

February 3, 2026

ELECTRONIC SUBMISSION

Attn: NHTSA-2025-0491

Joseph Bayer
CAFE Program Division Chief
National Highway Traffic Safety Administration
Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

RE: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks

Dear Mr. Bayer:

On December 5, 2025, the National Highway Traffic Safety Administration (NHTSA) published the proposed, “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks.”¹ In this publication, NHTSA proposes to recalibrate the Corporate Average Fuel Economy (CAFE) program to realign with Congressional intent and the clear language of the authorizing statute. On January 14, 2026, NHTSA extended the comment period by a further 15 days, to February 4, 2026.²

The proposed recalibration would substantially modify the existing CAFE standards, which NHTSA promulgated in 2024,³ and which if left in place will force a rapid, onerous, and expensive transition to electric vehicles (EV). In the hope of supporting and improving NHTSA’s proposed updates to the CAFE standards, we respectfully submit these comments of strong support for NHTSA’s consideration.

Discussion

I. The Proposed Rule Satisfies NHTSA’s Responsibilities Under the Major Questions Doctrine

The proposed rule is consistent with the President’s directive to identify regulations based on anything other than the “best reading” of the underlying statutory authority.⁴ The CAFE

¹ Nat’l Hwy Traffic Safety Admin., “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks,” *Federal Register*, Vol. 90, No. 232 (Dec. 5, 2025), p. 56,438.

² Nat’l Hwy Traffic Safety Admin., “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks,” *Federal Register*, Vol. 91, No. 9 (Jan. 14, 2026), p. 1,494.

³ Nat’l Hwy Traffic Safety Admin., “Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027 and Beyond and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030 and Beyond,” *Federal Register*, Vol. 89, No. 121 (June 24, 2024), p. 52,450.

⁴ Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Regulatory Initiative, Exec. Order 14219 of Feb. 19, 2025, *Federal Register*, Vol. 90 (Feb. 25, 2025), p. 10,583.

standards that NHTSA finalized in 2024 contradicted the principles of the Major Questions Doctrine that the Supreme Court had articulated less than two years previously, to prevent EPA from adopting a regulatory scheme under Section 111 of the Clean Air Act that would force a nationwide transition away from coal-based power plants.⁵ The 2024 standard also contradicted the principle articulated by the Supreme Court, that agencies should implement the “best reading” of the statute.

As NHTSA has discussed at length, the existing CAFE standards essentially created a *de facto* EV mandate notwithstanding Congressional limitations.⁶ As NHTSA acknowledged, “In the 2012, 2020, 2022, and 2024 final rules, NHTSA took the position that it could account for the factors prohibited from consideration in section 32902(h) by using a narrow construction of that provision. This narrow interpretation permitted dedicated alternative and dual-fueled vehicles to be added to an existing reference fleet of vehicles in response to reasons other than NHTSA’s CAFE standards.”⁷ As NHTSA further stated, “NHTSA’s prior consideration of the factors prohibited in section 32902(h)—even if in response to reasons other than NHTSA’s standards and even if non-standard-setting years—is inconsistent with a plain reading of section 32902(h) and with the most faithful approach to standard setting in furtherance of the design and purposes of EPCA.”⁸

NHTSA’s authorizing statute limits the agency to considering four factors when establishing CAFE standards, namely: technological feasibility; economic practicability; the effect of other motor vehicle standards of the Government on fuel economy; and the need of the United States to conserve energy.⁹ Moreover, the statute specifically forbids NHTSA from considering the fuel economy of dedicated vehicles,¹⁰ dual-fueled vehicles when operating on any fuel other than gas or diesel,¹¹ and credit trading systems when establishing CAFE standards.¹² The statute’s definitions make it clear that vehicles powered by electricity fall within the group of “dedicated automobiles” that NHTSA may not consider when administering the CAFE program. The statute specifically defines electricity as an “alternative fuel,”¹³ and defines a “dedicated automobile” as an automobile that operates only on such alternative fuel.¹⁴ Thus, in considering such vehicles and such credit trading programs in establishing the current CAFE standards, NHTSA effectively substituted its own policy judgment over the clear instructions of Congress, in violation of the Major Questions Doctrine as articulated by the Supreme Court in *West Virginia v. EPA*.

The parallels between the Clean Power Plan that the Supreme Court overturned in *West Virginia v. EPA*, and the CAFE standards that NHTSA promulgated in 2024, are unmistakable.

⁵ 42 U.S.C. 7411.

⁶ Nat’l Hwy Traffic Safety Admin., “Resettling the Corporate Average Fuel Economy Program,” *Federal Register*, Vol. 90, No. 111 (June 11, 2025), p. 24518.

⁷ 90 Fed. Reg. at 24,521 (internal citations omitted).

⁸ 90 Fed. Reg. at 24,522.

⁹ 49 U.S.C. 32902(f).

¹⁰ 49 U.S.C. 32902(h)(1).

¹¹ 49 U.S.C. 32902(h)(2).

¹² 49 U.S.C. 32902(h)(3).

¹³ 49 U.S.C. 32901(a)(1)(J).

¹⁴ 49 U.S.C. 32901(a)(8).

