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National Highway Traffic Safety Administration Proposes Overhaul of Fuel Economy Standards: SAFE Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks

By Stacie B. Fletcher, Rachel Levick, Veronica J.T. Goodson and Laura Stanley*

In this article, the authors discuss the National Highway Traffic Safety Administration's proposed new corporate average fuel economy standards for light duty vehicles for model years 2022 through 2031. The authors note that the proposal also aims to eliminate the manufacturer credit trading program, beginning with model year 2028.

The National Highway Traffic Safety Administration (NHTSA) released a prepublication of its proposed new corporate average fuel economy (CAFE) standards for light duty vehicles for model years 2022 through 2031.[1] The proposal also includes several significant revisions to the CAFE program.

Key takeaways for regulated industry parties include:

- NHTSA will no longer consider electric vehicles and the availability of compliance credits in proposing fuel economy standards. The new proposed model year 2022 baseline is 31.2 miles per gallon across the entire light-duty fleet (i.e., passenger cars and light trucks). The proposed rule includes gradual increases in fuel economy for subsequent model years, with NHTSA projecting that the amended standards would correspond to the industry fleetwide average of approximately 34.5 miles per gallon by model year 2031 for passenger cars and light trucks.
- The proposed rule seeks to eliminate the inter-manufacturer credit trading program, beginning with model year 2028.
- NHTSA's proposal notes that, under the Energy Policy and Conserva-

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1 National Highway Traffic Safety Administration, The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks, Prepublication Version (Dec. 3, 2025), available at https://public-inspection.federalregister.gov/2025-22014.pdf?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

tion Act (EPCA) preemption provision, states are preempted from adopting or enforcing any regulatory requirements related to fuel economy standards regardless of whether the Environmental Protection Agency (EPA) has granted waivers for such state programs under the Clean Air Act (CAA).

SECOND TRUMP ADMINISTRATION FUEL ECONOMY POLICY CHANGES

This proposed rule is one of many actions that the second Trump Administration has taken to reconsider the CAFE program.

On his first day in office, President Trump signed Executive Order 14154, "Unleashing American Energy," where he announced policy goals of "removing regulatory barriers to motor vehicle access" and "ensuring a level regulatory playing field for consumer choice in vehicles."[2]

U.S. Transportation Secretary Sean Duffy issued a memorandum implementing Executive Order 14154 on January 28, 2025, titled "Fixing the CAFE Program."[3] In the memorandum, Secretary Duffy directed NHTSA to begin an immediate reconsideration of all fuel economy standards applicable to motor vehicles from model year 2022 and forward.

Congress also became involved in shaping a significant policy shift in fuel economy standards. President Trump's signature second-term legislation, the One Big Beautiful Bill Act (OBBBA), enacted on July 4, 2025, eliminated all civil penalties for noncompliance with fuel economy standards.[4] Specifically, section 40006 of the OBBBA amends the language of the CAFE statute to reset the maximum civil penalty to $0.00.[5] Before this legislation, penalties were substantial, and they created a system of tradeable compliance credits so that companies that did not meet the standard could purchase credits from companies that exceeded the standards for a given model year. Now, after passage of the OBBBA, noncompliance with fuel economy standards no longer carries a penalty, effectively rendering the market for compliance credits a nullity.

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[2] Exec. Order No. 14,154, 90 Fed. Reg. 8353 (Jan. 29, 2025).

[3] Fixing the CAFE Program, Memorandum from Sean Duffy, the Secretary of Transportation, to the Office of the Administrator of the National Highway Traffic Safety Administration (Jan. 28, 2025).

[4] One Big Beautiful Bill Act, Pub. L. No. 119-21, § 40006, 139 Stat. 72, 136 (2025) (codified at 49 U.S.C. § 32912).

[5] Id.

On June 11, 2025, NHTSA issued an interpretive rule concluding that it is improper to consider the fuel economy of electric vehicles when determining the baseline for the fuel economy standards.[6]

NHTSA'S PROPOSED ROLLBACK OF FUEL ECONOMY STANDARDS

On December 3, 2025, NHTSA released a prepublication of its proposed new CAFE standards for light duty vehicles for model years 2022 through 2026 and model years 2027 through 2031.[7] The proposal also includes several significant revisions to the CAFE program.[8]

Proposed Fuel Economy Standards

Consistent with its prior June 2025 interpretive rule, NHTSA proposes that the fuel economy standards be formulated based only on the fuel economy performance of light-duty vehicles powered by gasoline and diesel fuels. The agency will no longer consider the performance of electric vehicles and plug-in hybrid electric vehicles in its standard-setting analysis, as well as the impact of compliance credits.

NHTSA concludes that it is not permitted under the CAFE statute to consider electric vehicle performance or credit availability in setting standards, noting that it has a "statutory obligation to set CAFE standards at the maximum feasible level that the agency determines vehicle manufacturers can achieve in each model year, balancing four key factors: technological feasibility, economic practicability, the need of the Nation to conserve energy, and the effect of other Federal regulations on fuel economy."[9] But it asserts that "fuel economy standards are designed based on light-duty vehicles powered by 'fuel,' which is defined in EPCA to include gasoline, diesel fuel, or other liquid or gaseous fuels with similar combustion properties as identified by NHTSA."[10]

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[6] National Highway Traffic Safety Administration, Resetting the Corporate Average Fuel Economy Program, 90 Fed. Reg. 24518 (Jun. 11, 2025).

[7] National Highway Traffic Safety Administration, The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks, Prepublication Version (Dec. 3, 2025), available at https://public-inspection.federalregister.gov/2025-22014.pdf?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

[8] Id. at 1.

[9] Id. at 17.

[10] Id. at 300.

