling to “pay-up” for costly fuel economy improvements, instead opting for less expensive and less fuel efficient options in the used vehicle market or the vehicle service and repair market, or for alternate transportation, thus reducing the proposal’s projected regulatory benefits.

#### **IV. THERE IS A NEED FOR ADDITIONAL CONSUMER INFORMATION ON LOWER OPERATING COSTS AND FUEL ECONOMY “PAY-BACK”**

Prospective purchasers able and willing to consider buying new vehicles covered by the proposal could benefit from additional information designed to enable them to better understand the value of investing in fuel economy performance. Current EPA/NHTSA fuel economy labels provide prospective purchasers with the tools necessary to make good comparisons between new vehicles, and between new and used vehicles. NADA is engaged with EPA on how best to use this tool to educate interested prospective purchasers on comparative fuel economy performance. In addition, dealers work with the Department of Energy to make available to consumers the

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<sup>16</sup> Footnote 14, *supra*, at 3.

annual DOE/EPA Fuel Economy Guide. In addition, a wealth of useful information is found on [fuelconomy.gov](http://fuelconomy.gov) and on other non-governmental websites devoted to the topic.

Section 105 of EISA specifically directed DOT, in consultation with DOE and EPA, to implement a vehicle fuel efficiency and alternative fuel consumer education program.<sup>17</sup> Pursuant to that mandate, NADA urges NHTSA to exercise its authority to collect annually from vehicle manufacturers, and to make available to the public, the actual cost of compliance with the so-called “National Program” for each make, model, and powertrain. This key piece of information, not currently available, will enable prospective new vehicle shoppers to conduct a pay-back analysis for each new vehicle they are considering by measuring actual compliance costs against potential fuel savings. The availability of actual compliance cost data also will assist NHTSA and EPA with determining how best to make further modifications to the “National Program” so as to improve its effectiveness. In short, enabling the transparency of actual compliance cost data will help to maximize the efficiency of consumer fuel economy decision making and to maximize net regulatory benefits.

The final rule should assume that, at most, buyers value any fuel savings associated with the purchase of a new motor vehicle over a five-year period. As discussed above, except in rare instances of high and increasing fuel prices, consumers who view fuel economy as an important purchase criteria will be hard pressed to make the case for buying a more fuel efficient new vehicle if the up-front capital costs associated with doing so cannot be recouped in short order.

The benefits analysis used in the proposal uses an oversimplified pay-back method that overstates potential fuel economy savings. Instead, for purposes of calculating any “pay-back,” real-world finance, opportunity, and additional maintenance costs should be accounted for. In other words, the final rule should evaluate its potential impact on a vehicle’s total cost of ownership. An example of such a calculator is found at <http://www.nadaguides.com/Cars/Cost-to-Own>. NADA would welcome the opportunity to discuss further with EPA and NHTSA how prospective purchasers of new light-duty customers would be better served by a total cost of ownership approach to understanding a given vehicle’s future costs of operation.

Dealers will continue their efforts to educate consumers on how best to make fuel efficient purchases, and on how actual mileage may vary from that set out on Monroney labels. Through efforts such as NADA’s Green Campaign (<http://www.nada.org/green>), dealers also will continue to educate customers on how to maximize in-use fuel economy performance.

## **V. TECHNOLOGICAL FAIRNESS AND COMPLIANCE FLEXIBILITY**

The final rule should be as performance-based as possible and, in doing so, treat all compliance technologies as fairly as possible. Unfortunately, the single CAFE test cycle inherently serves to disadvantage certain technologies over others to the extent that it fails to account for how those technologies are actually used. For example, vehicles with hybrid and plug-in technologies benefit from test cycles that emphasize city driving, vehicles with start-stop

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<sup>17</sup> 49 USC § 32908(g)(2).

technologies benefit from test cycles with long idling periods, and vehicles with diesel engines benefit from cycles with a higher proportion of highway driving. To the extent allowed by law, where NHTSA and EPA have data showing that certain technologies are or will be used in a manner that varies from the CAFE test, or that are off-cycle, appropriate adjustments should be made. Moreover, appropriate adjustments should be made to the final rule to reflect that real world gasoline does not offer as much energy potential as the fuel used in the CAFE test.

All things being equal, NADA supports a final rule that provides vehicle manufacturers with the greatest degree of compliance flexibility. In most instances, compliance flexibilities are nothing more than accommodations designed to recognize, harness, and leverage consumer demand. Perhaps the best example of a well-designed compliance flexibility is the attribute based framework, which recognizes that the motoring public demands a range of light-duty vehicle types to meet their needs and desires. By preserving access to an essential mix of cars and trucks, the proposal leverages consumer demand to facilitate continuous improvements across all vehicle types, regardless of product mix. Moreover, when fuel economy standards are set properly, under the direction enacted by Congress, the incentive to downsize or down-weight is reduced, helping to preserve passenger safety.

## **VI. LEAD-TIME, DURATION, AND THE PROPOSED MID-TERM REVIEW**

The proposal seeks to establish CAFE and GHG mandates which would take effect with MY 2017. No statutory mandate requires that standards be set so far in advance, for so long a period of time. In fact, the 35.5 mpg standard recently promulgated for MY 2016 will kick in some four years earlier than Congress contemplated in EISA.<sup>18</sup>

Absent a specific statutory direction, NHTSA and EPA should be guided by three principal factors. First, a timetable should be designed to provide adequate lead-time for manufacturers to achieve technologically feasible standards. Statutory language on lead-time is found in both the Energy Policy and Conservation Act and the Clean Air Act. CAFE standards must be issued at least 18 months prior to the model year in question and for no more than 5 model years.<sup>19</sup> In addition, new GHG standards may not take effect sooner than the model year commencing 4 years after they are promulgated.<sup>20</sup> Technological feasibility directly relates to what manufacturers can do and when they can do it. The longer out into the future standards are set, the less likely NHTSA and EPA will have credible information to accurately predict technological feasibility. This is one of the key lessons taught by the heavy-duty truck emissions look-back discussed above and found in Exhibit B. Setting standards too far in advance dramatically increases the risk that those standards will prove to be technologically infeasible.

