

**Estimated Lifetime GHG Emission Reductions for Model Year 2012-2016 Vehicles
(Million Metric Tons CO2 Equivalent)**

	NHTSA	EPA		
	Miles per Gallon	Grams per Mile	A/C	Total
Tailpipe CO2	656	612	---	612
More efficient A/C reducing tailpipe CO2	---	---	65	65
Upstream reductions (1)	179	167	18	185
Alternative A/C operating gases	---	---	85	85
Totals	835	779	168	947

(1) EPA estimates "upstream" emission reductions based on lower tailpipe emissions (including reductions attributed to efficient A/C systems) which reduces petroleum product consumption and results in less crude oil extraction/transportation and less production/distribution of petroleum products. EPA's total upstream reductions are proportioned between EPA's grams per mile and A/C reduction categories based on EPA's reported tailpipe related reductions. Upstream reductions were not reported by NHTSA. The upstream emission reductions listed here for NHTSA are proportional to EPA's estimates.

Sources: Federal Register 9/28/2009 EPA & NHTSA "Proposal Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards": Table I.E.1-1 (page 49477), Table I.E.2-1 (page 49480), and EPA OMEGA Post-Processor Spreadsheet available at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a1ed24>



Recommendation: The Department of Transportation National Highway Traffic Safety Administration (NHTSA) ALONE should finalize the rulemaking to Establish Corporate Average Fuel Economy (CAFE) Standards. The EPA Light-Duty Vehicle Greenhouse Gas Emission Standards are not necessary at this time as they do not provide significant environmental benefit.

- The benefits of the "Rose Garden" announcement can be maintained if California, in its state regulations, simply references the CAFE rule in place of the 202 rule where they say that compliance with the state standard can be demonstrated by showing compliance with the Federal standard.
- The direct emissions reductions and fuel economy costs and benefits of the proposed EPA action and NHTSA fuel economy standards are nearly identical. EPA's imposition of Greenhouse Gas (GHG) emission standards duplicates NHTSA's fuel economy standards, without achieving any significant environmental benefit.
- The EPA regulations would have dramatically broader and more costly effects than the NHTSA rule; EPA has done nothing in the proposal or in the accompanying regulatory impact analysis to quantify, or justify, those costs and burdens.
- The EPA Section 202 Rule will have the adverse effect of triggering the Clean Air Act's (CAA) Prevention of Significant Deterioration (PSD) construction permitting program for stationary sources, which will require thousands of permits but accomplish little in terms of GHG emission controls. EPA has labeled this situation as "absurd", "impossible" and "contrary" to expressed congressional intent.
- The fact that the timing of the Section 202 Rule is discretionary means that EPA's proposed PSD Tailoring Rule cannot be justified under the "absurd results/ administrative necessity" doctrine. Additionally, the path EPA proposes in the Tailoring Rule to reduce PSD impacts twists the CAA so thoroughly it is unlikely to survive legal challenge.
- EPA has the FULL authority and discretion to defer finalizing CAA Section 202(a) standards at this time. If EPA did so, NHTSA could finalize its regulations and all the emissions reductions benefits of the proposal would be realized.

Recommendation: If EPA moves forward with GHG regulation under section 202 of the CAA, EPA should affirm the Johnson Memorandum's interpretation that a pollutant is "subject to regulation" under the CAA only when it is subject to an actual requirement controlling its emissions. As noted in API's comments to the Johnson Memorandum Reconsideration, EPA's view that issuance of a final 202 Rule will automatically trigger PSD, based solely on the fact that a source emits GHG emissions is inconsistent with the plain meaning of the CAA and EPA's regulations.

- Compliance with the 2012 Model Year requirements would be the "actual requirement on controlling emissions." This could be interpreted at the earliest as October 2011 the start of the model year, or as late as sometime in 2013 when model year compliance must be demonstrated.

Recommendation: If EPA moves forward with GHG regulation under section 202 of the CAA, EPA should limit the stationary source impact (i.e. application of PSD) as PSD is a costly, burdensome, and inefficient means to implement GHG controls. Administrator Jackson acknowledged in her letter to Senator Rockefeller that she has the ability to interpret the CAA so that "only those facilities that already must apply for CAA permits as a result of their non-greenhouse gas emissions will need to address their greenhouse gas emissions in their permit applications." This interpretation is the most effective way to manage the adverse consequences of PSD for GHG's and should be implemented by the agency.

- The applicability of the PSD program in a given area must be based on the attainment status of the area for the pollutant in question.
- The CAA designates an area as "attainment" if it meets the national primary or secondary ambient air quality standard for the pollutant and as "unclassifiable" if there's not sufficient information to determine whether it meets the national primary or secondary ambient air quality standard for the pollutant.
- An area can only be designated as attainment, non-attainment or unclassifiable in relation to a National Ambient Air Quality Standard (NAAQS).
- The Act's plain language indicates that the PSD pre-construction permit program only applies to sources that emit threshold levels of a pollutant for which the source's location is in attainment with a NAAQS.
- Consequently, PSD permitting requirements can only be triggered in the first instance by pollutants for which there is a NAAQS. Because there is no NAAQS established for any GHGs, PSD cannot be triggered based solely on a source's emissions of GHG emissions.
- Once the PSD permitting requirements are triggered for emissions of one pollutant (the NAAQS pollutant), the law and regulations require control technology (Best Available Control Technology – BACT) to be applied to each pollutant "subject to regulation" that is emitted by the facility in significant amounts. This is the purpose of the Johnson memo – to state when a pollutant is "subject to regulation" and therefore, subject to BACT for those facilities already triggering PSD.
- Because there is no NAAQS for CO₂ or any other GHG, the thousands of small sources that would be swept into PSD permitting solely because of their GHG emissions are spared this regulatory burden. However, large sources like power plants, which have to get PSD permits already, would be required to analyze and control their GHG emissions under those permits.