

## EPA Proposes New, Stringent Standards for Vehicle Emissions and Fuels (*Updated April 8, 2013*)

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On March 29, the Environmental Protection Agency (EPA) [proposed](#) new emissions limits for passenger cars and trucks along with lower limits on the sulfur content of gasoline. The new rules, which are known as “Tier 3” emissions and fuel standards, attempt to harmonize federal emissions requirements with California state requirements, creating one national market for automobiles. However, the proposed rule’s new sulfur requirements could increase the cost of gasoline. Comments on the proposed rule are due within 30 days of its publication in the *Federal Register*, although EPA is expected to extend the comment deadline into early- to mid-June through a supplemental regulatory notice.

***\*Update: On April 8, 2013, EPA published an update to the Tier 3 proposed rule that extends the comment period until June 13, 2013. EPA also announced that it will hold two public hearings on the rule: one on April 24 in Philadelphia, and one on April 29 in Chicago. The update is available here: <https://federalregister.gov/a/2013-08121>.***

### BACKGROUND

Title II of the Clean Air Act (CAA) authorizes the EPA to issue vehicle emissions and fuel standards to address air pollution from motor vehicles that may reasonably be anticipated to endanger public health or welfare. EPA’s existing emissions and fuel standards, known as “Tier 2,” were finalized in 2000. EPA is proposing new standards that would begin to take effect starting with Model Year 2017. This implementation period would allow the rule to be implemented over the same timeframe as EPA’s separate greenhouse gas (GHG) emissions rules for light-duty vehicles. Those rules also go into effect starting with Model Year 2017. (See our [April 6, 2010](#) and [July 2, 2012](#) Alerts for more information about EPA’s GHG tailpipe standards.)

EPA’s combined emissions and fuel standards set limits on the amount of recognized air pollutants (known as non-methane organic gases (NMOG), nitrogen oxides (NOx), and particulate matter (PM)) that new vehicles may emit. In addition, because gasoline containing high amounts of sulfur can degrade the performance of automobiles’ catalytic converters (devices that remove many harmful air pollutants from vehicle exhaust), and may affect other vehicle systems as well, the rules set limits on the amount of sulfur that may be present in gasoline.

EPA’s newly proposed “Tier 3” standards have been reviewed by the White House Office of Management and Budget (see our [January 31 Climate, Air, and Energy Update](#)), and are now available for public review and comment.



## DETAILS OF THE PROPOSED RULE

**Lower tailpipe emissions standards:** EPA’s proposed Tier 3 rules would lower the maximum fleet-wide standards for NMOG, NO<sub>x</sub>, and PM emissions for all classes of motor vehicles. Emissions limits for light-duty vehicles and trucks would be reduced to 30 milligrams per mile (mg/mi) by Model Year 2025—an 80 % reduction from current limits. Meanwhile, PM emissions from light-duty vehicles would be capped at 3 mg/mi—a 70 % reduction from current levels. The NMOG, NO<sub>x</sub>, and PM limits for heavy-duty vans, pickups, and trucks would be reduced by approximately 60 % from current levels. For all vehicle types, emissions limits would be phased in starting in Model Year 2017; automakers would have to come into complete compliance with the proposed standards by no later than Model Year 2025.

**More stringent sulfur fuel standards:** By 2017, gasoline sold into commerce in the U.S. would be required to have, on average, no more than 10 parts per million (ppm) of sulfur—a 70 % reduction from current levels. The proposed rule would allow gasoline refiners and retailers to use averaging, banking, and trading programs to comply with the sulfur limit in a cost-effective manner. According to EPA, stricter sulfur standards are needed because sulfur degrades the performance of pollution-reducing catalytic converters and may limit the use of other vehicle technologies such as “lean-burn” engines. Therefore, reduced sulfur content in gasoline will allow automakers to more easily meet the proposed rule’s new, stricter tailpipe emissions standards.


**Stricter standards for evaporative emissions:** EPA proposes strict, “near zero” standards for emissions of pollutants from evaporating fuel in gasoline-powered vehicles. California’s rules already require near zero emissions, and the proposed EPA rules would mirror those requirements. In addition, EPA proposes to adopt California’s On-Board Diagnostic (OBD) rules for new vehicles.