Proposed standards also must be economically practicable. Although NADA has considerable confidence that vehicle manufacturers will be able to research, design, manufacture, and incorporate technologies and designs aimed to meet the proposed standards, serious questions exist regarding whether they will be able to do so in a cost effective or economically

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<sup>18</sup> 49 USC §32902(b)(2)(A).

<sup>19</sup> 49 USC §32902(a), (b)(3)(B).

<sup>20</sup> 42 USC §7521(a)(3)(C).

practicable manner. As discussed at length above, regulatory benefits will not attain unless and until vehicles subject to the proposal are bought. And, to the extent they prove unaffordable, they will not be bought. There are simply too many variables involved with the reasonable modeling of economic practicability to warrant the setting of standards unnecessarily too far in advance. Fuel costs, materials costs, general economic conditions, and interest rates are but a few of these very hard to forecast, yet critical variables. In short, NHTSA and EPA have no justification for setting standards for longer than the statutory five year period.

The proposal contains a so-called “mid-term evaluation” designed to allow for the reevaluation of the key regulatory assumptions. It defies logic that the proposal sets up the need for a “mid-term evaluation” in the first place. In fact, NHTSA and EPA should not even be engaged in rulemaking at this time, so soon after having set standards for MYs 2012-2016, and before having had the benefit of learning from how those standards work in the real world. A prudent strategy would involve engaging in rulemaking in the calendar year 2014 time frame, aimed at setting standards for MYs 2017 through 2021 or 2022. Such a timetable would greatly reduce the likelihood that mandates will prove to be technologically infeasible or economically impractical. As evidenced by the truck emissions experience, NHTSA and EPA should strive to limit any risk of foreseeable harms and unforeseeable consequences.

## **VII. A SINGLE NATIONAL PROGRAM IS ESSENTIAL**

NADA continues to believe that a single national light-duty vehicle fuel-economy/GHG program is essential to the extent that it avoids any unworkable patchwork of state laws. The EISA mandate for a fleet-wide combined fuel economy average of *at least* 35 miles per gallon by 2020 (with a commensurate reduction in GHGs of *at least* 30 percent), followed by standards set to achieve maximum achievable performance is Congress’ clear direction. Yet, the proposal continues to ignore this direction, opting instead for a bureaucratic cobbling together of NHTSA’s CAFE standards with EPA’s largely redundant GHG standards.

The time-honored EPA test procedures used to calculate NHTSA’s CAFE standards rely on equations involving a carbon balance technique where fuel economy is calculated from the measurement of exhaust emissions, and an assumption that the quantity of carbon in a vehicle's exhaust gas is equal to the quantity of carbon consumed by the engine as fuel. The physics and chemistry involved spell a direct relationship; controlling fuel economy controls GHGs and controlling GHGs controls fuel economy. NADA continues to believe that any further rulemakings in this area should involve NHTSA CAFE standards, supplemented by a few appropriately tailored EPA rules governing motor vehicle air conditioning, fuels, and vehicle use. Moreover, EPA should focus its resources on “doing no harm,” such as by ensuring that its emissions standards, including potential Tier III standards, avoid conflicting with mandates aimed at achieving fuel economy improvements. Indeed, this is yet another lesson learned from the commercial truck experience where the emissions mandates at issue served to severely undermine fuel economy performance.

Lastly, NADA continues to strongly object to the needless deference being given to the California Air Resources Board and to its unnecessary and arguably preempted fuel economy

rules. NHTSA and EPA should take the policy position that the issuance of a final national rule should eliminate, once and for all, any basis for the state regulation of fuel economy. NADA strongly suggests that EPCA's explicit preemption of the adoption or enforcement of state laws "related to" fuel economy was necessary to ensure national uniformity and to avoid a patchwork of state-by-state mandates that would conflict a "National Program," and undermine the safety, job loss, equity, and consumer affordability and choice considerations required by EPCA.

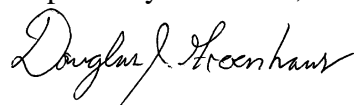
## **X. CONCLUSION**

Prospective light-duty vehicle purchasers, and the dealers who sell to them, will be directly impacted by the vehicle production mandates under consideration. If no rule were to issue, in-use passenger car and light truck fuel economy and GHG performance would continue to improve, as older, less fuel-efficient vehicles are replaced by newer ones offering comparable performance with improved fuel economy. NHTSA and EPA must preserve this trend by avoiding mandates which, through product compromises or high costs, would impede fleet turnover.

The automobile industry has traveled a steep technology path over the last century, resulting in astounding improvements to light-duty cars and trucks. Today's vehicles are lighter and more powerful, yet safer and more fuel efficient than ever in history. Fuel economy/GHG standards should encourage manufacturers to continue along this technology path, but only if it allows them to deliver to new vehicle showrooms products that are acceptable by and affordable to consumers. Future light-duty vehicles must be affordable up-front, and must also offer a total value package that includes fuel economy, but with no safety or performance trade-offs. Unless and until new vehicles sell, regulatory benefits will be unrealized.

On behalf of NADA, I thank you for the opportunity to comment on this matter.

Respectfully submitted,



Douglas I. Greenhaus  
Director, Environment, Health and Safety

Exhibits A, B, C, and D attached separately.