

## MEMORANDUM

**To:** DOE Office of General Counsel  
(Via [expartecommunications@hq.doe.gov](mailto:expartecommunications@hq.doe.gov))

**From:** Michael Hartrick, Alliance for Automotive Innovation

**Date:** December 17, 2021

**Re:** Record of Ex Parte Communication Concerning “Petition for Rulemaking to Update Department of Energy Regulations at 10 C.F.R. part 474: Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation” (Natural Resources Defense Council and Sierra Club, October 22, 2021)<sup>1</sup>

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This memorandum documents a December 16, 2021, teleconference between the Alliance for Automotive Innovation (Auto Innovators),<sup>2</sup> Department of Energy (DOE) staff, and Department of Transportation (DOT) staff on the subject of a recent third-party petition for rulemaking to update the petroleum equivalency factor (PEF).<sup>3</sup>

Auto Innovators requested the meeting, and during the meeting, inquired about DOE’s anticipated process for responding to the petition, subsequent rulemaking that might occur, and anticipated opportunities for stakeholder input. No information was available at this stage.

Auto Innovators provided the following preliminary input to DOE and DOT:

- Electric vehicles (EVs) (plug-in hybrid, battery electric, and fuel cell electric vehicles) are expected to play an increasingly important role in the light-duty fleet.

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<sup>1</sup> Regulations.gov, Docket ID NHTSA-2021-0053-1577, Attachment 11.

<sup>2</sup> Formed in 2020, 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 newly established organization, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers, 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>3</sup> The PEF is used to calculate the equivalent fuel economy of electric vehicles under the National Highway Traffic Safety Administration (NHTSA) Corporate Average Fuel Economy (CAFE) program. See 49 U.S.C. § 32904(a)(2)(B).

- Coordination between DOE and DOT rulemaking is important if changes to the PEF are considered. If EVs are included in NHTSA's assessment of maximum feasible fuel economy standards, the PEF has a meaningful impact on estimated fuel economy levels. If the PEF is reduced, such changes must be coordinated with NHTSA CAFE rulemaking and feasibility assessments.
- The compliance treatment of EVs differs between the NHTSA CAFE and EPA GHG regulations, which, if left unresolved, would result in requiring different technology pathways to meet the overlapping CAFE and GHG requirements. Action could be taken in a PEF update to improve harmonization between the two programs.
- Updating electricity generation and transmission efficiency factors used in the derivation of the PEF is appropriate.
- Maintaining or increasing the PEF could be done with the intent of encouraging greater availability of EVs, in alignment with the Biden Administration's goals.

#### List of Attendees

Catherine Palin (Alliance for Automotive Innovation)  
Greg Powell (Department of Transportation, National Highway Traffic Safety Administration)  
Julia Rege (Alliance for Automotive Innovation)  
Kara Podkaminer (Department of Energy)  
Kevin Stork (Department of Energy)  
Michael Hartrick (Alliance for Automotive Innovation)  
Peter Cochran (Department of Energy)