

AMERICAN AUTOMAKERS AAPC



October 16, 2023

Via Electronic Mail

U.S. Department of Transportation
National Highway Traffic Safety Administration
Docket ID No. NHTSA-2023-0022
Docket Management Facility, M-30, U.S. Department of Transportation
West Building, Ground Floor, Rm. W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Comments of American Automotive Policy Council (AAPC) on Docket No. NHTSA-2023-0022 “Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027-2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035” Notice of Proposed Rulemaking (NPRM) also pertaining to Docket EERE-2021-VT-0033 (RIN 1904-AF47) Petroleum-Equivalent Fuel Economy Calculation Notice of Proposed Rulemaking

The American Automotive Policy Council (AAPC) and its member companies – Ford, General Motors, and Stellantis (the Detroit Three or “D3”) – share President Biden's goal for rapid electrification of the automotive industry. AAPC also shares the Biden administration's goals to prioritize domestic auto manufacturing as we transition to electric vehicles (EVs). However, there will be harmful and unintended consequences if the three federal agencies do not coordinate as they implement three different sets of rules for the same vehicles during the same time period.

For the reasons outlined below, the AAPC is opposed to the disparate treatment US manufacturers face from the proposed National Highway Traffic Safety Administration (NHTSA) corporate average fuel economy (CAFE) standards, especially if the agency incorporates the Department of Energy’s (DOE) proposed Petroleum Equivalency Factor (PEF). The results show a disproportionately higher compliance cost for the D3.

I. NHTSA’s Proposed 2027 -2032 Standards Have Disproportionate Impact on the “Truck” Fleet

NHTSA’s Light Duty Truck (LDT) “truck” fleet consists of more than just pickup trucks. It also includes family vehicles such as SUVs, crossovers, and minivans. There are many problematic outcomes that result from NHTSA’s choice of a Preferred Alternative that requires the truck fleet to increase its fuel economy at twice the rate (4% year-over-year) of the “car” fleet (2% year-over-year). Comparing actual 2022 data to the proposed 2032 target results in a 70% increase in Miles Per Gallon (mpg) for the truck fleet, while the car fleet increases by only 41%. With significant limits on credit transfers between the fleets, the obvious outcome is that manufacturers specializing in vehicles in the truck fleet face a much greater burden to improve fuel economy.

NHTSA should finalize standards where the relative stringencies of the car and truck fleets increase at the same rate. If NHTSA applies the same 2% rate of increase to both car and truck fleets, that 2% increase in mpg on vehicles included in the truck fleet will save significantly more gallons per year than the car fleet. Historically, NHTSA has finalized standards that recognize the unique challenges of improving fuel economy of the truck fleet when compared to the car fleet. From an engineering perspective, vehicles in the truck fleet tend to be larger vehicles with more capability and a less aerodynamic nature that require more advanced technologies to achieve the same percent fuel economy improvement as smaller vehicles. In addition, electrification of larger vehicles requires larger, and more costly batteries than cars to achieve similar fuel economy benefits relative to their Internal Combustion Engine (ICE) vehicle counterparts.

The D3 have a long history of providing American consumers with a full range of vehicle options. While other manufacturers may focus on a narrow class of vehicles, the D3 has focused on providing families, businesses, and government fleets with the vehicles they need. Vehicles in the truck fleet represent 68% of the US market and are 83% of the vehicles produced by the D3.

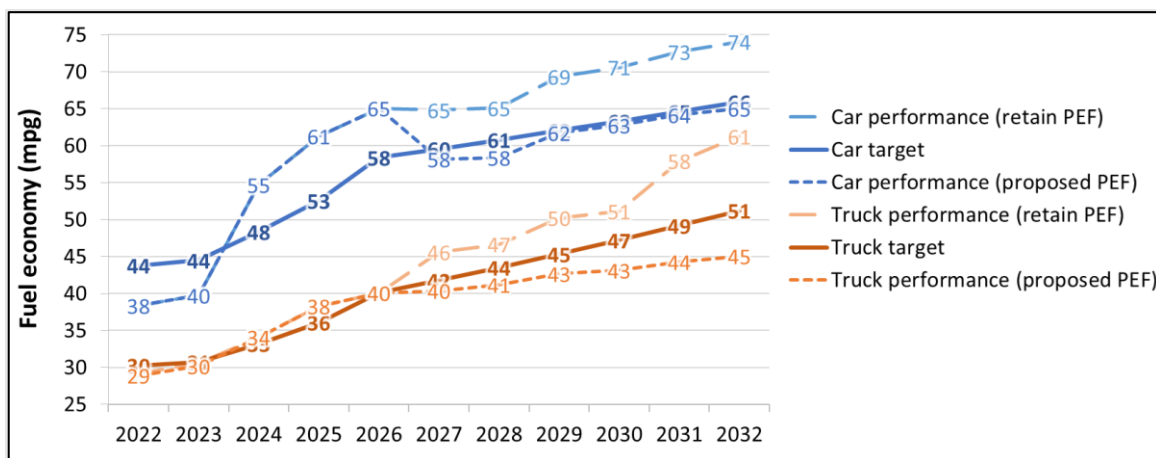
II. DOE’s Proposed PEF Reduction Inappropriately Devalues Electrification