Using its power to regulate emissions of pollutants from power plants under the Clean Air Act, EPA published a Clean Power Plan that would have forced States to switch from coal plants to natural gas and eventually renewables. EPA did not propose to outlaw coal plants explicitly, but rather did so by promulgating emissions standards at levels that “resulted in numerical emissions ceilings so strict that no existing coal plant would have been able to achieve them without engaging in [generation shifting away from coal].”¹⁵

In *West Virginia v. EPA*, the Court held, “Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible ‘solution to the crisis of the day.’... But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in 111(d). A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body.”¹⁶ As the Court noted of the Clean Power Plan, “Rather than focus on improving the performance of individual sources, it would improve the overall power system by lowering the carbon intensity of power generation...by forcing a shift throughout the power grid from one type of energy source to another.”¹⁷

As the Court made clear in *West Virginia*, the crux of the decision lay in its determination that EPA’s use of anti-pollution legislation to try and force the nation’s power grid mix to transition away from fossil fuels was an overly ambitious aggrandizement of power that Congress never delegated in the Clean Air Act, or in any other legislation. “On EPA’s view of Section 111(d), Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in deciding how Americans will get their energy. EPA decides, for instance, how much of a switch from coal to natural gas is practically feasible by 2020, 2025, and 2030 before the grid collapses, and how high energy prices can go as a result before they become unreasonably ‘exorbitant.’ There is little reason to think Congress assigned such decisions to the Agency.”¹⁸ As the Court explained before striking down the Clean Power Plan, “We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”¹⁹

This reasoning applies with the same force to NHTSA, which attempted during the previous Administration to use fuel economy standards as a way to force the nation’s automobile fleet to transition away from gasoline-powered vehicles, toward EVs, even in contradiction of the express limitations written into the enabling statute. In light of the reasoning whereby the Court struck down EPA’s “transformative expansion” of its regulatory authority to try to force power companies to shift their power generation mix from coal to other regulatorily favored sources, it is noteworthy that NHTSA followed such a similar process to try to force car companies to shift their fleets away from gasoline-powered vehicles to EVs.

This is particularly striking given that NHTSA’s 2024 Final Rule came only two years after the Supreme Court applied the Major Questions Doctrine to EPA’s Clean Power Plan,

¹⁵ *West Virginia v. EPA*, 142 S. Ct. 2587, 2604 (2022).

¹⁶ *West Virginia v. EPA*, 597 U.S. 697, 735 (2022).

¹⁷ 142 S. Ct. at 2611 (2022) (internal citations omitted).

¹⁸ 142 S. Ct. at 2612 (2022).

¹⁹ 142 S. Ct. at 2609 (2022) (internal citations omitted).

while citing provisions of the Energy Policy Conservation Act (EPCA) that similarly lacked any clear Congressional authorization. This may be an unfortunate outgrowth of the process whereby NHTSA has worked with EPA to issue joint rulemakings to coordinate rulemaking projects, which appears to have resulted in NHTSA subordinating its own statutory imperatives to accommodate EPA's policy goals. Yet as the Court has been increasingly clear that agencies are required to find the "single, best meaning"²⁰ of the statutes that they administer, and even as EPA has independently proposed the rescission of its own vehicle tailpipe rule, citing in large part its responsibilities under the *West Virginia v. EPA*,²¹ it is appropriate that NHTSA reclaim its prerogative to administer the relevant provisions of EPCA as Congress intended.

II. NHTSA is Correct to Weigh the Energy Conservation Factor Differently Now that the United States has Become a Net Energy Exporter

The United States has Reached a New Era of Energy Dominance

The previous regulatory goal of transitioning the U.S. vehicle fleet from gasoline-powered vehicles to EVs was contradictory to U.S. interests, not merely because the goal of electrification exceeded the parameters of the authorizing statute, but also because the goal of fleet electrification directly counteracts the goals that Congress did instruct NHTSA to consider, namely "economic practicability"²² and "the need of the United States to conserve energy."²³ NHTSA is correct to reason that "the need of the United States to conserve energy" should be weighed differently now that the United States is an energy exporter, which now produces more energy than it consumes.

The United States consumed more energy than it produced each year, over a 60-year period from 1958 until 2018. This reliance on energy imports is critical context to understand Congress's motivation when enacting EPCA in 1975, in the aftermath of the Arab Oil Embargo. Total energy imports continued to rise for decades until peaking in 2007, the year when Congress amended EPCA through passage of the Energy Independence and Security Act (EISA). Yet the geopolitics and security implications of U.S. energy usage underwent a shale-powered revolution when the United States became a net energy exporter in 2019, and in every year since.²⁴ In a dramatic reversal from when these laws were enacted, the United States is now the world's largest exporter of motor gasoline.²⁵

The mere fact that the United States has transitioned from a net energy importer into a net energy exporter does not render this statutory factor irrelevant; energy security remains as important as it has ever been. However, it does mean that the way in which NHTSA should weigh energy conservation needs has undergone a revolution since passage of the EISA in 2007.

²⁰ *Loper-Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

²¹ Environmental Protection Agency, "Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards," *Federal Register*, Vol. 90, No. 146 (Aug. 1, 2025), p. 36,288.

²² 49 U.S.C. 32902(f).

²³ *Id.*

²⁴ U.S. Energy Information Administration. U.S. energy facts explained. (Last updated Jul. 15, 2024).

<https://www.eia.gov/energyexplained/us-energy-facts/imports-and-exports.php>

²⁵ U.S. Energy Information Administration. The United States is the world's largest gasoline exporter (Sep. 24, 2024). <https://www.eia.gov/todayinenergy/detail.php?id=63224>

When promulgating the 2024 CAFE rule, NHTSA evaluated this factor in a way that might have felt logical in the 1970's, but which did not show appreciation as to the extent to which the paradigm for advancing U.S. energy security has transformed.

“As always, we start with the statutory text.”²⁶ The fourth and final statutory factor that NHTSA is required to consider under Section 32902(f) is “the need of the United States to conserve energy.” Although the statute itself only empowers NHTSA to regulate fuel standards, this statutory factor is broader than just petroleum or fuel (the latter of which is defined in the statute).²⁷ In choosing such a broad term for energy needs that NHTSA needs to bear in mind, Congress provided NHTSA with the flexibility to consider our nation's changing energy interests both in times of energy constraints and in times of energy surplus.

