

**Attorneys General of New York, Colorado, Connecticut, Delaware, Maine,
Maryland, Massachusetts, New Jersey, Oregon, Pennsylvania, Vermont,
and Washington**

July 23, 2019

Andrew R. Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Attn: Docket Nos. EPA-HQ-OAR-2018-0283/ NHTSA-2018-0067

Re: Supplemental Comment and Request for Correction regarding the Proposed “Safer Affordable Fuel Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.” 83 Fed. Reg. 42986 (Aug. 24, 2018)

The States of New York, Colorado, Connecticut, Delaware, Maine, Maryland, New Jersey, Oregon, Vermont, Washington, and the Commonwealths of Massachusetts and Pennsylvania (State Commenters) respectfully submit this supplemental comment and request for correction on the Environmental Protection Agency’s (EPA) and National Highway Traffic Safety Administration’s (NHTSA) (collectively referred to as “the agencies”) proposed rule entitled “The Safer Affordable Fuel Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks,” 83 Fed. Reg. 42986 (Aug. 24, 2018). This supplemental comment and correction request are made in response to EPA’s and NHTSA’s recent, and very belated, responses to Freedom of Information Act (FOIA) requests that New York sent to the agencies in early September of 2018.

New York’s FOIA requests asked the agencies to provide all agency records substantiating the agencies’ asserted compliance with the state consultation requirements in Executive Order 13,132 (64 Fed. Reg. 43255, (Aug. 4, 1999)) in developing the proposed rule. The Executive Order requires that when, as here, agencies propose through rulemaking to preempt state law, they must, inter alia, consult with state officials “early in the process of developing the proposed regulation.” (64 Fed. Reg. at 43258.) Contrary to the statement in the proposal that “[t]he agencies complied with Order’s requirements” (83 Fed. Reg. at 43476), the FOIA responses now confirm that the agencies have not complied with the Executive Order. The agencies should accept this supplemental comment into their rulemaking dockets because

the delay in submitting the comment is attributable entirely to the agencies' late responses to the FOIA requests. Had EPA and NHTSA complied with their legal obligations under FOIA, then State Commenters would have been able to submit this comment prior to the close of the comment period on the proposed rule on October 26, 2018. However, the agencies failed to comply with FOIA, forcing New York to file a lawsuit to obtain a court order compelling responses. (*New York v EPA, et al.* S.D.N.Y Case No. 1:19-cv-00712-KPF.) NHTSA provided its response on May 29, 2019, while EPA provided its response on July 9, 2019.

This supplemental comment augments the comment submitted by State Commenters along with other states and cities on October 26, 2018, disputing the agencies' assertion that they had complied with Executive Order 13,132 in developing the proposed rule. (83 Fed. Reg. at 43476.) As the October 26, 2018 comment letter observed, the agencies failed to provide any explanation or to refer to any documents to substantiate their assertion that they consulted with our states regarding their preemption proposals as mandated by the Executive Order. The letter also noted that our states and other commenters were unaware of any effort by EPA or NHTSA to consult with states about the agencies' preemption proposals. The agencies' recent FOIA responses now confirm that neither EPA nor NHTSA consulted with our states "early in the process of developing their preemption proposals," nor have they consulted with our states about the preemption proposals at any subsequent time. Thus, the agencies' assertions that they complied with Executive Order 13,132 in developing the proposed rule are false. State Commenters therefore request that the agencies withdraw the proposed rule and fully comply with the Executive Order's consultation requirement before issuing any further proposed rule(s) of a similar effect.

