

Comment from Aaron Greenspan

NHTSA's actions regarding the Proposed Rule should be guided by, in order, what will most benefit the environment, and what will benefit the average auto consumer. It should not take action with the goal of helping or hurting any particular automobile manufacturer.

It is disingenuous of any car company to claim that there was not enough notice regarding the Federal Civil Penalties Inflation Adjustment Act Improvements Act when their own lobbyists started discussing and litigating the issue in 2016. NHTSA should apply inflation adjustments to penalties starting at least as early as 2019, but possibly even further back to December 2016. This would not be punishing violators retroactively because the violators clearly knew at the time that they were committing violations, but chose to proceed on that path anyway. Inflation adjustments today should take into account the high CPI, which is a better approximation of inflation than PCE.

Penalties should flow directly from violators to the federal government, and any scheme intended to make such penalties tradable credits, or any parallel credit system, should be scrapped. While economists fond of their models may argue that in a perfect world, tradable credit systems disincentivize harmful behavior, reality indicates that such schemes merely incentivize different *types* of harmful behavior, and may actually make the core problem of global warming worse. If automotive manufacturers know that they can simply purchase their way out of high-emissions designs in violation of CAFE standards, they will proceed with such designs and buy credits from an EV company with credits to spare. But EV companies may only have credits to spare because of false claims to investors, customers, and regulators who must be convinced to support new and frequently untested technologies, some of which never should have reached the market in the first place without adequate safety controls. In other words, credit systems can promote environmentally harmful behavior at the same time that they enable fraud, whereas straightforward penalties have a greater likelihood of actually stopping harmful behavior without enabling fraud.

Another way to look at this problem is that credit systems do not work as intended in the absence of effective regulation in all arenas, from the stock market to consumer fraud, and thanks to the legacy of the ultra-corrupt Trump Administration, regulators--and especially NHTSA--still have not caught up with years of violations and wrongdoing.