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ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 29, 2012

The Honorable Kathryn Ruemmler
Counsel to the President
The White House
Washington, DC 20500

Dear Ms. Ruemmler:

The Committee on Oversight and Government Reform continues to examine the process by which the Obama Administration set fuel economy/greenhouse gas standards for Model Years (MY) 2012-2016 light-duty vehicles, MY 2017-2025 light-duty vehicles, and heavy-duty trucks. Because information obtained by the Committee indicates that the Executive Office of the President (EOP) had a direct and substantial role in these processes, I write to reiterate my earlier request for information.

In August 2011, after President Obama publicly announced an agreement on fuel economy/greenhouse gas emissions standards for MY 2017-2025, I wrote to you with questions about how the Administration arrived at these standards.¹ You responded in September 2011 by directing the Committee's attention to the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), writing that those entities "are in the best position to provide the Committee with additional information."² Since your letter referred the Committee to EPA and NHTSA, your response seemed to imply that the EOP was not significantly involved in the development of these fuel economy/greenhouse gas emissions standards.

Since the fall, the Committee has been in regular contact with EPA and NHTSA about the development of these standards. Information obtained from these entities, as well as from other sources, has shown that components of the EOP participated directly and substantially in developing fuel economy/greenhouse gas emissions standards. In fact, EPA explained that the Council on Environmental Quality (CEQ), the National Economic Council (NEC), the Office of Management and Budget (OMB), and the Domestic Policy Council (DPC) "played an important

¹ Letter from Darrell Issa, H. Comm. on Oversight and Gov't Reform, to Kathryn Ruemmler (Aug. 11, 2012).

² Letter from Kathryn H. Ruemmler to Darrell E. Issa, H. Comm. on Oversight and Gov't Reform (Sept. 8, 2012).

role” in developing these standards.³ NHTSA likewise acknowledged that CEQ, NEC, OMB, and DPC participated in these discussions.⁴

In particular, the Committee has learned that the EOP circulated draft commitment letters for each automaker to send to EPA and NHTSA for both the MY 2012-2016 and the MY 2017-2025 standards.⁵ The EOP required the automakers to execute these letters without any modifications and to return the signed copies within a 24-hour “hard deadline.”⁶ The Committee has also learned that the CEQ exerted significant influence in inserting a mid-term review process for the MY 2017-2025 standards as a means to entice automakers to accept the Administration’s proposal.⁷ Further, additional documents obtained by the Committee have shown that Ron Bloom, then-Assistant to the President for Manufacturing Policy, was in regular contact with senior executives of General Motors, Ford, and Chrysler in the days and weeks leading up to the President’s announcement on the MY 2017-2025 standards.⁸ William Daley, former Chief of Staff to the President, also met with the Chief Executive Officer of at least one automaker as the Administration finalized the standards.⁹

Early in 2009, the President promised to make his Administration “the most open and transparent in history.”¹⁰ However, it appears that the process by which the Administration has developed these fuel economy/greenhouse gas emissions standards has been anything but open and transparent. The *New York Times* has reported that participants to negotiations on the MY 2012-2016 standards took a vow of silence and worked to ensure to “put nothing in writing, ever.”¹¹ Another source has suggested that the standards were the product of “raw political wrangling, [and] not the rational policymaking process the Administration purports to pride itself on.”¹² The information obtained by the Committee appears to corroborate these accounts, suggesting that the discussions culminating in these standards were not based on sound science or objectivity, but rather were opaque, unbalanced, and driven by political concerns.

³ See Letter from Arvin Ganesan, Assoc. Administrator, Env'tl Prot. Agency, to Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform, enc. at 2 (Dec. 16, 2011)

⁴ Nat'l Highway Traffic Safety Admin., Responses to October 28th Follow-up Questions (Dec. 16, 2011).

⁵ See, e.g., Email from Gary S. Guzy, Exec. Office of the President, to Michael J. Robinson, General Motors Co. (July 28, 2011); Email from Jody L. Freeman, Exec. Office of the President, to Susan M. Cischke, Ford Motor Co. (May 16, 2009).

⁶ Email from Jody L. Freeman, Exec. Office of the President, to Susan M. Cischke, Ford Motor Co. (May 16, 2009).

⁷ See, e.g., Email from Gary S. Guzy, Exec. Office of the President, to Jody Trapasso & Scott Kunselman, Chrysler Group LLC (July 13, 2011).

⁸ See, e.g., Email from Dwight Brown, General Motors Co., to Mary Sipes, General Motors Co. (July 15, 2011) (“Ron Bloom is talking daily with Bob Ferguson . . .”); Email from Ron Bloom, Exec. Office of the President, to Ziad Ojaki, Ford Motor Co. (July 12, 2011); Email from Stephen Moilanen, Exec. Office of the President, to Jody Trapasso, Chrysler Group LLC (May 31, 2011) (arranging a meeting between Ron Bloom and Chrysler executives).

⁹ Letter from Susan M. Cischke, Ford Motor Co., to Darrell Issa, H. Comm. on Oversight and Gov't Reform, att. A at 9 (Dec. 19, 2011).

¹⁰ Posting of Macon Phillips to The White House Blog, <http://www.whitehouse.gov/blog/2009/01/20/change-has-come-whitehousegov> (Jan. 20, 2009, 12:01 p.m.).

