



June 16, 2023

The Honorable Michael Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Via <https://www.regulations.gov>

Re: Proposed Rule, Environmental Protection Agency; Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles - Phase 3 (88 Fed. Reg. 25926-26161, April 27, 2023)

Dear Administrator Regan:

The U.S. Chamber of Commerce appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) Notice of Proposed Rulemaking ("the Proposal") that would promulgate new greenhouse gas (GHG) standards for heavy-duty highway vehicles starting in model year (MY) 2028 through MY 2032 and revise the existing GHG standards for MY 2027.

The Chamber and its members are proud of their role as a collaborative partner with EPA and state regulators to develop emissions-reducing technologies and implement standards that have led to remarkable progress improving the nation's air quality and addressing the climate challenge. This progress has occurred even as overall vehicle miles traveled have increased by nearly 50 percent since 1990.

Accordingly, the Chamber looks forward to working with EPA, states, and industry stakeholders on an effective, workable rule that delivers real-world emissions reductions. As the agency proceeds with this rulemaking, we encourage adherence to the following objectives that should serve as the foundation of an effective rulemaking:

- Cost-effective, technologically achievable standards that facilitate fleet turnover necessary to drive meaningful emissions reductions.
- Regulatory certainty and durability are necessary not only to achieve emissions reductions over the proposed rule's implementation timeline, but also to create the stable business environment that facilitates the significant investments needed to meet these types of regulatory requirements.
- Consideration of outside the vehicle factors such as charging infrastructure will ultimately drive the rate of fleet turnover and customer acceptance.

- National harmonization that avoids a patchwork of compliance across states will help reduce regulatory burdens on manufacturers, ultimately reducing compliance costs and speeding implementation.
- Sufficient lead-time and compliance flexibility to allow manufacturers and other stakeholders to plan, adapt, and invest in the array of heavy-duty vehicle platforms.

While we support a national standard that drives cutting edge technology deployment and lowers emissions, we have serious concerns that, as proposed, EPA's preferred option fails to adhere to these core principles, and as a result could lead to unintended negative consequences for both the economy and the environment.

While our concerns focus primarily on potential impacts to long haul freight trailers and the traditional trucking sector, similar concerns exist with respect to potential impacts on all vehicle classes covered by the rule, including transit buses, commercial delivery vehicles, and vehicles designed for waste removal, construction, agriculture, and more.

Cost Effective and Technologically Feasible Standards

First, it should be recognized that trucking is enormously important to the economy—it moves 72 percent of goods in America and is the foundation of a well-functioning supply chain.¹ When trucking costs go up, the cost of nearly all goods rise.

Moreover, long haul trucking in particular is overwhelmingly comprised of small businesses that are disproportionately vulnerable to changing economic circumstances. According to the Truck and Engine Manufacturers Association, 98 percent of U.S. fleet owners are small businesses operating 20 or fewer commercial vehicles. These small businesses operate on tight margins and typically do not have the financial resources necessary to absorb significant regulatory cost increases, which therefore must be passed on to American consumers in the form of higher costs for shipped goods.

Another economic factor that EPA should consider in its regulatory impact analysis is not only the potentially high costs of critical minerals needed to meet these standards, but the forecasted surge in demand for critical minerals in other market segments such as renewable energy, light duty electric vehicles, energy storage, and semiconductors, among others. For example, IEA reports that 40 percent of global platinum demand is for catalytic converters, which also require large amounts of palladium and rhodium. Expected demand growth for these metals is high, and therefore an important factor in the rule's overall cost. Concurrent with this rulemaking, EPA is pursuing more stringent NOx standards for the electric power sector that will also contribute to increased demand for these metals.²

¹ Economics and Industry Data, American Trucking Association, <https://www.trucking.org/economics-and-industry-data>

² Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard, 87 Fed. Reg. 20036 (April 6, 2022).

Potential Unintended Consequences of Slower Fleet Turnover

As indicated above, steady fleet turnover is arguably the most important factor to achieving substantial emissions reductions from the trucking sector. A regulation that adds significant cost or uncertainties could delay this progress.

In particular, we are concerned that EPA's proposal underestimates the lack of infrastructure needed to support the transition to zero-emission heavy-duty vehicles and the associated negative consequences with large scale "pre-buys" prior to compliance deadlines. While EPA's proposal dedicates attention to this issue, stating that "[p]re-buy and low-buy impact fleet turnover, which can result in a level of emission reduction attributable to the new emission standards that is different from the level of emission reduction EPA estimated would be achieved by the new regulation."