The DOE has proposed to devalue the compliance benefit of electric vehicles, with a 72% reduction in the Petroleum Equivalency Factor (PEF). This proposal will undercut the Biden Administration’s goal to accelerate the adoption of EVs and is inconsistent with the administration’s stated “whole of government” approach to decarbonizing transportation. In response to President Biden’s call for 40-50% of new vehicle sales to be electric by 2030, and reflecting recent incentives including the Inflation Reduction Act (IRA), and in pursuit of their own climate goals, the D3 has announced tens of billions of dollars of investments to transition their assembly operations and develop new battery operations in the United States. These investment announcements were made as early as 2019 with a specific understanding of the compliance value of EVs towards CAFE performance.

The D3’s CAFE performance “with and without” the proposed PEF vs the proposed CAFE targets is shown below in Chart A. The chart dramatically illustrates how the proposed PEF will slash the

compliance value of EVs. Retaining the original, higher PEF (which placed greater value on petroleum reduction from EVs) allows the D3 to meet the CAFE targets for both the car and truck fleets. However, the proposed lower PEF significantly reduces the value of EVs toward the CAFE target, creating a “hole” in the D3 compliance strategy.

Chart A – D3 CAFE performance “With and Without” new PEF



In the first three years after the proposed change to the PEF, the D3 companies’ Light Truck CAFE performance is reduced by 6-7 mpg (e.g., 46 mpg with the original PEF in 2027 to 40 mpg with the new PEF). The degradation of the D3 CAFE compliance, especially in the Light Truck fleet where there is a high level of EVs projected, is even more pronounced in later years.

In 2032, D3 Light Truck CAFE performance with the original PEF is projected at 61 mpg, while lowering the PEF reduces D3 CAFE performance to just 45 mpg. The cumulative result is 6 mpg lower than the proposed NHTSA CAFE standards, greatly devaluing the D3’s investments in EVs.

While DOE’s proposal to devalue the compliance benefit of EVs by 72% starting in 2027 yields only a slight deficiency in the car fleet, a devalued PEF yields a dramatic deficiency in light-duty trucks, that make up 83% of the D3’s product portfolio. Altering the PEF erases any opportunity to generate compliance benefits that the D3 expected from their prior substantial EV investments. This will place unforeseen pressure on the companies’ investment in EVs and slow new investments in EVs and domestic manufacturing of EVs and batteries.

NHTSA’s inclusion of the existing PEF for EVs in 2026 creates an artificially high CAFE compliance baseline, and the proposed PEF post-2027 removes the only high-leverage compliance tool available to auto manufacturers. As the D3 are aggressively building capacity to develop EVs, and the government is providing significant benefits to produce and sell EVs, the D3 find themselves in a scenario where

50% of their new vehicle fleet are EVs and yet they still face billions in compliance penalties for their remaining conventional ICE vehicles. This is an untenable result.

III. DOE's Proposed PEF Disrupts Product Planning

Historically, fuel efficiency “compliance value” was only a small part of an OEM’s consideration and remained relatively stable when combined with other factors such as market demand and profitability. While new technology costs fluctuated, usually these costs followed a predictable downward trend, and product planners could find positive cost-benefit compliance value in the “out years” for a given technology. Changing a vehicle technology’s “compliance value” (i.e., the relative importance of a given technology like EVs toward CAFE compliance) has a significant and compounding impact, above and beyond simply changing the overall fuel efficiency standards.

The relative compliance value of a given technology is embedded in the manufacturers’ fleet fuel economy performance, typically projected 8 to 10 years into the future. For example, deploying a new technology, such as electrification that needs a new supply base (i.e., EV battery production), requires a much longer timeline than customary under a typical conventional (i.e., internal combustion engine) new vehicle development program. The D3 are experiencing development timelines taking over five years and billions of dollars of investments to construct the battery manufacturing capacity needed to meet future regulatory requirements.

The disparities embedded in the current combined proposed rulemakings from NHTSA and DOE would require the D3 to accelerate additional EV production capacity far beyond the industry’s traditional timeframe and what is reasonable for new capital projects (i.e., permitting, supplier contracts, etc.), and these proposals are therefore not feasible.