**Changes to emissions test fuels:** The proposed rule would change the default “test fuel” in EPA emissions tests from zero percent ethanol (indolene) to a blend of 15 percent ethanol with gasoline (E15). EPA states that it expects E15 to be a more representative in-use fuel given the modified Renewable Fuel Standard required by the Energy Independence and Security Act of 2007. In addition, EPA proposes allowing vehicle manufacturers to request approval for an alternative certification fuel for vehicles they might design or optimize for use on such a fuel. For example, automakers could request EPA to use a high-octane 30 percent ethanol (E30) blend to test new fuel-efficient engines that are designed specifically for that fuel.

**Extension of regulatory “useful life” period for vehicles:** The draft rule proposes extending the regulatory “useful life” for vehicles from 120,000 to 150,000 miles. This provision would mean that automakers must ensure that emission control systems are durable enough to remain effective throughout a vehicle’s expected life.

## IMPLICATIONS

**Single national standard:** EPA’s proposed Tier 3 rules would harmonize federal emissions standards with the stricter standards that are already in place in California, creating a single national set of requirements. Thus, automakers will be able to sell new vehicles in both California and the rest of the nation without having to alter their designs to comply with separate emissions limits.



**Health and compliance costs and benefits:** EPA estimates that the proposed rule will yield annual health benefits of between \$8 and \$23 billion by 2030 due to lower incidences of respiratory disease and other health impacts from automobile emissions. For example, EPA estimates that the proposed Tier 3 standards would prevent between 820 and 2,400 premature deaths by 2030, and avoid 1.8 million lost school and work days. In addition, cleaner gasoline standards will enable automakers to more easily meet the new Tier 3 tailpipe emissions standards as well as EPA's separate GHG and fuel economy standards. Because the Tier 3 rules would result in lower emissions from vehicles, states may also be able to meet their National Ambient Air Quality Standards requirements under the CAA while imposing fewer reductions in emissions from stationary sources. However, the proposed fuel standards are likely to raise the cost of gasoline. For example, EPA expects an increase of 1 cent per gallon, whereas fuel suppliers estimate the cost could be as high as 9 cents per gallon (*see, e.g., the [American Petroleum Institute's news release](#)*). The oil and gas industry has also voiced concern that the proposed fuel standards—when combined with additional fuel regulations EPA may issue in the coming months—could ultimately push up fuel costs even more. Studies by the oil and gas industry estimate that the proposed Tier 3 rules would require \$10 billion in new infrastructure investment and increased operating costs of \$2.4 billion per year. We expect the economic impact of the proposed rule to remain a matter of controversy.

**Possibility of more efficient vehicles:** According to the EPA, the proposed rule has the potential to improve fuel efficiency in two ways. First, EPA's proposal to consider alternative high-octane certification fuels (for example, E30) could allow automakers to design new engines with higher compression ratios that increase fuel efficiency. Second, fuel-efficient lean-burn engine technologies—which produce more NO<sub>x</sub> than ordinary engines—could be introduced into more vehicles once sulfur levels in gasoline are reduced, because the sulfur would no longer impair the operation of catalytic converters that remove excess NO<sub>x</sub> from lean-burn vehicles' exhaust. Thus, automakers could take advantage of the proposed lower sulfur content of gasoline to introduce additional lean-burn vehicles that still meet applicable emissions standards.

**Public hearings and comment deadlines:** EPA's notice indicates that comments on the proposed rule will be due 30 days after publication in the *Federal Register*. However, we expect EPA to issue a supplemental regulatory notice announcing public hearings on the proposed rule, with comments due sometime in early-to mid-June. Van Ness Feldman will continue to monitor these developments and will update this Alert as necessary.

### FOR ADDITIONAL INFORMATION

Van Ness Feldman assists with ongoing negotiations, provides strategic advice, and analyzes proposals and counter-proposals for clients impacted by the ongoing action by the Administration to regulate GHG emissions and the fuel economy of mobile sources. If you would like more information about developments in motor vehicle regulation or other climate change and energy policies being considered by Congress and federal agencies, please contact [Dick Penna](#), [Kyle Danish](#), [Lisa Epifani](#), or any member of the firm's [Climate Change](#) or [Environmental](#) practice at (202) 298-1800. Those interested in on-going coverage of climate change policy developments may wish to subscribe to the weekly Climate Change Policy Update at <http://www.vnf.com/news-signup.html>.

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