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November 21, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

The Honorable Elaine Chao
Secretary
Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Reconsideration of Final Determination of the Mid-term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-duty Vehicles; Model Year 2021 Greenhouse Gas Emissions Standards [NHTSA-2016-0068; EPA-HQ-OAR- 2015-0827; FRL-9966-62-OAR]

Dear Administrator Pruitt and Secretary Chao,

Our clients, the National Association of Convenience Stores ("NACS") and the Society of Independent Gasoline Marketers of America ("SIGMA")(collectively "the Associations"), offer these comments in response to the Environmental Protection Agency's ("EPA") and the National Highway Traffic Safety Administration's ("NHTSA")(collectively "the Agencies") reconsideration of its Final Determination of the Mid-term Evaluation of Greenhouse Gas ("GHG") Emissions Standards for Model Year 2022-2025 Light-duty Vehicles.[1] As the Agencies formulate emissions targets for 2022-2025 model year pickups and other light trucks, NACS and SIGMA urge you to treat light-duty natural gas vehicles ("NGVs") as equivalent to electric vehicles ("EVs"). The Associations do not believe that valuative criteria should be manipulated to push a single technology (or policy), such as electric vehicle technology. As a consequence, the Associations support treating NGVs on par with EVs and believe this principle should apply universally to any technology that demonstrates the necessary emissions outcomes.

Regulatory incentives and requirements built into current GHG emissions standards disproportionately favor EV technology over NGVs. Yet, evidence shows that the emissions

[1] Department Of Transportation, National Highway Traffic Safety Administration, Environmental Protection Agency, Request for Comment, *Reconsideration of the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022–2025 Light-Duty Vehicles;* Request for Comment, *Model Year 2021 Greenhouse Gas Emissions Standards*, 82 Fed. Reg. 160 (August 21, 2017), *available at* https://www.gpo.gov/fdsys/pkg/FR-2017-08-21/pdf/2017-17419.pdf.

benefits from NGVs are equal to those of EV technology. Thus, there is no reason to favor one efficient emissions technology over another. Parity in incentives for NGVs and EVs would encourage automakers to transition light-duty vehicle segments to compressed natural gas ("CNG"), and including NGVs in the formulation of GHG emissions targets for 2022-2025 model year light-duty vehicles could increase EPA's estimates of achievable emissions and fuel economy improvements, which would weigh in favor of maintaining existing emissions reduction targets. NACS and SIGMA urge the Agencies to change existing regulatory incentives and dual-fuel vehicle design requirements to create a level playing field for light-duty natural gas vehicles and electric vehicles. In addition to the detailed comments provided below, NACS and SIGMA also support the comments filed by VNG.co LLC.[2]

I. Overview of the Associations

NACS and SIGMA represent approximately 80 percent of retail motor fuel sales in the United States.[3] The Associations' members are the consumer-facing entities in the fuel space,[4] and are constantly adapting to changing consumer demands. Offering a product for sale does not guarantee that consumers will purchase it. Motorists do not purchase products because members of the Associations sell them; the Associations' members sell products because their customers purchase them. Thus, the Associations' members will continue to invest in equipment to support renewable and alternative fuels if their customers demand it. Likewise, automakers sell vehicles that consumers want to purchase—and the low demand for small, more fuel-efficient vehicles, has made it difficult to achieve the Agencies' GHG goals as outlined in their Final Determination.[5]

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[2] VNG.co LLC, Comments by VNG.co LLC on Reconsideration of the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards For Model Year 2022–2025 Light-Duty Vehicles (EPA–HQ–OAR–2015–0827) (October 6, 2017), Comment ID Number: EPA-HQ-OAR-2015-0827-8077, *available at* https://www.regulations.gov/document?D=EPA-HQ-OAR-2015-0827-8077.

[3] NACS is an international trade association representing the convenience store industry with more than 2,200 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

[4] In 2016, the fuel wholesaling and convenience industry employed more than 2.3 million workers and generated $549.9 billion in total sales, representing approximately 3 percent of U.S. Gross Domestic Product. Because of the number of fuel and other transactions in which the industry engages, fuel retailers and marketers handle approximately one of every 30 dollars spent in the United States. Fuel retailers serve about 160 million people per day—around half of the U.S. population—and the industry processes over 73 billion payment transactions per year.

[5] Environmental Protection Agency, *Final Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation*, EPA-420-R-17-001 (January 2017), *available at* : https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100QQ91.pdf [*hereinafter* "Final Determination"].

II. Comments on Reconsideration of Final Determination

In 1975, Congress established the Corporate Average Fuel Economy ("CAFE") program to reduce energy consumption by improving fuel efficiency in vehicles. As part of the program, EPA and NHTSA collaborated to establish fuel economy standards for cars and trucks sold in the United States that would also reduce GHG emissions. The goal of the CAFE program is clear: to reduce the usage of petroleum fuels. Despite the varied technological fuel options that could support this goal, regulatory incentives and requirements built into current GHG emissions standards disproportionately favor EV technology over other technology, including NGVs, notwithstanding the beneficial emissions characteristics of certain renewable fuels, such as CNG.