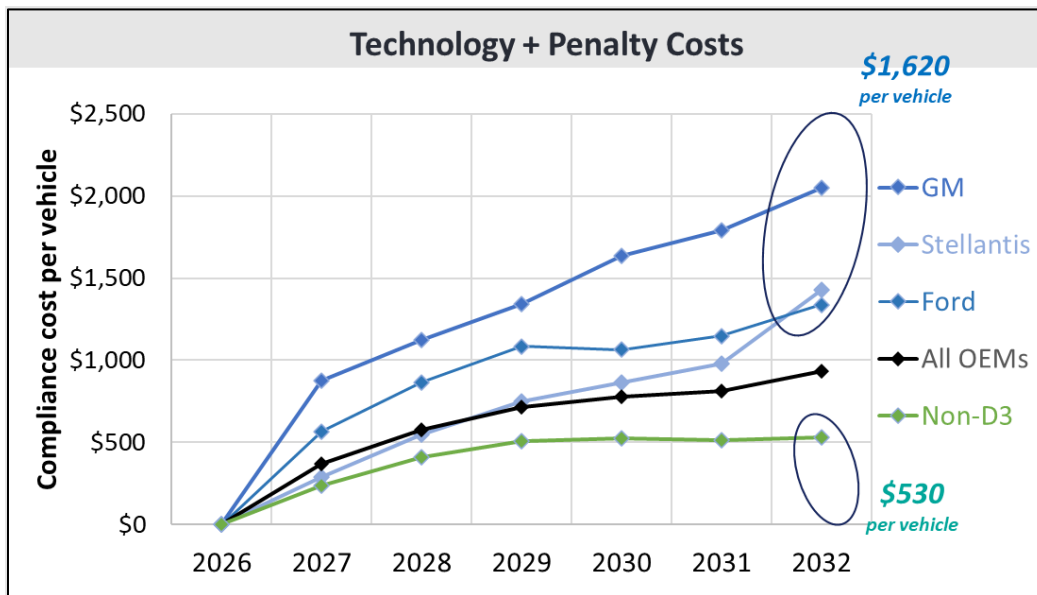
IV. NHTSA's Proposed Standards Hurt Domestic Manufacturing and American Competitiveness

If finalized, NHTSA’s proposal would have a disproportionate cost impact on the D3. The disproportionate effect on the truck fleet has major unintended consequences contrary to Administration goals and D3 investments. The two factors that best illustrate the disparity in compliance are: (1) Overall Cost of Compliance and (2) Projected CAFE Penalties.

1. Disproportionate Compliance Costs

According to NHTSA’s own analysis, the average projected compliance cost per vehicle in 2032 for the D3 is \$1620, while non-D3 auto manufacturers see an increase of only \$530 per vehicle (see Chart B below). This means that the D3 will incur over three times greater cost per vehicle than the non-D3 to comply. NHTSA’s projection of industry compliance cost demonstrates the greater challenge imposed on the D3. The increased compliance cost for the D3 directly results from the DOE’s proposed reduction of the PEF for EVs and NHTSA’s proposal to require drastically faster fuel economy improvements from trucks as compared to cars.

Chart B – Technology and Penalty Costs



Altering the PEF directly and arbitrarily undermines the D3’s central compliance strategy. The D3 did not reach this compliance strategy in a vacuum. The explicit policy of the federal government is for automakers to develop more EVs, and Congress is providing incentives to build and sell more EVs. It appears that NHTSA’s and DOE’s proposals are advancing a policy in direct conflict with the stated federal energy policy of petroleum reduction, and which thusly benefits foreign auto manufacturers’ compliance strategy and unfairly harms the D3 and its workforce. If finalized, the proposals would reward those auto manufacturers that have resisted the transition to a fully electric future.