In addition to this supplemental comment, State Commenters hereby submit to EPA and NHTSA a request for correction under the Information Quality Act ("IQA") and the agencies' respective guidelines for information quality and corrections.¹ The IQA requires that information disseminated to the public by federal agencies meet standards of "quality, objectivity, utility and integrity" and that agencies allow "affected persons to seek and maintain correction of information" that fails to comply with relevant information-quality standards. (IQA, Section 515(b)(2)(A) and (B).) The recent FOIA responses confirm that EPA and NHTSA are unable to substantiate the claim that they consulted with our states about their proposals to preempt our states from maintaining our respective Advanced Clean Cars standards for model years 2021 and beyond. Thus, the assertion of compliance with Executive Order 13,132 is inaccurate and must be corrected for the benefit of all stakeholders, including, but not limited to, reviewers at the

¹ See Treasury and General Government Appropriation Act for Fiscal Year 2001, Pub. L. No. 106-554, § 515 Appendix C; ENVTL. PROT. AGENCY, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (2002); U.S. DEP'T OF TRANSP., *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by the Department of Transportation* (2002); see also, Office of Management and Budget *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* (67 Fed. Reg. 8451 (Feb. 22, 2002).)

Office of Information and Regulatory Affairs, states affected by the preemption proposal, and members of the public.

The bases for this supplemental comment and request for correction are described further below.

BACKGROUND

Section 177 of the Clean Air Act authorizes “any State which has plan provisions approved under this part” to adopt California motor vehicle emission standards subject only to two conditions: 1) the standards must be identical to California standards for which a waiver has been granted for the particular model year; and 2) California and any adopting state must have adopted the standards at least two years before commencement of such model year. (42 U.S.C. § 7407.) Our States have all adopted California’s Advanced Clean Cars standards for the 2021-2025 model years, which are now threatened by the agencies’ preemption proposals. We are relying on these standards both to meet state greenhouse gas reduction targets and to reduce vehicle emissions of oxides of nitrogen, particulate matter and volatile organic compounds in order to attain and/or maintain compliance with national ambient air quality standards for ozone pollution.

EPA and NHTSA have proposed three separate preemption actions in the proposed rule that would prevent our states from implementing and enforcing our Advanced Clean Cars standards for model years 2021-2025, including: 1) NHTSA’s proposed regulation purporting to find that California’s motor vehicle greenhouse gas emission standards and zero emission vehicle standards are preempted, thereby precluding our states from adopting, implementing, or enforcing our own corresponding standards; 2) EPA’s proposed revocation of California’s Clean Air Act preemption waiver for California’s model-year 2021-2025 motor vehicle greenhouse gas emission standards and zero emission vehicle standards, which would have the effect of also preempting our states’ authority to continue to implement and enforce those standards; and 3) EPA’s proposed “new interpretation” of Section 177 which would still preempt our states’ authority to continue to implement and enforce California’s model year 2021-2015 motor vehicle greenhouse gas emission standards even in a scenario where California’s corresponding standards are not preempted and remain in effect.² EPA and NHTSA acknowledge the federalism implications of these proposals, and concede that the consultation requirements in Executive Order 13,132 are applicable here. (83 Fed. Reg. at 43476.)

Because the proposed rule’s assertion of compliance with Executive Order 13,132 includes no explanation or reference to supporting evidence, New York sent FOIA requests to EPA and NHTSA to ascertain what evidence the agencies were relying on to support their

² As stated in the October 26, 2018 comment letter, these preemption proposals are all *ultra vires*, arbitrary and capricious actions that will not withstand legal challenge. Nonetheless, EPA and NHTSA still have a duty to consult with states regarding the federalism implications of their proposals.

assertion of compliance. The agencies' FOIA responses, copies of which are attached hereto, fail to provide any evidence of the consultation mandated by the Executive Order:

EPA's FOIA Response: EPA did not provide or identify any responsive records. Its response, which took over ten months to formulate, consisted of just two sentences: "There may be records that respond to the subject matter of your request in the publicly available rulemaking docket, which may be accessed and searched at <https://www.regulations.gov/docket?D=EPA-11Q-OAR-2018-0283>. EPA conducted a reasonable search and did not locate any additional responsive records, beyond those records that are publicly available on EPA's rulemaking docket." Our diligent search of EPA's rulemaking docket, however, reveals that there are no agency records evidencing that EPA consulted with our states, or any other states, "early in the process of developing" EPA's proposed waiver revocation or its proposed new interpretation of Section 177.