Since the enactment of the EISA, technological improvements in fracking and natural gas discoveries have resulted in the United States being found to have a vast wealth of natural gas reserves, estimated by the U.S. Energy Information Administration to amount to 2,973 trillion cubic feet of technically recoverable resources.²⁸ Combined with other energy resources, this wealth has positioned the United States as a dominant player in global energy markets. The resulting difference in our country's energy position is dramatic; if the Organization of Petroleum Exporting Countries (OPEC) imposed an embargo similar to the Arab Oil Embargo of 1973-74, the U.S. economy would prove far more resilient. Indeed, at a time when the most recent quarterly U.S. current account deficit is at 3.3 percent of Gross Domestic Product,²⁹ the U.S. energy sector has proven to be a rare, growing bright spot.

A Proper Consideration of the Energy Conservation Needs of the United States Would Recognize that the Greatest Energy Constraints Today come from the Electric Grid, Not Fossil Fuels

Yet even at a time when the U.S. grows into a position of energy dominance, energy policy remains as important as, if not more important than, ever. Just as the OPEC countries proved masterful at turning their energy resources into a source, not merely of material wealth but of geopolitical power, the United States can only exploit this opportunity through thoughtful, strategic policy. It is in this context that NHTSA must adapt its statutory imperative of safeguarding the need of the United States to conserve its energy resources, to today's reality.

As a net exporter of energy, efforts to constrict demand in the domestic market would have negative consequences for producers and consumers alike, particularly in a market as globally important as the United States. This is true because supply and demand have an iterative relationship; higher demand does not merely result in higher prices due to the placement of the intersection of the supply and demand curves, but the resulting price signal also stimulates production in order to meet that demand. In a related albeit somewhat different context, this is

²⁶ *E.g.*, *U.S. v. Cargill*, 602 U.S. 452 (2024); *see also Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251 (2010) (stating that when interpreting statutes “we begin by analyzing the statutory language”).

²⁷ 49 U.S.C. 32901(a)(10).

²⁸ U.S. Energy Information Administration. Frequently Asked Questions (FAQs): How much natural gas does the United States have, and how long will it last? (Last updated Apr. 29, 2024). <https://www.eia.gov/tools/faqs/faq.php?id=58&t=8>

²⁹ U.S. Bureau of Economic Analysis (23 Sep. 2025). *U.S. International Transactions, 2nd Quarter 2025* [Press release]. <https://www.bea.gov/news/2025/us-international-transactions-2nd-quarter-2025>

part of why economists have consistently argued that limiting U.S. petroleum and liquefied natural gas exports would in fact raise rather than lower U.S. gasoline prices.³⁰ In other words, regulatory pressures to depress demand for energy would also undermine the incentives for American producers to meet that demand, which would in turn undercut the market and strategic advantages that accrue to the United States in its newfound position as the one of the world's greatest source of energy exports.

Importantly, this is not to say that the statutory imperative for the United States to conserve energy no longer applies. However, that imperative needs to be considered differently now that the United States is a net energy exporter. Now that the United States has emerged into a position of overall energy abundance and surplus, the need to conserve energy needs to be thought of in a way that goes beyond the need to conserve fossil fuels. In particular, the major constraint on U.S. energy needs in the present era does not revolve around petroleum or fossil fuels, but rather around the increased pressure on the national electric grid.

Especially with the rise of artificial intelligence, the widespread construction of new, power-hungry data centers has put strong pressures on the electric grid, which were not anticipated until recently. A sobering, eye-opening report from Grid Strategies in 2024 projected that U.S. electricity demand would increase five times faster than previously projected, through the end of this decade, driven especially by new data centers, manufacturing, and electrification.³¹ Yet even as the electric grid faces soaring demand, the United States risks a national electricity crisis, as fossil fuel plants have retired faster than renewable sources can replace them. Indeed, coal plants representing more than 15 percent of U.S. electric capacity are set to retire by 2032,³² even as the demand on the electric grid is set to rise by 15 percent. Meanwhile, the renewable fuel sources that have been regulatorily favored in recent years have lacked the reliability of traditional, affordable baseload sources powered by nuclear energy and fossil fuels.³³

In other words, even while the United States is becoming a dominant global supplier in fossil fuels, the American electric grid has become increasingly strained. Yet rather than adjust its approach to the evolving nature of America's conservation needs, the existing CAFE standards exacerbate these stresses, by attempting to force a dramatic electrification of the U.S. automobile fleet at the very moment when the United States has mastered fossil fuels, but faces an increasingly constrained electric grid, which is only set to become more challenging (and expensive) to operate in the near- to mid-term future. By not updating its approach to these new energy realities, NHTSA's existing CAFE standards thereby damage the very statutory factor that Congress changed the agency with promoting. To the extent that NHTSA has relied on this statutory factor to introduce unrelated climate concerns to justify this electrification, NHTSA has

³⁰ E.g., Golding, G., and Kilian, L. (4 Jan. 2022). *A Ban on U.S. Crude Oil Exports Would Not Lower Gasoline Prices at the Pump*. Federal Reserve Bank of Dallas. <https://dallasfed.org/research/economics/2022/0104>

³¹ Wilson, J.D., Zimmerman, Z., and Gramlich, R. (Dec. 2024). *Strategic Industries Surging: Driving US Power Demand*. Grid Strategies. <https://gridstrategiesllc.com/wp-content/uploads/National-Load-Growth-Report-2024.pdf>

³² McGeady, C. (10 May 2024). *The EPA Power Plant Rule amid Demand Growth*. The Power Line, Center for Strategic & International Studies. <https://www.csis.org/analysis/epa-power-plant-rule-amid-demand-growth>

³³ Loyola, M. (12 Jan. 2025). *We must move fast to avert a national electricity crisis*. The Hill. <https://www.thehill.com/opinion/5079858-electricity-crisis-fossil-fuel/>

in fact undermined the objectives with which it was entrusted, so the proposed recalibration of CAFE standards here represents a much-needed course correction.

