

EPA to Reconsider Final Determination on Midterm Evaluation of GHG Emission Standards for Light-Duty Vehicles

14 September 2017

The Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) are currently conducting a Midterm Evaluation as part of the 2012 GHG emission standards established for MY 2017-2025 passenger cars and trucks. Pursuant to the 2012 rulemaking, EPA committed to conduct a Midterm Evaluation of the GHG standards for MY 2022-2025 light-duty vehicles. As part of the Midterm Evaluation, EPA issued for public comment a joint Draft Technical Assessment Report in July 2016 and a Proposed Determination in November 2016. EPA's subsequent January 2017 Midterm Evaluation Final Determination (Final Determination) recommended no change to the GHG standards for light duty vehicles for MY2022-2025. In March 2017, EPA announced its intention to reconsider this Final Determination and to coordinate its reconsideration with NHTSA's review. EPA's Midterm Evaluation and new Final Determination must be completed by 1 April 2018.

EPA's Request for Comment on Reconsideration of the Final Determination was published in the Federal Register on August 21, 2017, 82 Fed. Reg. 39,551 (21 August 2017), thereby opening the public comment period for 45 days (until 5 October 2017). Specifically, EPA is requesting comment on whether the light-duty GHG standards for MY 2022-2025 are appropriate under section 202(a) of the CAA. Importantly, EPA also is seeking comment on whether the light-duty GHG standards established for MY 2021 remain appropriate. EPA also held a Public Hearing on its reconsideration in Washington, D.C. on 6 September 2017. More information is available on the EPA's Midterm Evaluation website.

Meanwhile, NHTSA issued a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for MY 2022-2025 Corporate Average Fuel Economy Standards and Request for Scoping Comments on its Midterm Evaluation, 82 Fed. Reg. 34,740 (26 July 2017). In an upcoming proposed rulemaking, NHTSA intends to propose separate attribute based standards for passenger cars and light trucks for MYs 2022-2025, and also may evaluate the MY 2021 standards it finalized in 2012 to ensure they remain "maximum feasible." As with any CAFE rulemaking, NHTSA will also consider other programmatic aspects in addition to stringency (such as flexibilities and vehicle classification) that may affect model years prior to MY 2022-2025. As part of its scoping process NHTSA was seeking public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important matters for in-depth analysis in the EIS.

These recent notices indicate NHTSA and EPA's intent to issue a new Final Determination regarding the appropriateness of the MY 2022-2025 GHG standards no later than 1 April 2018, in

consultation and coordination as part of a national harmonized program, and well before 1 April 2020, when NHTSA is statutorily required to issue a final rule for MY 2022 CAFE standards.

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