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Robert Babik, Director
Environment, Energy & Safety Policy
General Motors Company
300 Renaissance Center
Detroit, Michigan 48265-3000

Dear Mr. Babik:

This staff opinion letter responds to your October 28, 2011, request on behalf of General Motors Company (GM). GM seeks to label its 2013 and later model dual-fueled vehicles with the Environmental Protection Agency's (EPA's) new fuel economy label and to forego using the FTC's alternative fueled vehicle (AFV) label on those vehicles. As explained below, the FTC staff will not recommend enforcement action if GM uses the EPA label, including the vehicle's driving range, in lieu of the FTC label for these vehicles.

Currently, the FTC and EPA both require a label for dual-fueled vehicles which operate on both conventional gasoline and alternative fuel (*e.g.*, E85).¹ Though both labels inform consumers about vehicle fuel performance, the recently-revised EPA label contains more vehicle-specific information than the FTC's. For example, the EPA label displays fuel economy in both miles per gallon (city and highway) and gallons per 100 miles, estimated yearly fuel cost, fuel savings or costs compared to an average vehicle, greenhouse gas information, and smog ratings. In addition, the EPA label allows, but does not require, the vehicle's driving range (*i.e.*, miles traveled on a full tank) for gasoline and alternative fuel operation. Finally, the EPA label directs consumers to www.fueleconomy.gov which contains details about alternative fuels and AFVs. By comparison, the FTC label, required by the Alternative Fuels Rule ("Rule"), displays a vehicle's cruising (*i.e.*, driving) range but does not provide any other vehicle-specific information.² Instead, it contains general consumer information about fuel type, operating cost,

¹See 16 C.F.R. Part 309 (FTC label) and 40 C.F.R. Part 600 (EPA label). Last summer, EPA issued new labeling requirements for these vehicles. 76 Fed. Reg. 39478 (July 6, 2011).

²16 C.F.R. Part 309. The Rule's full title is "Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles."

vehicle performance, energy security, and emissions. It also provides telephone numbers and website addresses for additional information.

To avoid potential consumer confusion and reduce compliance costs, GM seeks to use only the EPA label on its dual-fueled vehicles. It asks that the Commission, or the FTC staff, forbear enforcement of the FTC label as long as GM uses the EPA label including the vehicle's driving range. In GM's view, use of both labels could cause confusion because the EPA and FTC labels present driving range information in different ways. The FTC requires two range numbers: a lower number based on city fuel economy and an upper number based on highway fuel economy (e.g., 246-378 miles on one tank). Conversely, the EPA rule requires a single range number (e.g., 300 miles on one tank) based on the combined city-highway fuel economy rating. Although the resulting numbers are similar and based on the same test procedures, GM is concerned that the differences could confuse consumers. GM also explains that a single label will save several hundred thousand dollars each model year in labeling-related costs.

GM argues that its request is consistent with the Commission's recent policy to forbear enforcement of current FTC labeling requirements for electric vehicles given inconsistencies between the driving range on EPA and FTC labels for those vehicles.³ Because a similar inconsistency exists between the EPA and FTC labels for 2013 dual-fueled models, GM requests a similar approach.

In response to your request, the FTC staff will not recommend enforcement action if GM (or another manufacturer) uses the EPA fuel economy label, with driving range information, in lieu of the FTC AFV label on dual-fueled vehicles. As your request explains, a single label will avoid potential consumer confusion. The approach is also consistent with the Commission's recent enforcement policy for electric vehicles. The Commission will provide final direction on these issues when it completes its review of the Alternative Fuel Rule.

The views expressed in this letter are those of the staff assigned to enforce the Commission's Alternative Fuels Rule. In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.3(c), this is a staff opinion only and has not been reviewed or approved by the Commission or by an individual Commissioner. It is not binding upon the Commission and is given without prejudice to the right of the Commission later to rescind the advice and, when appropriate, to commence an enforcement proceeding. In conformance with Section 1.4 of the Commission's Rules of Practice, 16 C.F.R. § 1.4, this letter and GM's request, are being placed on the public record. If you have any further questions, please contact me at (202) 326-2889.

Sincerely,



Hampton Newsome
Attorney

³See <http://www.ftc.gov/opa/2011/05/afr.shtm>; and 76 Fed. Reg. 31467 (June 1, 2011).