NHTSA's Proposed Rule Represents a Welcome Opportunity to Help Free the U.S. from its Chinese Handcuffs

The existing CAFE standards would play a deeply unfortunate, unintended geopolitical role in strengthening China, as the manufacturer of nearly 80 percent of the world's electric batteries.³⁴ In contrast, relying on gasoline-powered cars as NHTSA's proposal allows will enable the United States to rely on its own gas and oil wealth, rather than depend on Chinese manufacturers for EV batteries.

China controls almost 70 percent of global EV manufacturing capacity, along with 70 percent of the world's lithium supply, 80 percent of the necessary rare earth minerals, and approximately three-quarters of the magnets needed for EV motors.³⁵ Yet in finalizing the 2024 CAFE standards, NHTSA did not properly consider the difficulty of obtaining these raw materials, or the extent to which these requirements would increase U.S. dependency on China.³⁶ Mining for these minerals is energy-intensive, and the Chinese Communist Party has facilitated access to domestic and foreign minerals for battery production even whilst environmental regulations make the exploitation of these resources almost impossible in the United States. Lithium is mined in western China's Qinghai Province, aided by government funding, and China secures cobalt for its electric batteries from Kisanfu, in the Democratic Republic of the Congo, where child labor in the mining industry is notoriously common.³⁷

Thus, the existing CAFE standards would result in a massive increase in mining in countries that have no respect for the environment or human welfare, and which have set themselves up as geopolitical rivals of the United States. To the extent that the United States continues to require the use of allegedly "green" products and components such as EV batteries, the United States will essentially cede economic power to China, and effectively grant China control over the energy security of the United States.³⁸ For a more in-depth analysis of how U.S. environmental regulations, including the existing CAFE standards, have created deep, self-inflicted harm in terms of our nation's geopolitical position, please find a report that I coauthored with Andrew Hale, "Extricating America from Its Chinese Handcuffs," attached to this comment

³⁴ Henze, V. (12 Nov. 2022). *China's Battery Supply Chain Tops BNEF Ranking for Third Consecutive Time, with Canada a Close Second*. BloombergNEF. <https://about.bnef.com/chinas-battery-supply-chain-tops-bnef-ranking-for-third-consecutive-time-with-canada-a-close-second/>

³⁵ Securing America's Future Energy. (2020). *The Commanding Heights of Global Transportation*, pp. 27-36 (discussing China's path to EV dominance) and 37-50 (discussing China's domination of EV supply chains and critical minerals). <https://safe2020.wpenginepowered.com/wp-content/uploads/2020/09/The-Commanding-Heights-of-Global-Transportation.pdf>

³⁶ See Furchtgott-Roth, D., & Hale, A. *Extracting America from Its Chinese Handcuffs*. Special Report, The Heritage Foundation (2024).

³⁷ U.S. Department of Labor. *Child Labor and Forced Labor Reports*. Bureau of International Labor Affairs (containing an overview of child labor practices in the Democratic Republic of the Congo, including a link to a 2024 report detailing department's findings on the worst forms of child labor in the Democratic Republic of the Congo). <https://www.dol.gov/agencies/ilab/reports/child-labor/congro-democratic-republic-drc>

³⁸ See Furchtgott-Roth, D., & Pollard, M. *How the Forced Energy Transition and Reliance on China Will Harm America*. Special Report, The Heritage Foundation (2024).

as an exhibit. Please also find a report that I coauthored with Miles Pollard, “How the Forced Energy Transition and Reliance on China Will Harm America,” attached as an exhibit as well.

This Statutory Factor is Flexible Enough to Encompass the New Energy Reality, but Not so Expansive as to Cover Climate Concerns

Congress purposely chose a broad term to describe the energy needs that NHTSA is required to conserve in promulgating its CAFE regulations. As intended, this language is both flexible and capacious enough to cover today’s new energy reality, where the major geopolitical threat to U.S. energy security comes from China, rather than OPEC or the Arab League. However, this term is not capacious enough, and was never intended to be capacious enough, to cover environmental effects unrelated to the energy security of the United States. To the extent that such environmental effects include vehicle electrification mandates that further strain the U.S. grid, and increase reliance on green energy and EV infrastructure from China, such environmental effects are not only unrelated to the statutory goals, but actively opposed to them. For these reasons, NHTSA’s approach in this proposal represents important progress in advancing the energy conservation needs of the United States, as Congress intended.

III. The Proposed Rule Appropriately Considers Economic Practicability by Accounting for Vehicle Affordability

“Economic practicability” is also included within the list of four statutory factors that NHTSA needs to consider when promulgating new CAFE standards.³⁹ However, the 2024 Final Rule erred in failing to incorporate affordability concerns when determining economic feasibility. The resulting standards drove up vehicle prices for consumers who preferred to drive traditional, proven gasoline-powered vehicles. More troublingly, these unrealistically high CAFE standards (which are technologically unfeasible for gasoline-powered vehicles) acted as a regressive tax on American families who require gasoline-powered vehicles, and who were effectively forced to cross-subsidize the regulatorily favored EVs better suited for more affluent urban and suburban environments. Any understanding of economic feasibility that does not take affordability into account is clearly flawed, so NHTSA’s Proposed Rule makes valuable progress in fulfilling this factor by properly considering affordability.

The difference between gasoline-powered vehicles and EVs go to the most basic questions of affordability, even beyond questions of convenience and taste. The cheapest electric version of the Ford F-150 pickup truck, the Ford Lightning, sells for \$54,780,⁴⁰ a premium of \$15,450 above the cheapest available Ford F-150,⁴¹ a premium of just under 40 percent. According to the *Kelley Blue Book*, new EVs on average cost approximately \$7,000 more than gasoline-powered vehicles.⁴² These are staggering costs to impose on American families, and on the small business owners who rely on pickup trucks and similar vehicles to

³⁹ 49 U.S.C. 32902(f).

