



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Corporate Average Fuel Economy/Inflation Adjustment for Penalties: Thirteen States File Judicial Challenge to National Highway Traffic Safety Administration Rule

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Thirteen states filed a Petition for Review of a Final Rule of the National Highway Traffic Safety Administration (“Petition”) challenging a rule promulgated by the National Highway Traffic Safety Administration (“NHTSA”).

The Petition asks the United States Court of Appeals for the Second Circuit to review and set aside a final action taken by the NHTSA that asserts a Congressionally mandated inflation adjustment to the penalty for violations of the Corporate Average Fuel Economy (“CAFE”) standards has been reversed.

The states filing the Petition include:

- New York
- California
- Connecticut
- Delaware
- Illinois
- Maryland
- New Jersey
- Oregon
- Rhode Island
- Vermont
- Washington
- Commonwealth of Massachusetts
- District of Columbia

The states argue that NHTSA concluded that the Federal Civil Penalties Inflation Adjustment Act Improvements Acts of 2015 does not apply to the penalty for violations of the CAFE standards. As a result, they state that NHTSA reduced the civil penalty for these violations from \$14 to \$5.50 per tenth of a mile per gallon for model year 2019 and later vehicles. See 84 Fed. Reg. 36,007 (July 26, 2019).

The Petition is filed pursuant to the Energy Policy and Conservation Act and the Administrative Procedure Act.

A copy of the Petition can be downloaded [here](#).