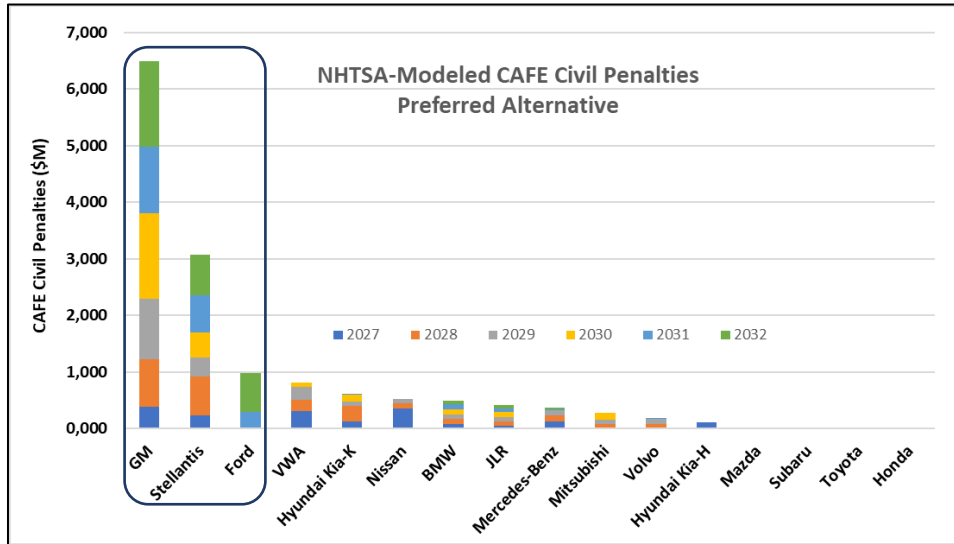
2. Projected CAFE Penalties

As NHTSA evaluates an automaker’s most efficient means to comply with its proposed standards, it explicitly considers the cost of deploying additional fuel-saving technologies versus paying monetary civil penalties to “make up” the compliance shortfall. The simple assumption is the automaker will choose to pay the civil penalty if it is less expensive than the cost of deploying technology. NHTSA’s projected civil penalties for the D3 companies are far higher than non-D3 companies, as illustrated by Chart C (below). Again, the results show how the proposed PEF and CAFE regulations dramatically disadvantage the D3 companies despite their massive, on-going investments in electric vehicles.

NHTSA has projected CAFE penalties of \$13.7 billion, with \$10.5 billion coming from the D3. This would mean that the D3 would pay 76% of the penalties even though they are only 37% of the US market. This disparate treatment does not reflect any difference in technical ability—rather, it reflects only that the D3 make most of the vehicles in the nation’s truck fleet. These penalty figures

are alarming given that the combined total of all civil penalties paid in the nearly 50-year history of the CAFE program is approximately \$1.5 billion.

Chart C – Civil Penalties



Civil penalties would hurt American competitiveness while providing zero environmental benefit or petroleum savings. Any CAFE penalties paid by the D3 go directly to the federal government’s treasury and will not benefit any advancement in new technology. **The disproportionate impact on the D3 must be remedied, not only by DOE in its rulemaking, but also by NHTSA in its rulemaking.**

V. Unintended Consequence of EVs in the “Baseline”

AAPC has concerns with NHTSA’s justification to include 30% EVs in the automaker’s CAFE performance “baseline” under the proposed fuel economy targets. Including “alternative fueled vehicles” in the “baseline” seems to directly conflict with the clear letter of the CAFE law in section 32902(h)(1), and this and similar legal questions are currently the subject of ongoing litigation that may be decided early in 2024. As NHTSA has pointed out in its proposal, Congress clearly provided automakers the ability to comply with fuel economy standards utilizing the favorable treatment that alternative fuel vehicles receive under the statute. The Congressional intent in providing the means to comply with alternative fuel vehicles is to incentivize advanced technology vehicles. However, this incentive is diminished when the stringency is set on the assumption that advanced technology vehicles are increasingly prevalent.

VI. Conclusion

NHTSA’s proposal would disproportionately impact the truck fleet, and therefore the American truck manufacturers. When combined with the DOE’s proposed drastic cut to the existing PEF, these proposals run counter to the Administration’s goals to support domestic manufacturing. In finalizing

these regulatory actions, AAPC urges these agencies to better accommodate NHTSA's unique statutory constraints:

- NHTSA cannot include alternative-fueled vehicles, such as electrification, when setting standards.
- NHTSA's mile/gallon standards are inversely proportional to EPA gram/mile standards, and EPA is recognizing battery electric vehicles have 0 gram/mile tailpipe emissions, which justifies increasing not decreasing the PEF to achieve a comparable amount of compliance benefit in the NHTSA CAFE program.
- NHTSA's fleet credit transfer limits are effectively tightening with more EV technology and constrain an OEM's ability to equalize performance between its fleets.

We strongly recommend that the agencies acknowledge these constraints and ensure that the CAFE standards are not the binding requirements, and specifically that the CAFE requirements be made less stringent than EPA requirements due to the lesser value of EVs within the CAFE regulation. We cannot have two agencies competing with each other to manage the decarbonization of transportation using inconsistent methods.

To avoid the unintended consequences of the recent proposals from NHTSA and DOE, AAPC recommends NHTSA revert to a 2% increase in year-over-year mpg improvement for both the car and truck fleets that is more aligned with historical precedent. This action, when combined with the DOE rescinding its action on the PEF, will ensure that the regulatory landscape does not create dramatic and infeasible competitive headwinds for the D3 as they navigate compliance to the Biden Administration's regulatory agenda.

AAPC and its member companies sincerely appreciate the opportunity to provide NHTSA with our collective input, and we thank you in advance for your thoughtful consideration of our views and recommendations.

Regards,



Matt Blunt
President