NHTSA's FOIA Response: NHTSA responded by providing 44 pages of materials, all of which post-date the proposed rule's publication, and none of which evidence any consultation with our states regarding NHTSA's preemption proposal. The materials include several letters from states and municipalities requesting an extension of the comment period and NHTSA's letters denying the requests; comment letters from municipalities and states both opposing and supporting the proposed rule and NHTSA form letters acknowledging receipt of those comments; and copies of some of the envelopes which contained the comment letters. NHTSA's response also advised New York that "the NHTSA docket for the Notice of Proposed Rulemaking for the SAFE Vehicles Rule contains a number of documents reflecting input and communications from individuals and entities, including states," and that Section VI of the proposed rule "contains an extensive discussion of federalism and preemption matters pertaining to the proposed rule." However, neither the agency records produced by NHTSA nor the rulemaking docket or proposed rule section cited by NHTSA provide any evidence that NHTSA consulted with our states, or any other state, "early in the process of developing" its proposed preemption regulation.

SUPPLEMENTAL COMMENT

EPA's and NHTSA's recent FOIA responses confirm the accuracy of what State Commenters pointed out when commenting on the proposed rule in October 2018: neither agency consulted with our states regarding the federalism impacts of their preemption proposals "early in the process of developing the proposed regulation." This failure to consult unequivocally violates the requirements of Executive Order 13,132; thus the proposed rule's recitation that the agencies complied with the Executive Order is false and misleading. While the agencies' FOIA responses point to communications to and from states after publication of the proposed rule in the Federal Register, none of those communications evidence consultation regarding preemption as required by the Executive Order. Those communications reflect merely that the agencies are employing a notice and comment process. Executive Order 13,132's requirement for consultation with state officials "early in the process of developing the proposed regulation," however, is over and above the minimum due process mandated by the

Administrative Procedure Act.³ State Commenters therefore request that the agencies withdraw the proposed rule and fully comply with the Executive Order before issuing any further proposed rule(s) of a similar effect. The devastating impacts these preemption proposals would have on the health and safety of our residents, and their severe incursion into our states' authority and our ability to exercise that authority to protect our residents, demand nothing less.

REQUEST FOR CORRECTION

Under the Information Quality Act (IQA), as implemented through Guidelines published by the Office of Management and Budget (OMB) and the agencies, State Commenters include with this supplemental comment a request for correction, asking that the agencies resolve the factual inaccuracy and misleading representation in their statement of compliance with Executive Order 13,132. The EPA and DOT guidelines require that all information disseminated by the agencies meet a standard for objectivity, which requires information to be "accurate, clear, complete, and unbiased." (EPA Guidelines, *supra* note 1, at 15; DOT Guidelines, *supra* note 1, at 15.) EPA's Guidelines (at page 15) and DOT's Guidelines (at page 12) also make clear that Federal Register publication of a rulemaking proposal, such as the proposal at issue here, constitutes dissemination of information to the public. Because EPA and NHTSA cannot identify any information or documents to show that they consulted with our States early in the process of developing their preemption proposals, or at any other time, their assertion of compliance with Executive Order 13,132 is not accurate.

The inaccurate language is located in in Section XII, subsection G of the proposed rule in the paragraph discussing Executive Order 13,132. The final sentence of the paragraph states that "[t]he agencies complied with [the] Order's requirements." 83 Fed. Reg. at 43476. This statement is false and is therefore inconsistent with the IQA and the OMB and agency guidelines, and must be corrected. The correction should state that "the agencies did not comply with the Executive Order 13,132's requirements." This correction is necessary for the benefit of all stakeholders, including, but not limited to, reviewers at the Office of Information and Regulatory Affairs, states affected by the preemption proposal, and members of the public, as well as to create an accurate record for any reviewing court.

Given the agencies' delays in responding to the FOIA Requests that they received in September 2018, the comment period for the rulemaking proposal ended before State Commenters had the necessary information to request this correction. Therefore, State Commenters could not have made this request prior to the close of the comment period and the agencies should give this request full consideration.

Thank you for your attention to these matters. Please contact the undersigned if you have any questions or wish to discuss these issues.

³ As stated in the October 26, 2018 comment letter, the agencies' rulemaking process fails to comply with the Administrative Procedure Act in various respects.