⁴⁰ Ford Motor Co., Models & Specs, 2025 F-150 Lightning Pro. <https://www.ford.com/trucks/f150-lightning/models/>

⁴¹ Ford Motor Co., Models & Specs, 2026 F-150. <https://www.ford.com/trucks/f150/models/?gnav=vhpnav-specs>

⁴² Valdes, R. (15 Aug. 2025). *How Much are Electric Cars?* Kelley Blue book. <https://www.kbb.com/car-advice/how-much-electric-car-cost/>

make a living. Cars are a crucial part of the American Dream, and Americans need their cars to travel not just for leisure but to earn their livelihoods. By allowing car manufacturers to invest in and build more affordable cars for American consumers, NHTSA's proposal will make automotive transportation far more economically practicable for everyday Americans, especially those on tighter budgets.

Beyond the new car market, three-quarters of vehicles sold in the United States are actually previously owned cars.⁴³ EVs have not fared well in the used car market, where EVs are regarded as higher risk given the difficulty in evaluating how long the battery will last, and the substantial \$5,000 - \$25,000 expense that comes with replacing an EV battery.⁴⁴ That upper \$25,000 bound is prohibitively expensive for most consumers in the used car market, and the vast range makes planning for that potential expense exceptionally difficult for most families, and for small businesses. Cars have been a significant driver of inflation over the last several years,⁴⁵ and stringent CAFE standards requiring manufacturers to make more expensive, less profitable EVs have accelerated these trends. Much of the progress of the 20th Century, whereby motor vehicles went from being a luxury for the rich to an integral part of the American Dream, risks being reversed, especially if NHTSA tries to enforce a transition to more expensive EVs. Recalibrating the CAFE standards to more technologically feasible levels would thus play a role in helping to restore the affordability, and therefore the economic practicability, of this cornerstone of the American middle class.

In addition, both as a matter of convenience and basic economics, time is money,⁴⁶ and it takes far more time to recharge an EV. To recharge an EV from empty can take over an hour, compared to five minutes to fill up a gas tank.⁴⁷ The wait time to charge that EV can more than double if there is a line to use the charging station, and there are far fewer charging stations, so it is not always possible to find one nearby with a shorter line. As a famous example of how frustrating these long waits can be, when former U.S. Secretary of Energy Jennifer Granholm drove an EV through the American Southeast to promote the Biden Administration's EV agenda, one of her planned stops resulted in chaos and a 911 call when one of her aides, scouting ahead in a gasoline-powered vehicle, used that gasoline-powered vehicle to block off a public EV charger for Secretary Granholm's eventual use.⁴⁸

For those who do not have the resources to send aides ahead to reserve chargers, EV drivers often need to be strategic about their range, not wanting to let the charge drop below 20 percent to minimize the risk of being stranded. The charging rate also typically slows down

⁴³ Carrier, M. *New and used light vehicle sales in the United States from 2010 to 2024*. Statista. <https://www.statista.com/statistics/183713/value-of-us-passenger-car-sales-and-leases-since-1990/>

⁴⁴ Witt, J. (3 Dec. 2024). *Updated: Electric Car Battery Replacement Costs*. Recurrent. <https://www.recurrentauto.com/research/costs-ev-battery-replacement>

⁴⁵ E.g., DePillis, L., & Smiallek, J. (20 May 2023). *Why Is Inflation So Stubborn? Cars Are Part of the Answer*. The New York Times. <https://www.nytimes.com/2023/05/20/business/economy/car-prices-inflation.html>

⁴⁶ Franklin, Benjamin. "Advice to a Young Tradesman," July 21, 1748.

⁴⁷ Lazar, "How long does it take to refuel a gasoline car?" GasAnswer. <https://gasanswer.com/how-long-take-refuel-gasoline-car/>

⁴⁸ Budryk, Z. (26 Sep. 2023). *Grandholm's EV Trip Draws House GOP Investigation*. The Hill. <https://thehill.com/policy/transportation/4223147-granholms-ev-trip-draws-house-gop-investigation/>

when the car is charged above 80 percent.⁴⁹ These challenges are relatively easy to overcome for drivers who are able to install charging equipment within indoor garages, but for lower-income or even middle-class urban drivers who lack access to indoor charging, this poses a much more significant obstacle, particularly since charging cables can make for attractive targets for theft. In this way, the economic impracticability of widespread EV adoption shows up in many places beyond the already high retail price for the EVs in the first place. Yet notwithstanding its stated concern for equity, the previous administration's mileage standards did not account for this inconvenience, which disproportionately affects the less affluent.

Other major problems relating to the inconvenience include the limited charge. A 60-70-mile charge may suffice for most daily driving, but can create challenges for vacations, longer commutes, and cold weather. Indeed, electric cars have been known to lose from 22 up to 40 percent of their range in cold weather;⁵⁰ perhaps this helps explain why there were only 959 EV registrations in North Dakota at the end of 2023, the most recent year for which Department of Energy has released data.⁵¹ This can cause major safety concerns for people driving through mountains in wintertime, particularly if they are unaware of the cold effect, and especially given how difficult it can be to access an electric charging station in remote areas. Yet for these people, regulatory favoritism toward EVs and forced cross-subsidization of EVs only adds to the burdens that they need to consider when determining their transportation needs.

The lack of economic practicality for the vast majority of U.S. consumers helps explain why the U.S. EV market has effectively imploded in the absence of Federal support. General Motors, described the *Wall Street Journal* as "Detroit's loudest voice in the push toward EVs,"⁵² recently announced a \$6 billion charge to its balance sheet as its EV business weakened as a result of Federal moves to end support in the form of costly taxpayer subsidies (which NHTSA partly relied on in promulgating the existing CAFE standards in the first place) and Federal regulatory mandates.⁵³ In the same announcement, General Motors predicted that additional charges would come in 2026, almost certainly after the comment period for this proposed rule closes.⁵⁴ Significant as General Motor's charges are, they pale so far in comparison to the \$19.5 billion charge that Ford recorded to its EV-related assets and business this past December.⁵⁵ These enormous charges are in large part attributable to Federal policy that over the past four years disregarded the economic impracticability of nationwide EV mandates, and which are of course not predicted or reflected in any of the regulatory impact analyses for automotive rulemaking projects over the course of this time period.

