

October 26, 2018

National Highway Traffic Safety Administration
U.S. Department of Transportation
Docket Management Facility, M-30
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590

U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC)
Air and Radiation Docket, Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Attention: Ms. Heidi King, Deputy Administrator
Docket ID Nos. NHTSA-2018-0067 and NHTSA-2017-0069

Mr. Andrew Wheeler, Acting Administrator
Docket ID No. EPA-HQ-OAR-2018-0283

Via: <http://www.regulations.gov>

Docket Nos.: EPA-HQ-OAR-2018-0283; NHTSA-2018-0067; NHTSA-2017-0069

Re: Comments of the California Air Resources Board on the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks

Dear Ms. King and Mr. Wheeler:

The National Highway Traffic Safety Administration (NHTSA) and the United States Environmental Protection Agency (EPA) have proposed to break the unified national vehicle program, flat-line federal standards, and attack emissions regulations developed by California on which many states depend. Finalizing this proposal would worsen air quality for the most vulnerable, waste billions of gallons of gasoline, forfeit our best chance to fight climate change, and result in years of uncertainty in the marketplace thereby stifling job-creating investments. The proposal ignores Congressional mandates, and threatens the sovereign responsibilities of the states to protect the public.

The proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks does not even accord with basic principles of reasoned decision-making and must be withdrawn. As summarized below and

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explained in our attached comments and analysis, the proposal will hurt the American people. In fact, the only clear winners from the efficiency-killing proposal are oil companies that realize increased demand for their products.

The rollback threatens public health and welfare.

The future envisioned by the rollback rule, on the federal agencies' own admission, is one in which greenhouse gases nearly double from today, further exacerbating climate change. In that future, according to the world's leading scientists, hundreds of millions of people would be displaced, millions would die, and trillions of dollars of harm would come to what remains of the global economy. These tragedies are coming to pass now. The Intergovernmental Panel on Climate Change has estimated that human-caused emissions have already increased global average temperatures approximately 1 degree Celsius. Hurricanes, rampant wildfire, drought, heat waves, and other extreme weather events are becoming more common and severe. Moreover, worsening smog and soot pollution caused by vehicle emissions will be exacerbated by the rollback, rendering it difficult or impossible for the states readily to meet core state and federal public health standards. Yet, the federal agencies propose to actually make the situation worse, while attacking the states' sovereign authority to protect their own citizens.

Technology and ingenuity support the existing standards.

For decades, vehicles have gotten cleaner and safer, and the auto industry has prospered. The federal agencies nonetheless assert that vehicle technology is not ready to meet the existing standards, and that costly electrification is the only option available to meet the standards. To reach these erroneous conclusions, the modeling on technology penetration and use departs from EPA's own long-standing models, instead relying entirely on a set of NHTSA tools that are not designed for this purpose and which massively inflate the real costs of compliance. In fact, the technology on the road today has already beaten what the agencies project, demonstrating the engineering creativity of the industry. The agencies' technology analysis artificially restricts the cost-effective vehicle technologies already in use or under substantial development. Instead of relying on real-world results, the proposal leads, inaccurately, to grossly inflated costs. The analysis is so disconnected from real world experience that even the vast majority of the automotive industry agree that the proposal goes too far, is not substantiated, and does not support continued investment in innovation.

The existing standards are cost-effective – the rollback is not.

When costs and technology are considered consistent with what is actually being achieved in the current vehicle market, the existing standards are cost effective. Better cars save everyone gas money. In most cases, the difference is made up within the first

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three years, providing a net benefit for the majority of the life of the vehicle. Low-income families have the most to gain from reduced fuel costs, which constitute a more significant portion of their household expenses. The rollback will cost consumers billions of dollars over the lifetime of the vehicles.

The rollback will hurt economic, energy, and national security.

The rollback would badly damage progress towards building an innovative and efficient auto industry in this country, isolating America and diminishing its competitiveness as the rest of the world continues to move ahead. As your own analysis concedes, the proposal will waste fuel and other natural resources.

This proposal – not the regulations - is the job killer. This proposal predicts 50,000 job losses in 2025, based on a limited analysis. A full analysis predicts job losses between 90,000 and 160,000 by that year. These losses will come from decreased investment in clean technologies, and a chilling effect on developing technology to make vehicles run cleaner. This will suppress larger related market activity that would follow from that development. Overall, the industry will suffer from the risk, uncertainty, and inefficiency from this proposal.

The rollback will also increase costs on drivers and on businesses, large and small, who will have to pay more every time they fill up. And, adding insult to injury, consumers, businesses, and federal, state, and local governments will pay mounting costs for accelerating climate changes and local health impacts – which we are already witnessing.

The rollback is unsafe.

Cars produced today are vastly cleaner and safer than cars proposed just a few years ago. But the rollback claims that driving is dangerous, and therefore cars should be less fuel-efficient to deter people to drive less. This perverse logic is unsupported by the federal agencies' analyses and fails to reflect the reality that the auto industry is already engineering a way towards a better future.

The facts, engineering, and experience unequivocally support continuing on the current path of making cars ever safer and less polluting, a trend that has accompanied a steady decline in highway fatalities.

