



Environment, Land Use & Natural Resources ADVISORY ■

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EPA Proposes Ambitious New Emissions Standards for Vehicles

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On April 12, 2023, the U.S. Environmental Protection Agency issued two notices of proposed rulemaking (NPRMs) setting ambitious new emissions standards for light-, medium-, and heavy-duty vehicles for model years (MY) 2027 through 2032. In proposing these new standards, the EPA cited a number of factors, including statements from automakers and U.S. states regarding increasing zero-emission vehicle adoption, declining battery costs, and funding available for zero-emission vehicle infrastructure under the Infrastructure Investment and Jobs Act and Inflation Reduction Act of 2022, among others. If finalized, the new standards will create an unprecedented challenge for automakers and likely spur a major shift in the U.S. auto manufacturing industry toward electric vehicles.

Heavy-Duty Vehicle GHG Standards

The EPA's heavy-duty emissions rule establishes new greenhouse gas (GHG) emissions standards for vocational vehicles (including delivery trucks, refuse haulers, and buses), as well as tractors. Under the current rules, for example, a compression-ignition truck weighing 30,000 pounds and operating in an urban setting may emit no more than 271 g/ton-mile, and in MY 2027 may emit no more than 258 g/ton-mile. Under the proposed rules, the same truck may emit no more than 213 g/ton-mile in MY 2027, and by MY 2032 may emit no more than 176 g/ton-mile, with proposed emissions targets decreasing each year in between.

While the proposed rules do not require manufacturers to use any particular technology in achieving these emissions standards, the EPA projects that the requirements could result in 50% of all new vocational vehicles, 34% of all new day-cab tractors, and 25% of all new sleeper cab tractors being zero-emission vehicles by MY 2032. The EPA asserts these proposed standards will avoid emission of approximately 1.8 million metric tons of GHGs between MY 2027 and MY 2055.

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In addition to the new standards, the EPA is proposing to change several other regulatory requirements for heavy-duty vehicles. While the EPA proposes to maintain the GHG credit banking and trading programs available under the current rules, the agency is proposing to make significant changes to manufacturers' obligations related to vehicle batteries and other components—including a new requirement for customer-facing battery-state-of-health monitors for certain zero-emission vehicles. The EPA's proposal also seeks to cut short the life of the advanced technology incentive program. Heavy-duty vehicle manufacturers will need to navigate these and other new obligations while also adapting their production to make greater use of electric and other zero-emission technology.

Those impacted by the EPA's proposal have just two opportunities to have their perspective heard by the agency. First, the EPA is planning to hold virtual public hearings on the proposed rule on May 2 and 3. Second, written comments on the proposal may be filed on the Federal eRulemaking Portal for 50 days after the rule is published in the *Federal Register*.

Light- and Medium-Duty Vehicle GHG and Criteria Pollutant Standards

The EPA's light- and medium-duty vehicle proposed rule establishes new standards for both GHG and criteria pollutants, becoming more stringent each year between MY 2027 and MY 2032. For light-duty vehicles (passenger cars, light trucks, and medium-duty passenger vehicles), the EPA projects an industry-wide average GHG emissions target of 82 g/mi by MY 2032, representing a 56% reduction from the existing MY 2026 standards, and a NMOG+NOx target of 12 mg/mi for a 60% reduction from the MY 2025 standards. For medium-duty vehicles (heavy-duty pickup trucks and vans), the EPA projects an industry-wide average GHG emissions target of 275 g/mi, representing a 44% reduction compared to existing MY 2026 standards, and a NMOG+Nox target of 60 mg/mi for a 66–76% reduction from current standards under the Tier 3 program. As with the heavy-duty vehicles rule, the EPA's proposal does not require manufacturers to use any particular technology, but the EPA anticipates that as much as two-thirds of all new light- and medium-duty vehicle sales could be zero-emission vehicles by MY 2032 under the new standards.

The proposed rule also makes a number of other important changes to the light- and medium-duty vehicle regulations. These changes include cutting short the medium-duty vehicle technology incentive multiplier for MY 2027, establishing new battery durability and warranty requirements for plug-in vehicles, and implementing major changes to the off-cycle and air conditioning credit programs, among others. Like their heavy-duty counterparts, light- and medium-duty vehicle manufacturers will need to adapt to these new requirements while simultaneously shifting their production toward a majority zero-emission fleet.

Those interested in weighing in on the EPA's proposed rules have two upcoming opportunities to do so. First, the EPA is planning to hold virtual public hearings on the proposed rule on May 9 and 10. Second, written comments on the proposal may be filed on the Federal eRulemaking Portal for 60 days after the rule is published in the *Federal Register*.

Potential Litigation Ahead

Prior rules imposing more stringent emissions standards have been quickly challenged in federal court by automakers, energy producers, and some state attorneys general. Similar suits are very likely to be filed challenging the new proposed rules, given the ambitious nature of the standards and their reliance on zero-emission technology.

But those impacted by, or interested in, the EPA's proposed rules should not wait to see how any possible litigation plays out before getting engaged. Participating in the public hearings and comment periods for the proposals represents the most effective way for individual companies to influence the terms of the final version of the rule.

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