

Automakers Seek to Align Fuel Economy and Greenhouse Gas Regulations

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Automakers are seeking regulatory—and perhaps legislative—changes this year to revise federal fuel economy and environmental standards and reduce potentially large penalties. The technical proposals would be the first major structural change in these standards since 2012, and they come at a time when federal agencies are undertaking a regulatory review that may result in far greater changes.

For more than 40 years, the federal government has regulated passenger motor vehicles for their fuel economy. Administered by the National Highway Traffic Safety Administration (NHTSA), the Corporate Average Fuel Economy (CAFE) program requires automakers to meet certain fuel economy targets for their vehicle fleets to limit oil consumption. For roughly 20 years, the legislated target for a given manufacturer's fleet of light-duty vehicles was 27.5 miles per gallon (mpg); a 2007 law mandated an increase to 35 mpg by 2020.

That system received a major makeover in 2012 when the Obama Administration used its regulatory authority to [integrate the CAFE program](#) with California state greenhouse gas (GHG) regulations and a new federal [GHG standard](#) administered by the Environmental Protection Agency (EPA). California agreed to follow federal GHG standards rather than pursue its own, and automakers signed on to the joint program. The new federal target of 54.5 mpg by 2025 represents the fuel economy needed to meet EPA's target of 163 grams of carbon dioxide (CO₂) emissions per mile. These NHTSA and EPA regulations are influencing the design of automobiles, sport utility vehicles (SUVs), and pickup trucks, and may spur a range of new technologies such as turbocharging, more efficient transmissions, and electrically powered air conditioning.

Proposed Changes Could Reduce Penalties

Although NHTSA and EPA will reevaluate their respective CAFE and GHG standards through a [Midterm Evaluation](#) in 2017, automakers are seeking changes this year. Vehicle manufacturers note that when the Obama Administration developed the program, it referred to it as "One National Program" that would satisfy NHTSA, EPA, and California requirements. They claim that inconsistencies in these agencies' regulations mean that some of NHTSA's CAFE rules are more stringent than EPA's related GHG rules. As a result, the automakers claim, they may be subject to penalties for failing to meet NHTSA's CAFE standards even if they have complied with EPA's GHG standards for particular model

years. The inconsistencies cited by the automakers are related to the fact that different regulators are seeking specific outcomes in terms of fuel economy, GHG emissions, and state-level air quality under three different statutes.

In a [June 20, 2016, petition](#), the Auto Alliance and the Association of Global Automakers asked NHTSA to make several changes in its regulations:

- NHTSA fuel economy calculations for past model year vehicles (2012-2016) should be based on the same technologies as EPA. The automakers cite certain technologies that are counted by EPA for these model years but will not be applied by NHTSA until model year 2017. This change, affecting vehicles already manufactured, could reduce potential penalties for failure to meet the CAFE standards;
- NHTSA should adjust its standard retroactively to reflect the actual mix of new vehicle sales that occurred over the past five years, not as forecast in 2012; and
- NHTSA's credit system should be aligned with EPA's. When fuel economy is calculated for each model year, NHTSA compares the test result against its standard. If a vehicle exceeds the CAFE standard, the automaker earns credits, and if not, the automaker has a shortfall. Automakers can use credits from previous years to make up for later shortfalls. The NHTSA and EPA credit systems differ, however. Notably, NHTSA credits can be carried forward only five years, while EPA allows an 11-year carryforward. Making credit aspects of the NHTSA CAFE standards more consistent with EPA's GHG program would lengthen the period for which automakers can claim NHTSA credits retrospectively for fuel efficiency improvements in future years.

It is not clear whether NHTSA has the statutory authority to make the requested changes. No congressional or administrative hearings have been held on these proposals, but it is likely that the same NHTSA and EPA staff who are undertaking the Midterm Evaluation would have to manage the petition, including seeking public input. This might slow progress on the Midterm Evaluation.

The industry proposal is not forward-looking—covering future vehicles—but applies to vehicles already produced for model years 2012-2016. Adjustments made to how fuel economy is calculated for vehicles sold in those years could lower the base from which future standards will be calculated. In addition, granting additional credits for vehicles already produced, and allowing longer credit banking, would ease automakers' compliance with future standards. In this light, adoption of some of these automaker proposals this year could affect the conclusions reached during the Midterm Evaluation in 2017.

Automakers have also raised concerns about a separate but related regulatory change required by a [2015 law](#) directing all federal agencies to adjust their penalties for inflation. As a result, [NHTSA announced](#) on July 5, 2016, that it has revised its schedule of penalties. Using the formula stipulated in the 2015 statute, civil penalties for CAFE violations would rise from \$5.50—the level established in 1975—to \$14 for each 0.1 mpg a manufacturer's annual average fuel efficiency falls below the NHTSA standard, times the number of vehicles sold. These higher penalties affect model year 2015 and later vehicles. The inflation adjustment restores the value of the deterrent built into the 1975 statute. The 2015 law does not provide for a public comment period before higher penalties take effect.