A. Natural Gas Vehicles could increase estimates of achievable emissions.

Per recent marketplace trends, consumers prefer larger, less fuel-efficient vehicles. Problematically, many of those larger vehicles, including light-duty trucks, have performance requirements for which electric batteries are not a suitable alternative to reduce emissions as the batteries are too costly and too heavy. Because of this, the auto industry insists it cannot reach the GHG emissions goals in the Final Determination. Fortunately, there are alternative non-EV fueling options that could meet GHG emissions goals. CNG, for example, is a low-emission, non-petroleum fuel for light trucks that has already been introduced into the automotive industry. Moreover, as a fuel source, CNG does not present the same structural hurdles for light-duty vehicles that EV technology does. Nevertheless, NGVs were not considered in the Agencies' Final Determination. As the Agencies reconsider GHG standards, CNG should be factored into emissions targets for light trucks and pickups. Reforming the light-duty emission regulations to include NGVs will create an achievable pathway for automakers to comply with the GHG goals while also allowing the Agencies to maintain existing emissions targets.

B. The Agencies should not favor one technology over another; the Agencies should provide regulatory incentives for all technologies that present positive emissions characteristics.

As long as automakers are meeting the goals of the CAFE program, the Agencies should not favor one technology over another. Not only is this a more equitable approach to policy, it also limits the damage when the government backs the wrong technology horse or when policy incentives change.[6] In 1988, Congress passed the Alternative Motor Fuels Act[7], which calculates the fuel economy of NGVs and EVs by the Petroleum Equivalency Factor. Therefore, every gallon-equivalent of compressed natural gas or equivalent electrical energy should be calculated as 0.15 gallons of gasoline, known as the "0.15 divisor." As mentioned previously, the Agencies

[6] For example, the tax code is frequently utilized to achieve tax policy results. In the latest iterations of the House tax reform bill, however, the electric vehicle credit was removed.

[7] Alternative Motor Fuels Act of 1988, Public Law 100-494, 102 Stat. 2441.

have maintained incentives for EVs in their regulations, but failed to calculate NGV emissions by the 0.15 divisor. The Agencies should eliminate the divisor for both technologies or impose it on both, to reflect emissions benefits of 85 percent over a gasoline vehicle.

Likewise, the Agencies should eliminate regulations that require dual-fueled, or bi-fueled, gasoline-natural gas vehicles to satisfy burdensome eligibility requirements to receive emissions reduction credits. Because of their built-in backup fuel option, dual-fueled vehicles serve as a necessary transition product to penetrate the market because they relieve consumer anxiety about running out of "juice". These vehicles maintain emissions credits based on their "utility factor," a relative alternative fuel consumption calculation. In order to qualify for emissions benefits, however, the NGV must have a CNG range that is *double* the range of traditional gasoline. Dual-fueled EVs, on the other hand, are not required to have an electric range that is double the range of traditional gasoline.

In order to further the goals of the CAFE program, the Agencies should remove unbalanced regulatory incentives that skew the market towards a particular technology. As such, the Agencies should incorporate a natural gas-fueled full-size light pickup CO_2 credit that is equivalent in value to credits for strong hybrid electric vehicles. However, there should not be a minimum deployment requirement since the market challenges faced by NGVs are greater than hybrid-electrics.

C. Favoring EVs has led to other problematic market externalities.

Because of the Agencies' regulatory incentives, EV technology has been disproportionately favored over other technology despite (1) the similar positive emissions characteristics of non-EV alternatives and (2) the small market share that EV's occupy. Consequently, this has led to other negative marketplace externalities about which the Agencies may be unaware. Specifically, utility companies are attempting to enter the vehicle recharging business for EVs on the back of the ratepayer, to the detriment of consumers.

Utility companies are allowed a monopoly over the provision of electricity in a particular marketplace because it is inefficient for multiple companies to build overlapping infrastructure in order to service the same building or home. In exchange for this loss of market freedom, utility companies are guaranteed a rate of return from ratepayers.

A benefit that utility companies enjoy is their ability to recover their investment costs if those costs are included in the rate base. So it is not surprising that utility companies have endeavored to treat their capital investments in the vehicle recharging business as part of the utility rate base. Subsequently, the utilities' market entry costs are essentially zero. The private sector, including many members of the Associations, cannot compete with zero market entry costs. Thus, the current regulatory system essentially provides utilities a monopoly on the service of EV refueling, which undercuts the competitive nature of the refueling marketplace, ultimately

harming consumers by increasing the cost to refuel. On the other hand, robust competition drives greater efficiency, diversified options, and lower costs for consumers.

III. Conclusion

Thank you for the opportunity to provide these comments. NACS and SIGMA stand ready to be of assistance to the Agencies in their consideration of this matter.

Respectfully,

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