

**COMMENTS OF CONSUMER FEDERATION OF AMERICA,
DR. MARK COOPER, DIRECTOR OF RESEARCH**

**BEFORE THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION**

**PROPOSED CORPORATE AVERAGE FUEL ECONOMY STANDARDS FOR
PASSENGER CARS AND LIGHT DUTY TRUCKS MODEL YEARS 2024-2026**

(DOCKET ID NO. NHTSA-2021-0053; RIN 2127-AM34)¹

October 26, 2021

The Consumer Federation of America (CFA) appreciates the opportunity to offer comments on the analysis conducted by the National Highway Safety Administration (NHTSA) on the proposed corporate average fuel economy (CAFE) standards. In these comments CFA describes the fundamental flaws in the NHTSA analysis that will cost consumers dearly.

THE BOTTOM LINE FOR CONSUMERS

We conclude, that with correcting the flaws in the NHTSA analysis, a much higher standard should have been proposed. We show this by estimating the benefits and costs of Alternative 3, the highest level NHTSA considered and presented results from. Since NHTSA did not deal with the flaws, demonstrating the superiority of Alternative 3, suffices to make our point.

Comparing NHTSA's analysis of its proposed standards to a corrected analysis of Alternative 3, we find that NHTSA will rob consumers of at least \$28 billion in pocketbook savings, and almost \$56 billion in total net benefits, as shown in Table 1. Since these are the incremental costs and benefits for vehicles, we estimate the per vehicle figures by dividing the total by the number of units produced subject to the standards (2023-2026, or 64 million). Per vehicle, the benefit is between \$439 and \$870. Macroeconomic benefits, not included in these estimates which we have argued should be included, would add almost \$400 per household to the net benefit.

**TABLE 1
INCREMENTAL CHANGES BASED ON CORRECTION OF NHTSA'S ERRONEOUS ANALYSIS
NHTSA ANALYSIS OF ALTERNATIVE 2 V. CFA CORRECTED ALTERNATIVE 3**

	Net Savings	
	Billon	Per Vehicle
Pocketbook Savings	\$28.1	\$439
Private Savings	\$38.2	\$597
Private + Social	\$55.7	\$870

Sources: This is an incremental analysis, derived from Table 3. The key components of NHSTA's Alternative 2 in the baseline are taken from the NPRM, as follows; NPRM. Table 2-10, p. 49621. Sales NPRM, Figure V-1, p. 49764.

¹ Hereafter, Notice of Proposed Rulemaking or NPRM.

LEADERSHIP IN STANDARD SETTING

Over a decade ago, when cooperation between NHTSA and EPA was first adopted, CFA concluded that EPA should be the lead agency for a number of reasons, as shown in Table 2.²

**TABLE 2
INSTITUTIONAL REASONS TO SHIFT THE FOCUS OF STANDARD SETTING TO EPA**

<u>Institutional Context of standard Setting</u>	<u>NHTSA (under the Energy Policy Conservation Act)</u>	<u>EPA (under the Clean Air Act)</u>
Mandate	Permissive above 35 mpg, maximum feasible subject to constraints	Obligatory: to protect the Public health and welfare
Time Frame	Limited to a short 18-60 month period	Unlimited
Economic Constraint	Practicable, restricted by industry capacity	Costs considered
Technological Innovation	Restrained by industry Plans	Technology forcing
Implementation	Existing regulatory apparatus No responsibility for measurement	Existing regulatory apparatus Responsibility for measurement

After EPA and the California Air Resources correctly upheld the final determination, we reiterated this conclusion almost a decade later in responding to NHTSA’s ongoing efforts to belatedly issue a new rule in 2017.

As we noted in our 2009 comments, EPA’s goals are expressed in terms of maximum reduction in emissions to protect the public health and welfare. The other considerations that EPA must take into account in terms of technology and economic analysis are less constraining. Nevertheless, the goals are very similar, particularly given the environmental and economic convergence (identity) of the physical relationship between fuel use and emissions. The California Air Resources Board, which joined in the cooperative effort, is charged with maximum feasible reduction in emissions that are cost-effective.⁹ The National Program effectively harmonized the different goals into a consensus within the legal constraints that enjoyed widespread support.³

² Comments of the Consumer Federation of America, Proposed Rulemaking to Establish Emission Standards and Corporate Average Fuel Economy Standards Environmental Protection Agency Light-Duty Vehicle Greenhouse Gas) 40 CFR Parts 86 and 600; Department of Transportation 49 CFR Parts 531,633, 537, et al., November 27, 2009, p. 32.