Respectfully submitted,

FOR THE STATE OF NEW YORK

LETITIA JAMES

Attorney General

YUEH-RU CHU

Chief, Affirmative Litigation Section

Environmental Protection Bureau

AUSTIN THOMPSON

Assistant Attorney General

/s/ Gavin G. McCabe

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Attorney General

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Attorney General

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FOR THE STATE OF WASHINGTON
ROBERT W. FERGUSON
Attorney General

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Encl.

cc: Russell Vought, Acting Director, OMB

Paul Ray, Acting Administrator, OIRA

Information Quality Guidelines Staff, Mail Code 28221T
Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC, 20460

U. S. Department of Transportation
Office of Dockets and Media Management
SUBJECT: Request for Correction of Information
Room PL-401
400 7th Street, S.W.
Washington, DC 20590

ATTACHMENT A

**EPA'S JULY 9, 2019 AMENDED RESPONSE AND JUNE 20, 2019
INITIAL RESPONSE TO NEW YORK'S SEPTEMBER 5, 2018
FOIA REQUEST**

McCabe, Gavin

From: no-reply@foiaonline.gov
Sent: Tuesday, July 16, 2019 2:20 PM
To: McCabe, Gavin
Subject: Amended Letter to the Final Response to FOIA No. EPA-HQ-2018-011354
Attachments: Final Response Letter to Gavin McCabe for EPA-HQ-2018-011354 -- Amended 07-09-2019.pdf

Dear McCabe:

Please find attached a **follow-up letter** to the Agency's final response to your FOIA request. You will receive another email from FOIAonline notifying you that the case is officially closed. If you have any problems accessing the files, please contact me at hamilton.sabrina@epa.gov or (202) 564-1083.

We appreciate the opportunity to be of service and hope the information provided is helpful.

Sincerely,

Sabrina Hamilton, FOIA Coordinator

Office of Air and Radiation, U.S. EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C 20460

July 9, 2019

OFFICE OF
AIR AND RADIATION

Mr. Gavin McCabe
Office of the Attorney General
State of New York
28 Liberty Street
New York, New York 10005

Re: Freedom of Information Act Request No. EPA-HQ-2018-011354
State of New York v. U.S. Environmental Protection Agency, et al., No. 1:19-cv-00712-KPF

Dear Mr. McCabe:

This letter amends the U.S. Environmental Protection Agency's (EPA) June 20, 2019 letter concerning the above-referenced Freedom of Information Act (FOIA) request, received by the EPA on September 5, 2018, in which the Office of the Attorney General requests that EPA produce the following: "*records to better understand the U.S. Environmental Protection Agency's (EPA) and the National Highway Traffic Safety Administration's (NHTSA) joint proposal entitled 'The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks' ('Proposal')*". 83 Fed. Reg. 42986 (August 24, 2018).

1. *All communications to and/or from states or state officials regarding Executive Order 13132 and/or the federalism implications of the Proposal.*
2. *All communications to and/or from NHTSA regarding Executive Order 13132 and/or the federalism implications of the Proposal.*
3. *All communications to and/or from the Office of Management and Budget regarding compliance with Executive Order 13132 with respect to the Proposal, including any federalism summary impact statement.*
4. *Any federalism impact statement(s) and any other agency records supporting the assertion that EPA complied with Executive Order 13132 with respect to the Proposal."*

There may be records that respond to the subject matter of your request in the publicly available rulemaking docket, which may be accessed and searched at <https://www.regulations.gov/docket?D=EPA-HQ-OAR-2018-0283>. EPA conducted a reasonable search and did not locate any additional responsive records, beyond those records that are publicly available on EPA's rulemaking docket.

This letter concludes our response to your request. We appreciate your interest in the EPA and our mission to protect public health and the environment.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Shoaff', written in a cursive style.

John Shoaff
Director

Office of Air Policy and Program Support



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

June 20, 2019

RECEIVED

OFFICE OF
AIR AND RADIATION

Mr. Gavin McCabe
Office of the Attorney General
State of New York
28 Liberty Street
New York, New York 10005

JUN 24 2019

DEPARTMENT OF LAW
ENVIRONMENTAL PROTECTION
BUREAU - N.Y.C.