The federal agencies rely on inappropriate and illogical modeling to conclude that the rollback will increase highway safety. Based on the flawed claim above that the technology to meet the existing standards is much more expensive, the proposal claims that new car sales will drop markedly if the existing standards are maintained, resulting

in a dramatic expansion of the existing car fleet. This is asserted to, in turn, cause a sharp increase in fatalities because supposedly less-safe older cars will remain on the road longer and (for some unexplained reason) people will drive these cars far more than they do today. Compounding these conclusions that do not accord with experience of car sales over the past decade, the proposal claims that driving in newer, cleaner, and more fuel-efficient cars if there is no rollback will dramatically increase – the so-called “rebound effect” that cars will be so efficient people will drive much further – also resulting in more fatalities.

Thus, the federal agencies appear to conclude that the best way to cut vehicle pollution and reduce fatalities is essentially to try to make new cars cheaper but more expensive to drive, expecting that this will reduce the use of older cars, but diminishing incentives to drive. In reaching this conclusion, they acknowledge that the main thrust of the rollback will be to push consumers away from the utilitarian vehicles they prefer and into smaller vehicles because refueling them will become more expensive with the rollback. In essence, the proposal is to chart a course for less efficient and more polluting cars that cost more to drive.

To reach these conclusions, the federal agencies used modeling approaches that are fundamentally inappropriate and which do not reflect reality. The “scrappage” model used to support these conclusions does not comport with economic theory or provide statistically reliable results; leading experts, including our own as detailed in our comments, have rejected it. Similarly, federal agencies’ predictions of driving and fatality behavior reflect neither reality nor expert opinion and analyses.

This bizarre prediction builds on a stack of bad ideas, including a total unwillingness to consider the technological progress and intelligent design reflected in today’s vehicles and transportation sector – or even what is already under development and will be on the market in the near future. The equations and their predictions are inconsistent with logic, economic theory, and manufacturers’ practices. They do not pass basic tests of mathematical and statistical rigor.

It is clear the federal agencies contrived the proposal to support the President’s impulsive and uninformed direction to “cancel” this program, and it does not hold up to scrutiny. In the real world, auto pollution has been falling for years, fuel economy and durability have increased, while the industry has enjoyed record sales despite rising sales prices, and the roads have become steadily safer despite increasing vehicle miles traveled.

The rollback is illegal and violates principles of federalism.

Underlying the flawed analysis this proposal conflicts with Congress's clear direction to keep improving cars and making them cleaner, while attacking sovereign state authority. This behavior threatens the rule of law. The SAFE Rule departs entirely from the federal agencies' governing statutes to control emissions that threaten the public health and welfare, and to set fuel economy standards that are, in the language of the enabling legislation itself, the "maximum feasible." On the contrary: this proposal vastly increases greenhouse gas emissions, worsens air quality, wastes billions of gallons of gasoline, and attacks state authority that Congress has expressly preserved and extended. The slackened fuel economy standards would impose unnecessary costs on consumers to refuel their vehicles, ensure the nation remains dependent on imported energy, and tacitly recognizes the standards are not the maximum feasible when it also predicts manufacturers will voluntarily sell cars that exceed the standards.

Executive agencies are not empowered to rewrite or ignore statutes, much less to reverse their meaning, as the federal agencies now propose. That the agencies rely upon their inverted reading of the statutes to further propose to end a decades-long partnership with California for vehicle regulation that is preserved in both statutes, and reflects a settled Congressional judgment is even more concerning. If the proposal is finalized, Congress cannot be assured that its directives will be followed in any administrative context, and states must be on their guard as to threats from administrative bureaucracies to their sovereign police powers and statutory prerogatives.

Nor are the federal agencies free to rely upon their misreading of the law to attack authority that Congress has explicitly preserved for California (and states choosing to adopt California standards) to set vehicle pollution standards. The California Air Resources Board (CARB) is a critical part of Congress's plans for national vehicle regulation, and has been for half a century. The federal agencies' attempt not just to rollback the standards but to attack sovereign state prerogatives protected by Congress are the hallmark of unaccountable agency overreach, and will be reversed by the courts (as they have in the past).

The analysis, content, and arguments, as outlined in our attached comments, demonstrate how far off course the federal agencies have veered.

NHTSA and EPA must withdraw the SAFE Vehicles proposal. CARB asks that the agencies heed the overwhelming public outcry and work with California, the other states that have adopted California's standards, and the auto industry to maintain a national program that achieves real emission and fuel consumption reductions year-over-year,

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promotes innovation and a competitive national manufacturing base, and serves all of the public.

We have yet to see any evidence supporting any sensible changes to the standards, but we are open to conversations rooted in the facts. If adjustments are appropriate, as the manufacturers have claimed but not substantiated, CARB is ready to respond appropriately. If you would like to discuss any potential reasonable changes that maintain steady improvements, you may contact me at (916) 322-7077 or richard.corey@arb.ca.gov.

Sincerely,



Richard W. Corey
Executive Officer

cc: Governor Edmund G. Brown

Matthew Rodriguez
California Secretary for Environmental Protection

Mary D. Nichols
Chair, California Air Resources Board