³ Comments Of The Consumer Federation Of America, The National Highway Transportation Safety Administration, Department Of Transportation, Notice Of Intent To Prepare An Environmental Impact Statement; Request For Scoping Comments, Docket No. NHTSA-2017-0069, Mark Cooper. September 25, 2017, p.5

We have generally supported EPA’s proposal to reboot the standard setting process after the misguided and illegal attempt to undermine standard setting for automobiles by the previous administration.⁴ We noted that EPA had corrected many of the mistakes of the prior administration, although we did note a number of areas in which EPA could improve the analysis.

Our review of the NHTSA analysis of the proposed standard, supports our earlier call for EPA to take the lead. In fact, NHTSA’s approach is so favorable to a small number of automakers that we think Congress should go farther. While the factors to be considered by both agencies are similar, i.e., environmental impact, fuel savings, economic practicability, technological feasibility, the language governing EPA’s actions allows it to achieve a much more balanced outcome. Congress should either remove this standard setting function from NHTSA altogether, or it should make NHTSA’s analysis merely advisory to EPA, who would be charged with setting the standard.

Such a change would be consistent with original and current context for the rulemaking. Half a century ago, Congress was propelled into action by the first oil price shock of the 1970s. There was a great deal of efficiency in fuel consumption that could be achieved at a low cost. There were also major national security concerns. Today, the same two factors are operative. There is still a great deal of savings available at low cost. National security concerns still come into play, but the nature of those concerns have changed.

When the first fuel economy standards were adopted, the concern was the cost and availability of oil imports. Today the concern is the destabilizing effect of climate change, as recently attested to by reports of agencies charged with protecting national security.⁵ EPA, and the statutory language under which it operates, is much better equipped to deal with this challenge.

We also note that a large part of the industry is more open to change than in the past. The industry has embraced a transition to electric vehicles, which combined with the transformation of the generation sector away from fossil fuels, is much more environment-friendly. The transition to electric vehicles, which we endorsed a decade ago,⁶ has become consumer friendly and will become more so as time goes on and as the automakers focus on delivering electric vehicles.

In spite of the importance and speed of these transformations, NHTSA still seems stuck in the past, overestimating the cost of compliant vehicles and underestimating the benefits. The

⁴ Comments of the Consumer Federation Of America, Before the Environmental Protection Agency In the Matter of Proposed Rule to Revise Existing National GHG Emissions Standards for Passenger Cars and Light Trucks Through Model Year 2026, EPA-HQ-OAR-2021-0208, September 27, 2021.

⁵ The [Defense Climate Risk Analysis](#); an unclassified summary of the [National Intelligence Estimate on the Security Implications of Climate Change](#); [Report on the Impact of Climate Change on Migration](#); and a [Department of Homeland Security Strategic Framework for Addressing Climate Change](#).

⁶ Comments of Consumer Groups: Consumer Federation of America, Arizona Consumers Council, Arizona PIRG, CALPIRG, CoPIRG, Citizens' Utility Board of Oregon, Consumer Action, Consumer Assistance Council, Consumer Federation of the Southeast, Consumers for Auto Reliability and Safety, Chicago Consumer Coalition, Florida Consumer Action Network, Illinois PIRG, Iowa PIRG, Maryland PIRG, Massachusetts Consumers' Coalition, Massachusetts Consumers Council, MASSPIRG, New Jersey PIRG, U.S. PIRG, Utility Consumer Action Network, Virginia Citizens Consumer Council, Wisconsin Consumers League, WISPIRG;“ Proposed Rule 2017 and Later Model Year) Docket Nos. Light-Duty Vehicle Greenhouse Gas Emissions) EPA-HQ-OAR-2010-0799; FRL-9495-2 and Corporate Average Fuel Economy Standards) NHTSA–2010–0131, February 13, 2012.

remainder of these comments discuss the extremes to which NHTSA has gone to stand in the way of consumer, public health and environmental progress, as summarized in Table 3.

