

STAPPA / ALAPCO

STATE AND TERRITORIAL  
AIR POLLUTION PROGRAM  
ADMINISTRATORS

ASSOCIATION OF  
LOCAL AIR POLLUTION  
CONTROL OFFICIALS

S. WILLIAM BECKER  
EXECUTIVE DIRECTOR

November 18, 2005

U.S. Department of Transportation  
National Highway Traffic Safety Administration  
Docket Management Facility  
Attention: DOT DMS Docket Number 2005-22223  
Nassif Building, Room PL-401, Plaza Level  
400 7<sup>th</sup> Street, SW  
Washington, DC 20590

To Whom It May Concern:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) – the two national associations of air pollution control agencies in 53 states and territories and more than 165 metropolitan areas across the country – we are pleased to provide the following comments on the U.S. Department of Transportation's National Highway Traffic Safety Administration's (NHTSA's) notice of proposed rulemaking (NPRM) on average fuel economy standards for light trucks, model years 2008 through 2011, as published in the *Federal Register* on August 30, 2005 (70 FR 51414).

### **STAPPA and ALAPCO Support a Substantial Increase in the CAFE Standard**

STAPPA and ALAPCO share in the national concern over escalating fuel prices. Further, as the state and local officials with primary responsibility for ensuring healthful air quality, our members recognize the potential emissions benefits associated with improved fuel efficiency, and the fact that decreased oil consumption will result in decreased evaporative hydrocarbon emissions from gasoline production, distribution and use, as well as during vehicle refueling, and in decreased greenhouse gases as well. We, therefore, support a substantial increase in Corporate Average Fuel Economy (CAFE) standards. Yet, our nation's CAFE standards have remained almost static for nearly 20 years. Moreover, NHTSA's August 30, 2005 proposal to address fuel economy standards for light trucks fails to take appropriate advantage of the current opportunity for meaningful strides in CAFE improvements.

In its 2002 report, *Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards*, the National Academy of Sciences (NAS) found that “Technologies exist that, if applied to passenger cars and light-duty trucks, would significantly reduce fuel consumption within 15 years.” Further, the Union of Concerned Scientists has concluded that “Using continuously evolving conventional technologies, automakers could produce a fleet of cars and light trucks that achieve over 40 miles per gallon of gasoline. Using hybrid technologies, the fuel economy level could be raised to 55 miles per gallon. And with fuel cell technology, we could possibly reach near 80 miles per gallon. This vehicle fleet would look much like that of today while maintaining, if not improving, performance and safety standards.”

Given the potential of current technologies alone to enable substantially more rigorous fuel economy standards and, in turn, significantly increase fuel conservation, reduce oil consumption and contribute to improving air quality, STAPPA and ALAPCO urge that NHTSA increase and “harmonize” current CAFE standards. Rather than separate standards for cars and light trucks – currently 27.5 miles per gallon (mpg) and 20.7 mpg, respectively – we urge a single, far more aggressive near-term level than what has been proposed, applicable on a fleet-wide-average basis to all passenger cars and light trucks up to 10,000 pounds Gross Vehicle Weight Rating (GVWR). We further recommend that NHTSA build upon such a standard in the final rule, by also including progressively tighter standards to be implemented over a longer horizon than that envisioned in the proposal.

### **STAPPA and ALAPCO Support Extension of CAFE Standards to All Vehicles Up to 10,000 Pounds GVWR**

Under the current CAFE program, and NHTSA’s recent proposal, vehicles over 8,500 pounds GVWR are exempt from fuel economy standards. This exemption, combined with growing consumer demand for bigger and bigger vehicles, inappropriately provides a strong incentive for manufactures to produce vehicles over 8,500 pounds GVWR.

According to NAS, “Certain aspects of the CAFE program have not functioned as intended: The distinction between a car for personal use and a truck for work use/cargo transport has broken down....The car/truck distinction has been stretched well beyond the original purpose.”

To ensure that the passenger car and light truck fleet of today is fully subject to fuel economy standards, STAPPA and ALAPCO urge that CAFE requirements be extended to *all* vehicles up to 10,000 pounds GVWR and that the distinction between passenger cars and any light trucks suited for dual-use as passenger vehicles (including all minivans, “crossover” vehicles, most SUVs and some pickup trucks) be eliminated.

### **STAPPA and ALAPCO Believe the Discussion on State Preemption Should Be Eliminated**

STAPPA and ALAPCO are especially troubled by language included in the proposal’s preamble erroneously asserting that a state law that seeks to reduce motor vehicle carbon dioxide emissions is preempted. This preemption discussion, which NHTSA claims is related

to fulfilling its duties under Executive Order 13132, is irrelevant and should be removed. In fact, these preemption issues have been and continue to be briefed in a challenge by automakers to California's greenhouse gas regulations in the current *Central Valley Chrysler-Jeep, Inc., et. al. v. Witherspoon* case. In that case, California has presented cogent arguments against a finding that NHTSA's CAFE authorities preempt state greenhouse gas emission standards. In that the federal courts will determine whether state greenhouse gas emission standards are preempted, NHTSA's views on this issue are irrelevant and should be removed from this rulemaking.

In addition, the preemption language in the proposal is immaterial in that NHTSA fails to analyze in the proposal the effect of California's greenhouse gas emission standards and, therefore, provides no basis for its conclusion on preemption. However, even if NHTSA were to conduct a suitable analysis, it would not serve as an appropriate basis for NHTSA's discussion of preemption. Instead, in such an analysis, NHTSA would be obligated to acknowledge that Congress clearly intended that in establishing CAFE standards, NHTSA is required to consider the impact of vehicle emission standards on fuel economy.

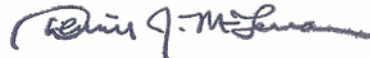
**Conclusion**

In conclusion, STAPPA and ALAPCO urge that NHTSA give full consideration to the recommendations we have outlined above and, in turn, 1) broaden and strengthen the CAFE program to increase its ability to reduce fuel consumption and contribute to the achievement of our nation's clean air goals and 2) delete language on the preemption of state programs. We thank you for this opportunity to provide our perspectives.

Sincerely,



Nancy L. Seidman  
STAPPA Chair  
Mobile Sources and Fuels Committee



Dennis J. McLerran  
ALAPCO Chair  
Mobile Sources and Fuels Committee

cc: Ken Katz (NHTSA Office of Planning and Consumer Affairs)