⁴⁹ Blanco, S. (20 Jul. 2022). *How to Maximize EV Range*. JD Power. <https://www.jdpower.com/cars/shopping-guides/how-to-maximize-ev-range>

⁵⁰ Move Electric (17 Mar. 2022). *Electric Vehicle Range Test Reveals Up to 20% Drop in Winter*. Autocar. <https://www.autocar.co.uk/car-news/move-electric/electric-vehicle-range-test-reveals-20-drop-winter>

⁵¹ U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Electric Vehicle Registrations by State Data Set. <https://afdc.energy.gov/data/10962>

⁵² Terlep, S. (9 Jan. 2026). *GM Takes \$6 Billion Hit as EV Business Weakens*. The Wall Street Journal.

⁵³ General Motors Company. (8 Jan. 2026). *SEC Form 8-K*. Retrieved from www.sec.gov.

⁵⁴ Root, A. (9 Jan. 2026). *GM Takes Another EV Charge—and Warns It Won't Be the Last*. Barron's.

⁵⁵ Ford Motor Co. (15 Dec. 2025). *Ford Follows Customers to Drive Profitable Growth; Reinvests in Trucks, Hybrids, Affordable EVs, Battery Storage; Takes EV-Related Charges*.

<https://www.fromtheroad.ford.com/us/en/articles/2025/ford-reinvests-trucks-hybrids-affordable-electric-vehicles>

To the extent that consumers respond to market incentives by purchasing cars that fit best with their lives, budgets, and priorities, the EV market is unobjectionable. However, to the extent that regulators promote an unpopular option, carmakers would have to reduce prices of the mandated, regulatorily favored EVs to attract a market, and simultaneously raise prices of relatively popular gasoline-fueled cars, trucks, and SUVs to maintain their profit margins.⁵⁶ The end result would be that Americans in lower-income and rural areas pay more for their vehicles, to effectively subsidize more affluent residents of cities and inner suburbs where EVs make more practical sense. NHTSA's action in the proposed rule would remove this element of regressive regulatory subsidy from the CAFE regulations, an act that would not only be just and equitable, but which would also better effect the statutory mandate to consider economic practicability, a mandate that is effectively ignored when consumer affordability is not considered.

IV. NHTSA is Correct to Jettison the So-Called “Social Cost of Carbon”

In terms of properly accounting for the economic practicability of the CAFE standards, it is encouraging to see that NHTSA updated the CAFE Model inputs to set the value of the purported “social cost of carbon” (SCC) to zero.⁵⁷ Given the problematic methodology that EPA used to reach its misleadingly precise and egregiously high SCC values, the use of the SCC input was arbitrary and capricious, so this update represents a welcome return to the statutory purposes of the CAFE program. This is especially the case given how reliant NHTSA's projections of benefits from the 2024 Final Rule were on SCC estimates, notwithstanding the threats to U.S. energy security and prosperity discussed above. As summarized by Kevin Dayaratna, formerly of The Heritage Foundation, these SCC calculations were deeply flawed and unreliable.⁵⁸

The flaws in methodology that EPA used to calculate the SCC are extensive, but can largely be summarized in four major points. First, the figure is predicated on making multi-century assumptions into the future, a time range that is so speculative and uncertain as to make economic projections meaningless. Second, policymakers inflated the SCC by using an artificially low discount rate that contradicts longstanding OMB guidance. Third, the SCC relies on outdated projections of Equilibrium Climate Sensitivity (ECS), which have consistently been shown to be empirically inaccurate for years in which projections can be compared to actual observations. Fourth, SCC modeling by the Federal Government has consistently underestimated the agricultural benefits of Carbon Dioxide emissions.

⁵⁶ See Bradbury, S. (16 Sep. 2022). *Observation: Cliff Notes*. Substack. <https://adespotoi.substack.com/p/observation-cliff-notes>

⁵⁷ 90 Fed. Reg. at 56,457.

⁵⁸ See, e.g., Kevin D. Dayaratna, “Climate Change, Part IV: Moving Toward a Sustainable Future,” Testimony before Subcommittee on Environment Committee on Oversight and Reform, U.S. House of Representatives, 24 Sep. 2020; Kevin D. Dayaratna and David Kreutzer, *Loaded DICE: An EPA Model Not Ready for the Big Game*, Background No. 2860, The Heritage Foundation, 21 Nov. 2013, <https://www.heritage.org/environment/report/loaded-dice-epa-model-not-ready-the-big-game>; Kevin Dayaratna, Ross McKittrick, and David Kreutzer, “Empirically Constrained Climate Sensitivity and the Social Cost of Carbon,” *Climate Change Economics*, Vol. 8, No. 2 (2017), pp. 1750006-1 – 1750006-12, <https://worldscientific.com/doi/abs/10.1142/S2010007817500063>; and Kevin Dayaratna, Ross McKittrick, and Patrick Michaels, “Climate sensitivity, agricultural productivity and the social cost of carbon in FUND,” *Environmental Economics and Policy Studies*, 22: 433-448 (2020), <https://link.springer.com/article/10.1007/s10018-020-00263-w>

These flaws are so pervasive that the SCC figure can, perhaps counterintuitively, be made zero or even negative under reasonable assumptions. Please find attached to this comment a variety of literature that substantiates NHTSA's proposal to reset the SCC input to zero.