TABLE 3:

THE BENEFIT COST IMPACT OF CORRECTING NHTSA'S MAJOR FLAWED ASSUMPTIONS

<u>Cost/Benefit Category</u>	Alternative #2	Correction	Alternative #3	Alternative #3 Corrected Analysis
<u>Costs</u>				
<u>Costs: Private</u>				
Technology	67.6	Markup	100.1	93.4
		Learning		86.1
Loss from reduced purchase of New vehicles	0.6		1.3	1.0
Internalized cost of safety	8.2	Rebound	11.2	10.7
<u>External</u>				
Congestion and Noise	10.1	Rebound	13.5	12.9
Safety cost not internalized	15.8	Rebound	23.2	22.1
Loss in tax revenue	18.9	Macroeconomic	27	0
<u>Benefits: Private</u>				
Reduced fuel costs	73.0	Rebound	103.8	114.2
Additional driving	15.3	Rebound	20.8	19.9
Less refueling	-0/8	Rebound	0.3	0.3
<u>External</u>				
Reduced Climate damage	1.5	Rebound	45.6	50.2
Petroleum market externality	32.0	Rebound	2.1	2.0
Reduced health damages	0.4	Rebound	0.3	0.3
<u>Private Benefits/Cost Sum</u>				
Subtotal Private Costs			112.6	97.8
Subtotal Private Benefits			124.9	134.4
Benefit/Cost Ratio Private			1.11	1.37
<u>Social Benefits/Cost Sum</u>				
Subtotal external costs			63.7	35.0
Subtotal external benefits			48.0	52.5
Subtotal external Social			0.75	1.50
<u>Grand Total</u>				
Cost			176.3	132.8
Benefits			172.9	186.9
Benefit Cost Ratio			0.98	1.41

Source: Base based on the incremental analysis in NPRM Table III-37, p. 49720, and corrections described in text.

SPECIFIC ISSUES

Rebound Rate: After conducting a literature review to compete with EPA, NHTSA concluded that a reasonable rebound rate range was 5%-15%. One might conclude that the best estimate as the midpoint of the range, 10%, which would have put NHTSA in agreement with EPA. However, NHTSA chose the high end 15%.⁷ CFA has long argued that the lower figure 5% is

⁷ NPRM, p. 49714.

an upper bound for what is reasonable. In other words, the NHTSA underestimates the pocketbook benefits and overestimates the social costs by 10%.

Gasoline Taxes and Other Macroeconomic Impacts: NHTSA has decided (for the first time) that lost gasoline taxes are a cost of the higher efficiency. This is a macroeconomic impact that NHTSA says must be considered as a negative impact of higher fuel economy. Unfortunately, it does not look at any other macroeconomic impacts. We have argued that for every dollar of net reduction in the cost of driving, there is at least \$0.90 of macroeconomic stimulus. This will increase taxes collected, which, in some measure will offset lost gasoline taxes. Until the agency fully recognizes macroeconomic benefits (which it is unwilling to do), it should not cherry pick a macroeconomic cost to subtract from the benefits.

Technology costs (mark-ups and learning): NHTSA has continued the dispute with EPA over the markup, which increases the cost to consumers by about 20%. It has also used a much slower (about 8%) learning rate. To model these impacts, we use the lowest markup in the NHTSA literature review (1.4 instead of 1.5).⁸ We use the lowest learning rate in the EPA analysis (which is about 8% higher than NHTSA).⁹

We apply these modifications to Alternative #3, which embodies the largest increase in fuel economy NHTSA considered. The differences are substantial, as shown in Table 3.

In the NHTSA analysis, the social and total benefit/cost ratios are less than one, indicating that this option should not be pursued. Correcting the analysis, all three of the perspectives, private, social and total, are well above one, indicating that they should be pursued. In fact, with the corrections, each of the benefit/cost ratios is higher for alternative #3, than the benefit cost ratio of Alternative #2 in the original analysis. EPA's benefit cost ratios are much higher affirming that their analysis is more appropriate.

Macroeconomic Effects:

Throughout our past analyses, we have argued that macroeconomic benefits should be included in the analysis. Treating them as we have in the past would add over \$25 billion to the total benefits. NHTSA has introduced one negative macroeconomic impact into the analysis with the inclusion of gasoline taxes. How much would have to be raised (given the taxation of goods and services purchased with respective dollars) and from whom is an open question.

CONCLUSION

We believe NHTSA has left substantial consumer benefits on the table because of its erroneous assumptions. Furthermore, we contend that EPA's approach will provide consumers and the economy with greater benefits and recommend that before issuing a final rule, NHTSA reexamine its analysis with regard to the rebound rate it has assumed, the macroeconomic benefits that should be considered as well as the markup costs and learning rate.

⁸ NPRM, Figure III-4, p. 49648. In fact, the old data on which NHTSA relies shows a strong downward trend in the last two years reported (1997 and 2007). Projecting the trends from these two years and RPE of 1.33, quite close to that of EPA.

⁹ NPRM, Tables III-5, III-6, pp. 49651-49652.