Re: Freedom of Information Act Request No. EPA-HQ-2018-011354
State of New York v. U.S. Environmental Protection Agency, et al., No. 1:19-cv-00712-KPF

Dear Mr. McCabe:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA) on September 5, 2018, in which the Office of the Attorney General requests that EPA produce the following: "*records to better understand the U.S. Environmental Protection Agency's (EPA) and the National Highway Traffic Safety Administration's (NHTSA) joint proposal entitled 'The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks' ('Proposal'), 83 Fed. Reg. 42986 (August 24, 2018).*"

1. *All communications to and/or from states or state officials regarding Executive Order 13132 and/or the federalism implications of the Proposal.*
2. *All communications to and/or from NHTSA regarding Executive Order 13132 and/or the federalism implications of the Proposal.*
3. *All communications to and/or from the Office of Management and Budget regarding compliance with Executive Order 13132 with respect to the Proposal, including any federalism summary impact statement.*
4. *Any federalism impact statement(s) and any other agency records supporting the assertion that EPA complied with Executive Order 13132 with respect to the Proposal."*

There may be records that respond to the subject matter of your request in the publicly available rulemaking docket, which may be accessed and searched at <https://www.regulations.gov/docket?D=NHTSA-2018-0067>. EPA conducted a reasonable search and did not locate any additional responsive records.

This letter concludes our response to your request. We appreciate your interest in the EPA and our mission to protect public health and the environment.

Sincerely,

A handwritten signature in black ink, appearing to read "John Shoaff", written in a cursive style.

John Shoaff
Director

Office of Air Policy and Program Support

ATTACHMENT B

**NHTSA's MAY 29, 2019 FINAL RESPONSE AND APRIL 23, 2019
INTERIM RESPONSE TO NEW YORK'S SEPTEMBER 5, 2018
FOIA REQUEST**



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

U.S. Department of Transportation
Washington, DC 20590

May 29, 2019

Mr. Gavin G. McCabe
State of New York
Office of the Attorney General
28 Liberty Street
New York, NY 10005

Via email to: Gavin.McCabe@ag.ny.gov

RE: Freedom of Information Act (FOIA) Request ES18-003327

Dear Mr. McCabe:

Please see the following response to your Freedom of Information Act ("FOIA") request, No. ES18-003327 ("Request"), to the National Highway Traffic Safety Administration ("NHTSA"). Together with NHTSA's April 23, 2019 interim production, the enclosed records constitute NHTSA's full response to the Request.

Apart from the records provided in response to the Request, the NHTSA docket for the Notice of Proposed Rulemaking for the SAFE Vehicles Rule contains a number of documents reflecting input and communications from individuals and entities, including states. For example, NHTSA-2018-0067-12295 consists of over 1,150 pages of docketed materials concerning the proposed SAFE Vehicles Rule from a collection of 26 states and local governments, including the State of New York. These materials are publicly available on the rulemaking docket, and they may be accessed and searched at the following location:

<https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=PS&D=NHTSA-2018-0067>.

In addition, Section VI of the Notice of Proposed Rulemaking for the SAFE Vehicles Rule, entitled "Preemption of State and Local Laws," contains an extensive discussion of federalism and preemption matters pertaining to the proposed rule. See *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks*, 83 Fed. Reg. 42986, 43232 (Aug. 24, 2018). The Notice of Proposed Rulemaking is available online at the following location:

<https://www.federalregister.gov/documents/2018/08/24/2018-16820/the-safer-affordable-fuel-efficient-safe-vehicles-rule-for-model-years-2021-2026-passenger-cars-and>

Pursuant to 49 CFR Part 7, there is no charge from NHTSA for this response.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Andrew J. DiMarsico", with a stylized flourish at the end.