1. *The SCC's 300-Year Projection Timeline is so Far into the Future as to be Meaningless*

To begin with, the SCC models use an unrealistically long time horizon, purporting to project economic values 300 years into the future. As Kevin Dayaratna has noted elsewhere, to underline how meaningless such time horizons are, this is the functional equivalent of a royal official in colonial America, 50 years before the signing of the Declaration of Independence, pretending to predict with economic precision the impact that his decisions would have on the present day. In comparison, most Central Bank models only purport to model the economy two or three years out, and MBA students in business school are generally taught to use time horizons of 5-10 years to guide investment decisions.

The uncertainty in using multi-century timelines is further exacerbated by the lack of accountability, in that empirical observations will never be available to test the predictiveness of the model in question. In this vein, Kevin Dayaratna, working with David Kreutzer and Austin Gae, has shown that simply reducing the timescale of these models from 300 to 150 years eliminates a vast amount of the benefit claimed by the SCC models.⁵⁹ SCC proponents frequently argue that such a long timeframe is needed to capture the slow-acting effects of carbon emissions. Yet using such a long timeframe eliminates any predictive value that the model could have as an economic tool, instead turning the SCC model into a canvas that merely illustrates the assumptions of the modeler.

2. *The SCC Calculations Use an Unjustifiably Low Discount Rate*

EPA disregarded OMB's guidance on discount rates in order to inflate the SCC. OMB's Circular A-4 instructs agencies to use two rates, 3 and 7 percent, to discount future benefits.⁶⁰ Yet EPA disregarded this guidance in calculating the SCC using a range of three different discount rates, namely 2.5, 3, and 5 percent to discount future benefits. In laymen's terms, EPA skewed the results by calculating future potential benefits from carbon regulation at a higher value than the Federal Government allows to be calculated for benefits from any other type of regulation. As a result, using this number effectively encourages agencies such as NHTSA to value carbon reduction at a higher rate than all other priorities, including their own statutory priorities.

⁵⁹ Dayaratna, K., & Kreutzer, D. (21 Nov. 2013). *Loaded DICE: An EPA Model Not Ready for the Big Game*. The Heritage Foundation, <https://www.heritage.org/environment/report/loaded-dice-epa-model-not-ready-the-big-game>; Dayaratna, K., & Gae, A. (24 Jan. 2025). *Calculating the 'Social Cost of Carbon' with the GIVE Model: An EPA Model Not Ready for Prime Time*. The Heritage Foundation, <https://www.heritaage.org/climate/report/calculating-the-social-cost-carbon-the-give-model-epa-model-not-ready-prime-time>; Gae, A., & Dayaratna, K. (16 May 2025). *Social Cost of Carbon: DSCIM's Unreliable Foundations*. The Heritage Foundation, <https://www.heritage.org/energy/report/social-cost-carbon-dscims-unreliable-foundations>.

⁶⁰ Office of Mgmt. & Budget, Exec. Office of the President, Circular A-4, Regulatory Analysis (2003) (reinstated by Exec. Order No. 14192, "Unleashing Prosperity Through Deregulation").

With the latest inflation numbers at 2.7 percent,⁶¹ the lower bound discount rate for the projected SCC benefits is actually below inflation, which should not even be economically possible over the long term, at least not without assuming an imminent drop to inflation. Even the median 3 percent discount rate for SCC calculations, which would be the lower bound for any other regulatory cost or benefit analysis from the U.S. Government, is fairly close to the current inflation rate.

Yet the SCC simply is not economically justifiable when subjected to the same rates that OMB Circular A-4 requires for estimates of all other benefits of U.S. Government regulatory programs. Subjecting the SCC to the 7 percent upper bound that OMB generally requires reduces the SCC by approximately 75 percent at a minimum. Many models actually show a *negative* cost of carbon when a 7 percent discount rate is used (which would indicate that carbon emissions are a net positive), which may explain why the SCC never uses that rate. In previously using EPA's SCC calculations as an input into the CAFE model, NHTSA effectively made a policy determination to inflate the values of another agency's priorities in disproportion to NHTSA's own statutory objectives. Therefore, NHTSA's proposal to set the SCC input to zero displays the appropriate, required deference to Congress's directive.

3. *The SCC is Often Inflated by Inaccurate ECS Inputs*

The SCC calculations are based on outdated, inaccurate understandings of the effect that carbon emissions have on the climate. Observed warming trends have actually proven to be up to 43 percent less than most climate models' predictions.⁶² Given these dramatic discrepancies between climate models and instrumental observations, and the predictability with which models have overestimated observed warming effects, the continued reliance on projections unimpeded by observations reinforces the inaccuracy of the SCC calculation, which has been used to exaggerate, if not fabricate, the economic value of limiting carbon emissions.⁶³

4. *The SCC can be Manipulated by Improper Specifications of Agricultural Activity*

It is vital for Government policy to engage in reasonable cost-benefit analysis.⁶⁴ Yet SCC modeling refuses to take into account accurate assumptions about how agricultural productivity benefits from emissions of Carbon Dioxide (CO₂). It is uncontroversial that plants feed on CO₂, although activists are more reluctant to acknowledge the proven fertilization benefit of CO₂ emissions, which help fertilize agricultural products. This provides a meaningful

⁶¹ U.S. Bureau of Labor Statistics (13 Jan. 2026). *Consumer Price Index – December 2025* [Press release]. <https://www.bls.gov/news/release/pdf/cpi.pdf>

⁶² Spencer, R. (24 Jan. 2024). *Global Warming: Observations vs. Climate Models*. Environmental Backgrounder, The Heritage Foundation. <https://www.heritage.org/environment/report/global-warming-observations-vs-climate-models>

⁶³ *Supra*, n. 58; Dayaratna, K., & Kreutzer, D. (29 Apr. 2014). *Unfounded FUND: Yet Another EPA Model Not Ready for the Big Game*. The Heritage Foundation. <https://www.heritage.org/environment/report/unfounded-fund-yet-another-epa-model-not-ready-for-the-big-game>; Dayaratna, K., McKittrick, R., & Kreutzer, D., “Empirically Constrained Climate Sensitivity and the Social Cost of Carbon.” *Climate Change Economics*, vol. 08, no. 02, 2017. <https://doi.org/10.1142/S2010007817500063>; Dayaratna, K., McKittrick, R., & Michaels, P. “Climate Sensitivity, Agricultural Productivity and the Social Cost of Carbon in FUND.” *Environmental Economics and Policy Studies*, vol. 22, 18 Jan. 2020, pp. 433-48. <https://link.springer.com/article/10.1007/s10018-020-00263-w>

⁶⁴ Exec. Order No. 12,866, “Regulatory Planning and Review” (1993).

economic benefit to the agricultural sector, and updating Government estimates to account for these observations causes the SCC value to decline, essentially to zero or even negative numbers in many instances.

