



## DEPARTMENT OF ENERGY

### 10 CFR Part 474

### EERE-2021-VT-0033

### RIN 1904-AF47

#### **Petroleum-Equivalent Fuel Economy Calculation**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notification of ex parte communication; request for comments.

**SUMMARY:** On April 11, 2023, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NPR), in which DOE proposed regulations regarding procedures for calculating a value for the petroleum equivalent fuel economy of electric vehicles (EVs) for use in the Corporate Average Fuel Economy (CAFE) program administered by the Department of Transportation (DOT). In their comments to DOE's NPR, the Alliance for Automotive Innovation (Auto Innovators) raised the issue of the ability of manufacturers to comply with the proposed PEF in 2027 due to vehicle design cycles. DOE is providing notice that it sent follow-up letters to member companies of the Auto Innovators inviting the companies to provide information to clarify the challenges to implementing the revised standard to apply to model year (MY) 2027-2031 vehicles as proposed. In this notice and request for comment, DOE requests additional comment on the questions posed to the Auto Innovator members providing a similar opportunity to all stakeholders.

**DATES:** The comment period for the NPR that published on April 11, 2023, closed on June 12, 2023 (88 FR 21525). DOE will accept comments responding to this document on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN *THE FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by RIN 1904-AF47, by any of the following methods:

*Federal eRulemaking Portal: www.regulations.gov/docket/EERE-2021-VT-0033.*

Follow the instructions for submitting comments.

*Email: pefpetition2021vt0033@ee.doe.gov.* Include the RIN 1904-AF47 in the subject line of the message.

*Postal Mail:* U.S. Department of Energy, RIN 1904-AF47, 1000 Independence Avenue, SW, Washington, DC 20585. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. Hand delivered comments may be accepted upon request. For detailed instructions on submitting comments and additional information on the rulemaking process, see Public Participation section for details.

*Docket:* The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at the *www.regulations.gov* web page associated with RIN 1904–AF47. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See Public Participation for information on how to submit comments through *www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Kevin Stork, U.S. Department of Energy, Vehicle Technologies Office, EE-3V, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586-8306. Email: *Kevin.Stork@ ee.doe.gov*.

Ms. Laura Zuber, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (240) 306-7651. Email: *Laura.Zuber@hq.doe.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **Request for Comments**

On April 11, 2023, DOE proposed to update the petroleum-equivalency factor used to calculate the fuel economy of electric vehicles (EVs). 88 FR 21525. DOE proposed that the revised PEF value apply to MY 2027 vehicles. 88 FR 21531. DOE noted that the proposed PEF value would cover the same vehicles covered by the NHTSA CAFE regulation. In the NOPR, DOE requested comments on this proposed approach. *Id.*

Several commenters submitted comments in response to this specific request. Specifically, Auto Innovators raised concerns related to the proposed effective date.<sup>1</sup> Auto Innovators argued that because engine design and development cycles are typically much longer than three years, there are extremely limited opportunities for engine redesign for model year 2027 vehicles. Auto Innovator Comments at 17. In addition, Auto Innovators took the position that there is “insufficient lead-time” because the proposed PEF value would “require even more rapid improvements to CAFE performance,” but that “product planning decisions have already been made.” *Id.* Another

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<sup>1</sup> Comments from the Alliance for Automotive Innovation, June 12, 2023 (Auto Innovator Comments).

commenter suggested that if DOE did move forward with decreased PEF value, that the decreased PEF value should not apply until after 2031.<sup>2</sup>

On September 14, 2023, DOE sent letters to member companies of Auto Innovators inviting them to clarify comments regarding the effective date.<sup>3</sup> DOE posted a memorandum in the docket for this rulemaking that identifies the recipients of these letters and includes a PDF of the letters. Responses to that letter will be included in the docket for this rulemaking (except information deemed to be exempt from public disclosure).

DOE is taking public comment on the same two questions that DOE posed to the Auto Innovators:

1. Identify specific situations where there is a risk that an automaker would have lead time challenges should the NOPR be finalized as proposed.
2. Provide information, data, and associated analysis detailing specific challenges regarding to lead time.

### **Public Participation**

DOE will accept data and information responding to this document, but no later than the date provided in the **DATES** section at the beginning of this document.

Interested parties may submit the requested data and information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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<sup>2</sup> Comments from Porsche Cars North America, Inc., June 12, 2023, at 3.

<sup>3</sup> DOE posted a memorandum regarding *ex parte* communication in the docket for this rulemaking the same day as it posted this request. This memorandum states that DOE sent the posted letters to members of Auto Innovators on September 14, 2023.

*Submitting responses via www.regulations.gov.* The *www.regulations.gov* webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your response is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your response due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your response.

However, your contact information will be publicly viewable if you include it in the response itself or in any documents attached to your response. Any information that you do not want to be publicly viewable should not be included in your response, nor in any document attached to your response. Persons viewing responses will see only first and last names, organization names, correspondence containing responses, and any documents submitted with the responses.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Responses submitted through *www.regulations.gov* cannot be claimed as CBI. Responses received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, responses will be posted within a few days of being submitted. However, if large volumes of responses are being processed simultaneously, your response may not be viewable for up to several weeks. Please keep the tracking number that *www.regulations.gov* provides after you have successfully uploaded your response.

*Submitting comments via email or postal mail.* Responses and documents submitted via email or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your response or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any requested information.

Include contact information each time you submit responses, data, documents, and other information to DOE. If you submit via postal mail please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (“faxes”) will be accepted.

Responses, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces processing and posting time.

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed

to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all responses may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

## **Signing Authority**

This document of the Department of Energy was signed on September 26, 2023, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on September 27, 2023.

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Treena V. Garrett  
Federal Register Liaison Officer,  
U.S. Department of Energy

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