Andrew J. DiMarsico
Senior Attorney

Enclosures



October 26, 2018

The Honorable Elaine L. Chao
Secretary of Transportation
United States Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Madam Secretary and Acting Administrator Wheeler:

We write to express our united support for the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule proposed by the National Highway Traffic Safety Administration and the Environmental Protection Agency, reforming the current Corporate Average Fuel Economy (CAFE) standards.¹

Our states have demonstrated that environmental preservation and free enterprise are compatible and necessarily linked. Indeed, free markets naturally reward producers for developing effective, desirable environmental innovations to meet consumer demand. Government undermines both goals when it enacts policies that pit environmental preservation against free enterprise, hindering free markets, propping-up inferior solutions, and ultimately reducing prosperity.

The CAFE standards enacted by the previous administration are a prime example of such a misguided policy. The standards create unrealistic fuel economy requirements that President Trump has accurately characterized as "industry-killing regulations."

The SAFE Vehicles Rule provides realistic fuel economy goals that will conserve energy and further protect the environment without stifling the market economy or forcing consumers' hands. Moreover, by establishing a nationwide, realistic fuel economy standard, the SAFE Vehicles Rule will make cars more affordable. No longer will manufacturers be required to spend billions of dollars to meet onerous and unnecessary emissions

¹ The proposed rule is entitled "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (SAFE Vehicles Rule)" and was published in the Federal Register on August 24, 2018 at 83 FR 42817 and 83 FR 42986.

S10-181105-024

NHTSA000034
ES18-004016

12



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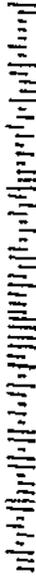


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The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D C. 20590

S10-181105-024

65 IVE-NAB 20590





U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Jeff Colyer
Governor of Kansas
Topeka, KS 66612

Dear Governor Colyer:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter.

Sincerely yours,

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1215 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Phil Bryant
Governor of Mississippi
Jackson, MS 39205

Dear Governor Bryant:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Heidi R. King".

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Doug Burgum
Governor of North Dakota
Bismarck, ND 58505

Dear Governor Burgum:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Heidi R. King".

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Paul R. LePage
Governor of Maine
Augusta, ME 04333

Dear Governor LePage:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Heidi R. King".

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

U.S. Department of Transportation
Washington, DC 20590

April 23, 2019

Mr. Gavin G McCabe
State of New York
Office of the Attorney General
28 Liberty Street
New York, NY 10005

Via email to: Gavin.McCabe@ag.ny.gov

RE: Freedom of Information Act (FOIA) Request ES18-003327

Dear Mr. McCabe:

This is an interim response to your Freedom of Information Act (FOIA) request dated September 5, 2018. Please see enclosed for records responsive to your request.

Pursuant to 49 CFR Part 7, there is no charge for this response.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Andrew J. DiMarsico", written over a horizontal line.

Andrew J. DiMarsico
Senior Attorney

Enclosures

States of California, Connecticut, Delaware, Iowa, Illinois, Maine, Maryland,
Massachusetts, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania,
Rhode Island, Vermont, Washington, and the District of Columbia

August 27, 2018

Andrew K. Wheeler
Acting Administrator, United States
Environmental Protection Agency
Office of the Administrator Code 1101A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**Re: ~~Request for Extension of Comment Period and Additional Public Hearings~~
Regarding Joint Proposed Rule to Roll Back Vehicle Greenhouse Gas
Emissions and Corporate Average Fuel Economy Standards for Model
Years 2021-2026 Light-Duty Vehicles
Docket IDs: EPA-HQ-OAR-2018-0283 / NHTSA-2018-0067 /
NHTSA-2017-0069**

Dear Acting Administrator Wheeler and Deputy Administrator King:

The undersigned Attorneys General and State Agencies respectfully request that the United States Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) extend the comment period for the joint proposed rule referenced above by at least 60 days, to a total of 120 days from the date of publication in the Federal Register. A 120-day comment period would be consistent with past practice for matters of similar importance and complexity, including EPA's 2014 proposal to adopt the Clean Power Plan and its 2017 proposal to repeal the Clean Power Plan.¹ As discussed in more detail below, given the complexity and novelty of the legal and technical issues presented by the Agencies' proposal, the voluminous amount of materials accompanying the joint proposed rule which

¹ We also note that EPA recently extended the initial 30-day comment period on its Proposal to Limit the Use of Scientific Evidence to 115 days.