¹¹ Collin Sullivan, *Vow of Silence Key to White House-California Fuel Economy Talks*, N.Y. Times, May 20, 2009.

¹² Amy Sinden, *White House Flouts Agency Heads, Rolls Out Backroom Deal on Fuel Economy Standard*, CPRBlog, July 29, 2011.

Given this new information uncovered by the Committee, I seek to understand the true role of the Executive Office of the President in setting fuel economy/greenhouse gas standards for MY 2012-2016 light-duty vehicles, MY 2017-2025 light-duty vehicles, and heavy-duty trucks. To assist the Committee – and the American people – to better understand the process by which the fuel economy/greenhouse gas emissions standards were set, I ask that you answer the following questions and provide the requested documents for the period January 20, 2009, to the present:

1. Provide a list of all EOP personnel who participated in negotiations on the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, or the heavy-duty standards.
2. Please explain the role of the Council on Environmental Quality in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. In addition, provide the following information and documents:
 - a. Please explain the role of Nancy Sutley in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Nancy Sutley referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - b. Please explain the role of Gary Guzy in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Gary Guzy referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - c. Please explain the role of Drew McConville in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Drew McConville referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - d. Provide all other documents and communications involving any CEQ employee referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
3. Please explain the role of the Office of Energy and Climate Change Policy in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. In addition, provide the following information and documents:
 - a. Please explain the role of Carol Browner in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Carol

Browner referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.

- b. Please explain the role of Jody Freeman in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Jody Freeman referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- c. Please explain the role of Dan Utech in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Dan Utech referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- d. Please explain the role of Heather Zichal in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Heather Zichal referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- e. Please explain the role of Sierra Peterson in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Sierra Peterson referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- f. Please explain the role of Phil Hernandez in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Phil Hernandez referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- g. Please explain the role of Stephen Moilanen in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Stephen Moilanen referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
- h. Provide all other documents and communications involving any Office of Energy and Climate Change Policy employee referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.

4. Please explain the role of the National Economic Council in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. In addition, provide the following information and documents:
 - a. Please explain the role of Ron Bloom in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Ron Bloom referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - b. Please explain the role of Jason Miller in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Jason Miller referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - c. Please explain the role of Nathaniel Keohane in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Nathaniel Keohane referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - d. Provide all other documents and communications sent or received by any NEC employee referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
5. Please explain the role of the Office of Management and Budget in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. In addition, provide the following information and documents:
 - a. Please explain the role of Cass Sunstein in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Cass Sunstein referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - b. Please explain the role of Michael Fitzpatrick in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by Michael Fitzpatrick referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
 - c. Please explain the role of Richard Theroux in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by

Richard Theroux referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.

- d. Provide all other documents and communications sent or received by any OMB employee referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
6. Please explain the role of the Domestic Policy Council in developing the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. Provide all documents and communications sent or received by any DPC employee referring or relating to the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards.
7. Please explain the role of William Daley in developing the MY 2017-2025 light duty standards and the heavy-duty standards. Provide all documents and communications sent or received by William Daley referring or relating to the MY 2017-2025 light duty standards, and the heavy-duty standards.
8. Provide all meeting logs for all meetings involving any EOP personnel referring or relating to the development of the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, or the heavy-duty standards.
9. Provide all telephone records for all telephone calls involving any EOP personnel referring or relating to the development of the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, or the heavy-duty standards.

In addition, the Committee requests that all documents and communications between and among EOP employees that may reasonably be considered relevant to this investigation be preserved, including any documents and communications sent or received using a personal (non-EOP) e-mail account. Intentional obstruction of a congressional investigation is a crime.¹³ To ensure that a full and complete record of all relevant documents can be produced to Congress, please:

¹³ 18 U.S.C. § 1505 reads, in pertinent part: "Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both." 18 U.S.C. § 1001 reads, in pertinent part: "[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, [and] imprisoned not more than five years."

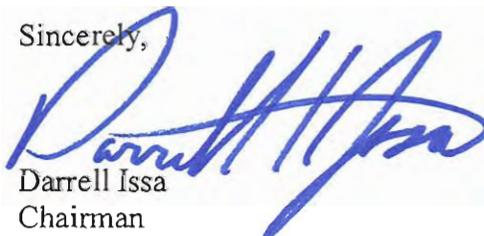
1. Preserve all e-mail, electronic documents, and data (“electronic records”) created since January 20, 2009, related the Administration’s development of the MY 2012-2016 light-duty standards, the MY 2017-2025 light duty standards, and the heavy-duty standards. For the purposes of this request, “preserve” means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutation of electronic records, as well as negligent or intentional handling that would make such records incomplete or inaccessible;
2. Exercise reasonable efforts to identify and notify former employees, contractors, subcontractors, and consultants who may have (or may have had) access to such electronic records that they are to be preserved; and
3. If it is the routine practice of any EOP employee, contractor, subcontractor, or consultant to destroy or otherwise alter such electronic records, either halt such practices or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production if requested.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee’s request.

I request that you provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on March 14, 2012. Please directly respond to each question and request as numbered herein, and label the responses accordingly. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions, please contact Kristina Moore or David Brewer of the Committee staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

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Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.