V. Suggestions for Improvement

Notwithstanding the great strides evident in NHTSA's proposal, as discussed above, there is room for further improvement in four particular respects.

First, NHTSA should expand upon this rule and similarly reform, or ideally repeal, the CAFE standards for heavy-duty pickup trucks and vans through Model Year 2035, which are not subject to this rulemaking proposal. The statutory imperatives that should prevent NHTSA's previous attempts to regulatorily force the electrification of the U.S. vehicle fleet apply with equal, if not greater, strength to heavy-duty pickup trucks and vans. A proportionately higher percentage of these vehicles are used by small businesses and general contractors, who often need greater towing and hauling capabilities than the typical consumer. For these small businesses, a regulatory drive that focuses on electrification at the expense of technical capabilities and affordability has a direct and deleterious effect on profitability, the ability to invest resources back into the business, the savings they can pass on to customers, and their ability to pay employees.

Unlike the vehicles covered by the current rule, Congress has not reset the penalty for heavy duty pickup trucks and vans that exceed CAFE standards to zero, so drivers of these vehicles arguably remain in even greater need of relief. Thus NHTSA, for the same reasons articulated so persuasively in the current rulemaking proposal, should embark on a similar rulemaking project for heavy-duty pickup trucks and vans.

Second, NHTSA should consider using a payback period of longer than 36 months. At a time when the average age of U.S. vehicles continues to climb, in no small part due to affordability concerns as vehicles grow more expensive, and when petroleum prices are significantly below their 2022 peak, it would be appropriate for NHTSA to update its payback period to account for these trends. The average U.S. vehicle is now 12.8 years old,⁶⁵ a figure that only continues to climb, so NHTSA may want to raise the payback period further. It seems odd to assume that consumers value a 36-month payback period for any fuel efficiency gains, given that cars are now routinely driven for more than four times as long, and this 36-month assumption further inflates the alleged value of higher CAFE standards. If industry believes that consumers value such a payback period, then it should not be difficult to expect that industry would invest in fuel efficiency accordingly, even without Federal mandates.

Third, the 0.5 percent annual increase for Model Years 2022 through 2026 remains too stringent. Notwithstanding the overall merit in NHTSA's proposal, it was disappointing to read that NHTSA continued to require a 0.5 percent annual increase for Model Years 2022 through 2026, and apparently did not even consider any alternative for a slower increase.⁶⁶ Yet given

⁶⁵ Campau, T. (21 May 2025). *Average Age of Vehicles in the US Rises to 12.8 Years in 2025*. S&P Global. <https://www.spglobal.com/automotive-insights/en/blogs/2025/05/average-age-of-vehicles-in-us>

⁶⁶ See 90 Fed. Reg. at 56,446.

NHTSA's own conclusion that energy conservation no longer presents a national crisis, this standard should at most remain flat, so as to maximize consumer welfare and economic prosperity. Even with these cars largely manufactured already, future standards build on the previous years, so the standards for these past years remain relevant.

Fourth, finally and relatedly, CAFE standards should stop increasing after Model Year 2030. The authorizing statute only requires that the applicable CAFE standards increase through Model Year 2020.⁶⁷ In addition, while the statute requires that the CAFE standards be set to at least 35 miles per gallon for Model Year 2020,⁶⁸ the statute contains no specific directions for NHTSA after Model Year 2030.⁶⁹ NHTSA's statutory mandate to promulgate the "maximum feasible" CAFE standard remains after Model Year 2030,⁷⁰ but the statutory mandate becomes far more open-ended. In this context, it is worth recalling that Congress has since removed the civil penalty for violating these standards, in part because they were too aggressive for industry to meet.

NHTSA is not actually required to increase CAFE standards after Model Year 2030, and given that the U.S. does not have energy conservation needs that would require such a tightening of fuel standards, there is no reason to keep raising the CAFE standard. There have been many past years when NHTSA has not raised standards; it is not statutorily required, and given both the regulatory ambition of recent decades and the fact that any Congressional mandate toward greater stringency is set to expire, NHTSA should give both consumers and industry much-needed relief by halting any increases after Model Year 2030 at the latest.

Conclusion

For the reasons discussed above, NHTSA's proposal represents welcome progress in recalibrating the CAFE standards in a way that better aligns the regulatory program with the language and intent of the authorizing statute, while better advancing the twin goals of American prosperity and energy dominance. We eagerly await NHTSA's next moves in terms of adopting the proposal, and would encourage NHTSA to expand this regulatory relief to heavy-duty trucks and vans as well, and to consider the possibility of further relaxation of the proposed mileage standards.

Thank you for your consideration of these comments.

Respectfully submitted,

⁶⁷ 49 U.S.C. 32902(b)(2)(C).

⁶⁸ 49 U.S.C. 32902(b)(2)(A).

⁶⁹ 49 U.S.C. 32902(b)(2)(B).

⁷⁰ 49 U.S.C. 32902(a).

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⁷¹ These comments are submitted in my personal capacity and do not necessarily represent the views of The Heritage Foundation.