As to the comment period for the joint proposed rule, additional time is called for on several grounds. Each of the three actions proposed here—EPA’s rollback, NHTSA’s rollback, and the waiver revocation—is tremendously significant and would call for a minimum 60-day comment period on their own. Notably, the primary documents describing the proposed actions and their impacts total more than 2,000 pages in their pre-publication form. The preliminary regulatory impact analysis is 1,600 pages, and the draft EIS is 1,300 pages, including its appendices. And that does not account for the enormous volume of technical information to be reviewed, including models and data, some of which is not currently available.³ These proposed actions put our States and our people at risk, and the enormity of the consequences of these proposals alone warrants ensuring that States, and other members of the interested public, have sufficient time to conduct meaningful review and analysis of the available information and to respond fully and completely. Your Agencies’ duty under the APA to afford the public an adequate opportunity to review all of this information and to provide informed comments is clearly not met by provision of a 60-day comment period, and a mere 45 days to review NHTSA’s draft EIS.

Additional time is also called for due to the fact that the modeling, assumptions, and analysis underlying these proposals are dramatically different from that of previous, similar rulemakings. NHTSA has made numerous, significant changes to the CAFE model, identifying at least eleven “key changes,” including multiple new “modules” to the CAFE model as well as many, substantial changes in the inputs, analysis, assumptions, and approaches taken in past rulemakings.⁴ Further, EPA has abandoned the models it used in 2010 and 2012 light-duty

³ Two examples illustrate that some important technical information is currently missing. The NPRM and the PRIA reference ANL’s BatPaC website and indicate the agencies used “an up-to-date version” of ANL’s BatPaC model. See, e.g., 83 Fed. Reg. 43,002 (Aug. 24, 2018). But readers cannot determine which version of BatPaC was used. Similarly, the PRIA references Polk registration data, including survival rates aggregated by model year, calendar year, and body style. These data are needed to verify the coefficients of the new scrappage model, but have not been made available. See, e.g., PRIA at 1010. “In order to allow for useful criticism, it is especially important for the agency to identify and make available technical studies and data that it has employed in reaching the decisions to propose particular rules.” *Connecticut Light & Power Co. v. Nuclear Regulatory Com.*, 673 F.2d 525, 530-531 (D.C. Cir. 1982); see also 42 U.S.C. § 7607(d)(3) (notice of proposed rulemaking “shall be accompanied by a statement of its basis and purpose” including “the factual data on which the proposed rule is based; the methodology used in obtaining and in analyzing the data; and the major legal interpretations and policy considerations underlying the proposed rule.” Courts have found that EPA’s failure to make data relating to the basis for its Clean Air Act regulations publicly available made “meaningful comment on the merits of EPA’s assertions impossible” and constituted reversible error. *Kennecott Corp. v. EPA*, 684 F.2d 1007 (D.C. Cir. 1982); see also *Portland Cement Ass’n v. Ruckelshaus*, 486 F.2d 375, 392-95 (D.C. Cir. 1973) (“It is not consonant with the purpose of a rule-making proceeding to promulgate rules on the basis of inadequate data, or on data that, (in) critical degree, is known only to the agency.”)

⁴ See 83 Fed. Reg. 43,002-43,003 (Aug. 24, 2018).

If we can provide additional information that would be helpful in considering this request, or if you wish to discuss this request with us, please contact the California Attorney General's Office.

