IER INSTITUTE FOR ENERGY RESEARCH

Comment on The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks Docket ID No. NHTSA-2025-0491

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The Institute for Energy Research commends the National Highway Traffic Safety Administration proposed updates to existing, and rationalization of future, Corporate Average Fuel Economy (CAFE) mandates. The CAFE program is a leftover relic of the 1970's oil scare, a zombie program which plods on based on an assumption of oil scarcity even as domestic and global oil production and outlook have completely changed to an era of abundance. Absent repeal by Congress, IER supports NHTSA's effort to minimize the ongoing harm that this obsolete program has on the cost of vehicles in the United States and on Americans' choices in the vehicle market. IER strongly endorses the proposed rule's elimination of consideration of electric vehicles and the social cost of carbon in the calculation of CAFE standards. Additionally, while supporting NHTSA's rationalization of the pace of increase of CAFE mandates, IER argues that given the current state of U.S. oil production and exports, the agency should not require any increases in CAFE mandates over the covered model years at all.

The purpose of the CAFÉ program has been superseded by domestic oil production

The Energy Policy and Conservation Act of 1975 (EPCA) was passed in response to the 1973 Arab oil embargo. The Corporate Average Fuel Economy (CAFE) program created in EPCA was created with the goal of reducing U.S. dependence on oil imports so that the economic disruption of a future supply interruption would be reduced. The CAFE program was subsequently made more stringent in the Energy Policy Act of 2005 (EPAct) and the Energy

Independence and Security Act (EISA) of 2007. These amendments to the CAFE program were made in response to U.S. net oil imports surpassing 12 million barrels per day (mbpd) in the years from 2004-2007. During those same years total U.S. oil consumption was between 20 and 21 mbpd,[1] thus during those years 58-60% of U.S. oil consumption was met by imports. This dependence on foreign oil was treated as a major national security risk, and both pieces of legislation were passed with the primary goal of addressing this perceived risk.

However, those years of panic represented the high-water mark of U.S. oil imports. U.S. oil net imports peaked at 12.55 mbpd in 2005, representing just over 60% of U.S. consumption. Since then, imports have declined precipitously. The U.S. became a total petroleum net exporter in 2020 and has maintained that status ever since.[2] This change is not attributable to decreased consumption, which was the stated purpose for the creation of the CAFE program. U.S. oil consumption has exceeded 20 mbpd each year since 2022, only marginally lower than the highs reached from 2004-2007.[3] The inversion is due to the massive growth of domestic petroleum production which has more than doubled from is low point in 2008 under 8 mbpd, now exceeding 20 mbpd.[4]

These changed market circumstances mean that the original purpose of the CAFE program has been superseded. There is no longer a need to reduce dependence on foreign oil, because the U.S. is no longer dependent on foreign oil. NHTSA's proposed rule notes this market change but still proposes to continue increasing CAFE standards each year. But this market change means that one of NHTSA's four balancing factors mandated by Congress in 49 U.S.C. § 32902(f), the need for the United States to conserve energy, should no longer be given weight. As a net petroleum exporter, there is zero need for the U.S. to conserve oil. Therefore, the other balancing factors, especially economic practicability, should be the dominate factors for consideration. With the factors properly weighted, NHTSA's proposed increases remain too stringent. The current U.S. oil market calls for the standards to remain flat or even be reduced. Any increase in CAFE standards is directly contrary to the economic practicability factor requirement.

Holding the standards flat or even reducing them would be welfare maximizing for the American people, further increasing the economic and life-saving benefits which NHTSA identifies elsewhere in the rule from reducing the cost of newer, safer vehicles.

The CAFE statute specifically prohibits the inclusion of electric vehicles in the program

[1] https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php
[2] https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php
[3] https://www.eia.gov/dnav/pet/pet_cons_psup_dc_nus_mbblpd_a.htm
[4] https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php

IER strongly supports NHTSA removing electric vehicles from the CAFE milage calculation. The proposed NHTSA interpretation of 49 U.S.C. § 32902(h) is correct. The statute is clear that in carrying out the statute, the Secretary "may not consider the fuel economy of dedicated automobiles." In 49 USC § 32901(a)(8), dedicated automobile is defined as "an automobile that operates only on alternative fuel." The plain language of this definition clearly encompasses electric vehicles, as they do not run on conventional liquid fuels like gasoline or diesel.

The illegal inclusion of electric vehicles in previous iterations of CAFE standards is the key factor that allowed for the maximum feasible fuel economy standards calculation to be raised to levels which are not technologically feasible for liquid fueled vehicles to reach. This inclusion of electric vehicles in fuel economy calculations was a de facto mandate for automakers to manufacture electric vehicles, as that was the only possible way to meet these unlawfully calculated standards.

Had NHTSA under the previous administration proposed a direct electric vehicle mandate, it would have been clearly illegal. The attempted backdoor electric vehicle mandate via CAFE was just as illegal, and IER strongly urges NHTSA to proceed with clearly stating this statutory reality in its final rule.

The "social cost of carbon" metric is inappropriate for regulatory proceedings

IER strongly supports NHTSA setting the value for social cost of carbon (SCC) to zero in the CAFE model for this rulemaking. The SCC is a completely arbitrary measure, with its value entirely dependent on the assumptions of the person making the calculation. Depending on the climate model chosen and the assumptions used, the SCC can range from a large triple digit number to even a negative number (i.e. that CO2 emissions are a net benefit).

Adjustment of individual assumptions, such as the discount rate, can radically change the overall SCC value. Using the 7% discount rate that was standard for 30 years for government cost-benefit analysis until politically motivated revisions in 2023, the SCC value shrinks to a rounding error. Only artificially decreasing the discount rate, to 3% or even 0 gives a present value for the SCC that is significant.

This very sensitivity of the SCC makes it completely inappropriate for regulatory proceedings. Such a nebulous and non-standardized metric might be useful for academic modeling exercises, but is simply too arbitrary to be relied upon for calculations underlying federal regulations.

Further, for CAFE specifically, any use of a SCC is statutorily inappropriate. EPCA is an energy policy statute, concerned with fuel supply and national security. It is not an environmental statute. Environmental considerations are entirely absent from the factors which Congress

mandated for consideration in calculating maximum feasible fuel economy in 49 U.S.C. § 32902(f). The SCC is fundamentally a calculation of environmental impacts and as such is has no place in setting CAFE standards.