

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 523, 531, 533, 536 and 537

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86 (§ 86.1818-12(c))

[FRL-XXXX-XX-XXX]

Notice of Intention to Reconsider the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light Duty Vehicles

AGENCY: Environmental Protection Agency (EPA) and Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice.

SUMMARY: EPA announces its intention to reconsider the Final Determination of the Mid-Term Evaluation of greenhouse gas (GHG) standards for model year (MY) 2022-2025 light-duty vehicles and to coordinate its reconsideration with the parallel process to be undertaken by the DOT's NHTSA regarding Corporate Average Fuel Economy (CAFE) standards for cars and light trucks for the same model years.

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SUPPLEMENTARY INFORMATION: By this notice, EPA announces its intention to reconsider its Final Determination of the Mid-Term Evaluation of GHG standards for MY 2022-2025 light-duty vehicles. The EPA has inherent authority to reconsider past decisions and to revise, replace or repeal a decision to the extent permitted by law and supported by a reasoned explanation. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). In 2012, EPA committed to continuing to coordinate development of its Clean Air Act (CAA) section 202(a)(1) (42 U.S.C. 7521(a)) emission standards with NHTSA's development of CAFE standards for light-duty vehicles, but did not do so in development and publication of EPA's January 12, 2017 Midterm Evaluation of standards conducted under 40 CFR 86.1818-12(h) of EPA's regulations. EPA now announces it will reconsider that determination in coordination with NHTSA.

The Mid-Term Evaluation was established to review standards set in a 2012 joint rulemaking by the EPA and NHTSA, which set federal GHG emissions and CAFE standards for MY 2017 and beyond for light-duty vehicles. 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, Final Rule, 77 FR 62,624 (Oct. 15, 2012). These standards, codified for EPA at 40 C.F.R. 86.1818-12, apply to passenger cars, light-duty trucks, and medium-duty passenger vehicles (i.e., sport utility vehicles, cross-over utility vehicles and light trucks), collectively referred to in this notice as light-duty vehicles.

The EPA and NHTSA finalized separate sets of standards under their respective statutory authorities. EPA set GHG standards (including standards for emissions of carbon dioxide (CO₂), nitrous oxide, methane and air conditioning refrigerants) for MY 2017-2025 passenger cars and light-trucks under section 202(a) of the CAA. NHTSA sets national CAFE standards under the

Energy Policy and Conservation Act (EPCA), as amended by the Energy Independence and Security Act (EISA) of 2007 (49 U.S.C. 32902). NHTSA set final CAFE standards for MY 2017-2021 light-duty vehicles and issued augural standards for MYs 2022-2025.

The 2012 rulemaking establishing these standards included a regulatory requirement for the EPA to conduct a Mid-Term Evaluation of the GHG standards established for MYs 2022-2025. 77 Fed. Reg. 62,625 (October 15, 2012), codified at 40 CFR 86.1818-12(h). In July 2016, EPA, NHTSA, and the California Air Resources Board (CARB) released for public comment a jointly prepared Draft Technical Assessment Report, which examined a range of issues relevant to GHG emissions and CAFE standards for MYs 2022–2025. 81 Fed. Reg. 49,217 (July 27, 2016). In November, 2016, EPA issued a proposed determination for the Mid-Term Evaluation. 81 Fed. Reg. 87,927 (Dec. 6, 2016). On January 12, 2017, the EPA Administrator signed the Final Determination of the Mid-Term Evaluation of light-duty vehicle GHG emissions standards for MYs 2022– 2025.

Under 40 CFR 86.1818-12(h), no later than April 1, 2018, the EPA Administrator must determine whether the GHG standards previously established under 40 CFR 86.1818-12(c) for MYs 2022-2025 are appropriate under section 202(a) of the CAA, in light of the record then before the Administrator. Given that CO₂ makes up the vast majority of the GHGs that EPA regulates under section 202(a), and given that the technologies available for regulating CO₂ emissions do so by improving fuel economy (which NHTSA regulates under EPCA/EISA), NHTSA’s views with regard to what CAFE standards would be maximum feasible for those model years is an appropriate consideration in EPA’s determining what GHG standards would be appropriate under the CAA. See 40 CFR 86.1818-12(h)(1)(vii) (listing as one of the factors EPA should consider in the Mid-Term Evaluation “[t]he impact of the greenhouse gas emission

standards on the Corporate Average Fuel Economy standards and a national harmonized program”). However, NHTSA has not yet considered what CAFE standards would be the maximum feasible standards for MYs 2022-2025. Accordingly, EPA has concluded that it is appropriate to reconsider its Final Determination in order to allow additional consultation and coordination with NHTSA in support of a national harmonized program.

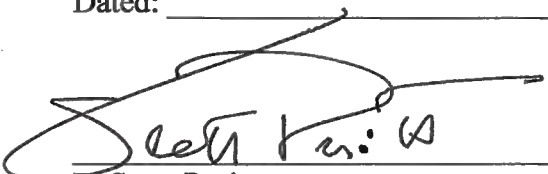
For its part, NHTSA will continue to engage with stakeholders as it works to develop a Notice of Proposed Rulemaking to set CAFE standards for MYs 2022-2025. As explained in the 2012 final rule, this proposal will be part of “a de novo rulemaking conducted...with fresh inputs and a fresh consideration and balancing of all relevant factors, based on the best and most current information before the agency at that time.” 77 Fed. Reg. 62,652. A final rule for MY 2022 is statutorily required to be issued by NHTSA by April 1, 2020.

In accord with the schedule set forth in EPA’s regulations, the EPA intends to make a new Final Determination regarding the appropriateness of the MY 2022-2025 GHG standards no later than April 1, 2018.

Dated: 3-13-17


Elaine L. Chao
Secretary, Department of Transportation

Dated: MAR 13 2017


E. Scott Pruitt
Administrator, Environmental Protection Agency