From a policy perspective, the agency also notes that the large fuel economy values assigned to electric vehicles have "significantly increas[ed] the fuel economy requirements for traditional gasoline- or diesel-fueled fleets."[11]

NHTSA also proposes to remove the consideration of the impact of certain technologies, such as air conditioner efficiency, in setting the standards because those technologies are "not demanded by consumers" and have "questionable fuel economy benefits."[12]

The proposed standards also seek to alter the relationship between the footprint of vehicles—the rectangular area of a vehicle measured from tire to tire where the tires hit the ground—and fuel economy standards.[13] NHTSA points out that the relationship between footprint and fuel economy has shifted substantially since it was last calculated for model year 2008.[14] Although NHTSA will continue applying an estimated relationship that sets more stringent targets for smaller footprint vehicles and less stringent targets for larger footprint vehicles, this proposed change could have implications for the relative incentive to manufacture larger footprint vehicles.

NHTSA ultimately proposes resetting the model year 2022 baseline for passenger cars at 36 miles per gallon and light trucks at 27.7 miles per gallon, excluding the large fuel economy standards previously assigned to electric vehicles.[15] The new proposed model year 2022 baseline is 31.2 miles per gallon across the entire light-duty fleet.[16] Fuel economy standards would then increase at a rate of 0.5 percent per year between model year 2022 and model year 2026, followed by an increase at a rate of 0.25 percent per year from model year 2027 through model year 2031. NHTSA projects that the amended standards would correspond to the industry fleetwide average of approximately 34.5 miles per gallon in model year 2031 for passenger cars and light trucks.

Proposed Changes to the CAFE Program

In addition to the proposed overhaul of the fuel economy standards, the agency proposes other significant revisions to the CAFE program.

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[11] Id. at 15.

[12] Id. at 18.

[13] Id. at 23.

[14] Id.

[15] Id. at 24.

[16] Id.

First, the proposal seeks to eliminate the manufacturer compliance credit trading program.[17] Although the OBBBA zeroed out the civil penalties for noncompliance with CAFE standards, effectively eliminating the value of credits and significantly slowing the trading market, this proposed change would formally eliminate any market for credit exchanges.[18] The agency notes that this elimination will "encourage manufacturers to provide for steady improvement in fuel economy across their fleets over time, as opposed to relying upon credits acquired from third-party [electric vehicle] manufacturers."[19] However, because "manufacturers have made investments in particular compliance pathways—pathways that may include purchasing credits from other manufacturers even though the availability of those credits is uncertain"—the agency proposes that the elimination of credit trading not begin until model year 2028.[20]

Second, NHTSA also proposes changes to the criteria used to determine if vehicles are passenger cars or light trucks. The agency points out that "separate standards for the passenger car and light truck fleets . . . have led manufacturers to reshape the market in unanticipated ways—such as by almost eliminating the production of station wagons (passenger cars that generally have more robust cargo capacity, adding mass and reducing fuel economy) in favor of vehicles like minivans and crossover utility vehicles (considered light trucks, and subject to less stringent standards)."[21] In 1975, light trucks represented only 19.3 percent of the light-duty vehicle market, and today they represent 64.7 percent of the light-duty vehicle market.[22]

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[17] Id. at 398.

[18] On July 25, 2025, NHTSA sent a letter to manufacturers indicating that it would not be issuing compliance notifications for credits generated in model years 2022 and later, but that it "anticipates" reissuing compliance notifications after completion of its rulemaking implementing OBBB. In the meantime, companies have not been able to finalize credit transactions because NHTSA will not honor credit transfers until the corresponding credits are added to the manufacturer's account, which cannot be done until NHTSA issues a compliance notification. NHTSA does not explain in its proposal whether or when it will begin issuing credit compliance notification letters for credits generated between model years 2022 and 2028.

[19] Id. at 19.

[20] Id.

[21] National Highway Traffic Safety Administration, The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks, Prepublication Version (Dec. 3, 2025), at 14, available at https://public-inspection.federalregister.gov/2025-22014.pdf?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

[22] Id. at 382.

In recognition of this shift, NHTSA proposes to alter what counts as a light truck. For example, one consideration in assessing if a vehicle qualifies as a light truck is ground clearance level.[23] NHTSA finds that manufacturers have started applying high ground clearance characteristics (such as breakover angle and running clearance) to vehicles that are not otherwise intended for off-highway operation. In response to this shift in vehicle design, NHTSA proposes to eliminate axle clearance as a characteristic used to define a vehicle with high ground clearance beginning in model year 2028.[24]

Preemption

NHTSA's proposal also notes that EPCA includes a "blanket preemption provision"[25] pursuant to which "states may not adopt or enforce regulatory requirements related to fuel economy standards."[26] NHTSA points out that the preemptive effect "holds true regardless of whether EPA has granted waivers for emissions requirements under the CAA."[27]

The proposal notes that President Trump signed into law three joint resolutions, adopted by Congress under the Congressional Review Act, that disapproved waivers that EPA granted under CAA section 209.[28] But NHTSA's view is that, even if these CAA waivers were in place, the existence of those waivers would not waive EPCA preemption.

However, NHTSA states that it is not taking formal action regarding preemption in the proposal.

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[23] Id. at 385-86.

[24] Id. at 386.

[25] Id. at 315.

[26] Id.

[27] Id.

[28] H.J. Res. 87 (Pub. L. 119-15); H.J. Res. 88 (Pub. L. 119-16); H.J. Res. 89 (Pub. L. 119-17); see also The White House, Statement by the President, Last revised: June 12, 2025, available at: https://www.whitehouse.gov/briefingsstatements/2025/06/statement-by-the-president/ (accessed: Sept. 10, 2025).