

Congress of the United States
Washington, DC 20515

May 15, 2024

The Honorable Jennifer Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave SW
Washington, DC 20024

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

Dear Secretary Granholm and Buttigieg,

We are writing to inquire about the Department of Energy (DOE) and Department of Transportation's (DOT) longtime use of a 1/0.15 fuel content factor to artificially inflate the petroleum-equivalent fuel economy of electric vehicles (EV) in yet another attempt to incentivize the use of technology that, by all standards, has been rejected by the American people.

While we acknowledge the DOE's decision to eliminate the fuel content factor through an April 2023 proposed rule and subsequently a March 2024 final rule¹, albeit for the wrong reasons and at the behest of radical environmental groups, the consistent exaggeration of EV performance is not based either in reality or on the current law and only serves to prop up a failing industry whose existence almost exclusively relies on government subsidies. As stated in the DOE's own rule, "the fuel content factor does not accurately represent current EV technology or market penetration" and "the current fuel content factor lacks legal support."² Similar arguments have also been presented in the recent petition led by 13 states and other industry groups to the U.S. Court of Appeals for the 8th Circuit.³

Under normal circumstances, to comply with the DOT's growing unrealistic corporate average fuel economy (CAFE) standards, precise scientific measurements are required to calculate the fuel economies of internal combustion engines (ICE). Since the publication of the DOE's 2000 final rule, which effectively created the fuel content factor⁴, EVs received fabricated, grossly inflated fuel economies that have reached hundreds of miles per gallon.⁵ These falsified calculations do not reflect anywhere near the accurate measurements that one would normally see with an EV, but they certainly give the federal government a pretense to provide more senseless handouts.

¹ <https://www.federalregister.gov/documents/2024/03/29/2024-06101/petroleum-equivalent-fuel-economy-calculation>

² <https://www.federalregister.gov/documents/2023/04/11/2023-06869/petroleum-equivalent-fuel-economy-calculation>

³ https://ago.nebraska.gov/sites/default/files/doc/24-1721_File-Stamped%20PEF%20Suit.pdf

⁴ <https://www.federalregister.gov/documents/2000/06/12/00-14446/electric-and-hybrid-vehicle-research-development-and-demonstration-program-petroleum-equivalent-fuel>

⁵ https://www.wsj.com/articles/the-electric-car-cheating-scandal-subsidy-rule-efficiency-falsehood-2798b4ab?st=lf5nriq3so8ts1w&reflink=desktopwebshare_permalink

Furthermore, Congress never intended the fuel content factor to be used as an incentive for EVs meaning such an approach is contrary to law. Existing statutes tied back to the fuel content factor authorized its use specifically for non-EV alternative vehicles. This included vehicles that were powered by alternative liquids, such as ethanol and methanol, and gaseous fuels. Like so many other examples where federal agencies have abused rulemaking authority in order to circumvent the intent of Congress, the DOE decided to promulgate regulations that included EVs under the fuel content factor, departing from Congressional intent in the existing statute.

As previously referenced, the inclusion of EVs in the application of a fuel content factor – and their massively inflated fuel economies – routinely allowed EV manufacturers to obtain vast amounts of compliance credits and other government handouts. By racking up compliance credits, EV manufacturers have turned a profit by selling such credits to other auto manufacturers that have not been able to meet the rising CAFE standards instituted by DOT. Ultimately, the purchase of compliance credits by these companies is offset by adjusting the price of their vehicles and other products, forcing Americans to pay more at a time when they are already struggling to pay their bills.

The benefits garnered from the fuel content factor represent one small part of the long list of subsidies and handouts that the EV and renewable industries receive to stay afloat. The relentless push by this Administration to phase out the ICE through such policies as the Environmental Protection Agency's tailpipe emissions rule or the DOT's CAFE standards in place of a technology that Americans neither want nor can afford is despicable. Such actions will have major ramifications for millions of individuals, particularly those in rural America.

Considering all of the foregoing, we request that you respond to each of the following questions:


1. How many compliance credits have been distributed to EV manufacturers since the establishment of the fuel content factor?
2. How many compliance credits have been distributed to EV manufacturers since the start of the current Administration?
3. What is the estimated timeframe for updated "Credit Status Report" data beyond MY 2019 on the CAFE Public Information Center?⁶
4. What other subsidies or handouts have been given to EV manufacturers as a result of these artificially inflated fuel economy values?

We look forward to receiving your answers by June 15, 2024. If it is not possible to obtain such information by then, perhaps we can schedule a meeting to discuss these important matters.

Sincerely,



Harriet M. Hageman
Member of Congress



Randy K. Weber
Member of Congress

⁶ <https://explore.dot.gov/t/NHTSA-CAFE/views/CAFEPICReport-CreditStatus/CreditStatusReportDashboard?%3Aembed=y&%3AisGuestRedirectFromVizportal=y>

A handwritten signature in black ink, appearing to read "Keith Self". The signature is written in a cursive, flowing style with some loops and a long tail on the final letter.

Keith Self
Member of Congress