An all of government strategy is needed to ensure the infrastructure needed to support zero-emission fleets is built in a timely manner. The current environmental permitting processes that is a prerequisite for building much of the charging infrastructure, grid interconnections, and other related Infrastructure takes significant time to complete. Currently, it takes 4.5 years to get a permit under the National Environmental Policy Act (NEPA) while some projects take longer, not only delaying but sometimes blocking these infrastructure projects altogether.

Slower Fleet Turnover will Reduce Emissions Reductions In Communities that Need it Most

EPA has often used various program elements to incentivize early emissions reductions due to their ability to drive more estimated health benefits. Much like early investments help drive more retirement savings down the road, achieving emissions reductions earlier allows the time value of those health benefits to accrue over a longer period of time, thus providing more cumulative benefits. EPA has applied various incentives through its averaging, banking, and trading programs. Early reduction credits, emissions reduction multipliers, and other incentives help businesses to take steps to reduce their emissions earlier and in the most cost-effective manner. EPA does this recognizing that the benefits of earlier reductions, even if the standards are less stringent, will often outweigh potentially larger benefits achieved at a later date.

Ensuring Sufficient Implementation Time will Increase Market Adoption of Cleaner Technologies

Technological feasibility and compliance costs go hand-in-hand. Establishing standards that are technologically feasible will help ensure that standards are achievable and cost-effective. Although the agency views these standards to be technology forcing, the adoption of those technologies in the marketplace will in significant part depend upon the increased cost to consumers for the new vehicles. Other aspects of the design and successful deployment of new technologies needed to meet more stringent environmental standards can sometimes be difficult for companies and the agency to anticipate.

Many companies are investing significantly in zero emitting medium- and heavy-duty vehicles across various vehicle classes; however, overcoming consumer acceptance is one challenge that is difficult to anticipate and to model. This is a particularly important issue when considering major shifts in technology or compliance costs as mentioned above.

Other challenges remain for vehicle manufacturers as consumers and fleet owners may need to make significant investments in charging infrastructure necessary to support zero emitting vehicles. For smaller fleets, it raises more uncertainty as they will increasingly rely on infrastructure investments made at the federal and state levels.

Consumers and fleet owners that choose to adopt electric vehicles will need to consider the cost and time needed to install recharging infrastructure at appropriate distances across their distribution supply chains to avoid disruptions. A cost that also should be considered is the optimization of these distribution routes as companies spend significant resources on optimizing their supply chains to reduce operating costs.

Maintaining the Existing GHG Program will Promote Regulatory Durability

The proposed provisions that would modify the current Phase 2 GHG requirements that have been in place since 2016 increases investment uncertainty and erodes confidence in private-public partnerships that have helped successfully implement this program. While each business may view these proposed changes to the phase 2 GHG emissions standards through different lenses, changing provisions that were agreed to years ago creates a moving regulatory target and sends mixed signals to the market.

Although polarizing changes to regulatory programs have occurred across a range of EPA and other federal agency programs during the last few administrations, the heavy-duty GHG requirements have remained constant following the issuance of the 2016 final rulemaking.³ This is in no large part due to the commitment by companies to invest and meet the 2016 standards.

Companies are continuing to innovate and bring GHG reducing technologies, fuels, and other solutions to the heavy-duty marketplace. EPA may be able to achieve additional GHG emissions reductions through incentives for advanced biofuels, such as biodiesel or renewable diesel, under the Renewable Fuels Standards program.

Conclusion

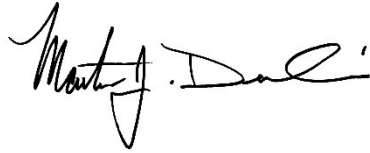
The Chamber supports EPA's efforts to further reduce emissions from the mobile source sector. We strongly recommend, however, that the agency avoid potential counterproductive economic and environmental consequences by considering the

³ Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2, 81 Fed. Reg. 73478, October 25, 2016.

multitude of outside the vehicle factors that could impede industry compliance with proposed standards.

Thank you for the opportunity to comment on this important rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin J. Durbin". The signature is fluid and cursive, with a large, stylized initial "M" and a distinct "D".

Martin J. Durbin
President, Global Energy Institute
U.S. Chamber of Commerce