Sincerely,

FOR THE STATE OF CALIFORNIA
AND THE CALIFORNIA AIR
RESOURCES BOARD



XAVIER BECERRA
Attorney General of California

FOR THE STATE OF CONNECTICUT



GEORGE JEPSEN
Attorney General of Connecticut

FOR THE STATE OF DELAWARE



MATTHEW P. DENN
Attorney General of Delaware

FOR THE STATE OF IOWA



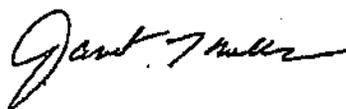
TOM MILLER
Attorney General of Iowa

FOR THE STATES OF ILLINOIS



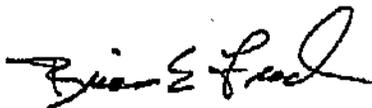
LISA MADIGAN
Attorney General of Illinois

FOR THE STATE OF MAINE



JANET MILLS
Attorney General of Maine

FOR THE STATE OF MARYLAND



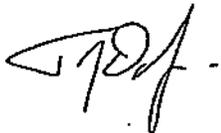
BRIAN E. FROSH
Attorney General of Maryland

FOR THE COMMONWEALTH OF
MASSACHUSETTS



MAURA HEALY
Attorney General of Massachusetts

FOR THE STATE OF VERMONT



THOMAS J. DONOVAN, JR.
Attorney General of Vermont

FOR THE STATE OF WASHINGTON



ROBERT W. FERGUSON
Attorney General of Washington

FOR THE DISTRICT OF
COLUMBIA



KARL A. RACINE
Attorney General of District
of Columbia

cc: VIA CERTIFIED MAIL

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

Docket Management Facility, M-30
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Docket No. NHTSA-2017-0069

EXECUTIVE SECRETARIAT
RECEIVED-NHTSA
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I. Request to Extend the Comment Period to 120 Days

The Administrative Procedure Act requires that agencies provide the public adequate notice of a proposed rule and a meaningful opportunity to comment on the substance of the rule. See 5 U.S.C. §553(c); 83 Fed. Reg. 42,999–43,000 (“The agencies are committed to following [the APA’s notice-and-comment] directive.”). Given the technical complexity of the proposed rule and the voluminous record on which it is based, a comment period of only 60 days is wholly inadequate and denies the public a meaningful opportunity to provide informed input on a proposed rule that will have profound impacts on human health, public safety, and the environment, potentially for generations to come.

The proposed rule is extensive and complicated, and providing informed comment on it requires in-depth analysis of highly technical studies and scientific data. The Federal Register of proposed rulemaking is itself over 500 pages, and the accompanying docket consists of many thousands of pages of detailed background materials. Moreover, the Agencies have identified and invited public comment on “a wide range of alternatives,” including eight modeled alternatives, in addition to the baseline standards currently in effect. 83 Fed. Reg. 42,990. The Agencies cannot reasonably expect all interested stakeholders to be able to assess and provide informed input comparing these nine different regulatory models without providing an adequate comment period that reflects the complexity and profound impacts of the proposed rule. A comment period of fewer than 120 days would defeat the very purposes of the APA’s notice-and-comment mandate -- to encourage public participation in the administrative process and to ensure that agency rulemaking is informed by full consideration of the public’s analyses and critiques.

Furthermore, the EPA’s extraordinary and unprecedented proposal to revoke California’s waiver of preemption under Clean Air Act Section 209(b) – a topic on which the Federal Register announcement of public hearings is completely silent, see 83 Fed. Reg. 42,817–42,818 – warrants at least a 60-day comment period on its own, and is additional justification for an extended comment period of 120 days total. Not only does the EPA’s proposed revocation jeopardize California’s current GHG standards and Zero Emissions Vehicle (ZEV) mandate, but the preemption analysis on which the proposed revocation is based is a direct assault on California’s decades-long authority under the Clean Air Act to protect the public health and welfare of its residents through tailpipe emissions regulations that exceed the federal standards. It is also a threat to the statutory right of other states to voluntarily adopt California’s tailpipe emissions standards pursuant to Section 177 of the Clean Air Act. The profound impacts of the EPA’s proposed California waiver withdrawal cannot be overstated, and further necessitate an extended comment period that will afford all interested stakeholders a meaningful opportunity to participate.

II. Request to Hold Additional Public Hearings in Los Angeles and in Other Parts of the Country

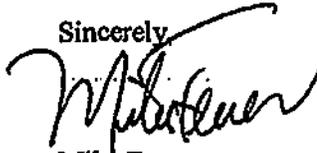
Providing the public a meaningful opportunity to comment on the joint proposed rule also requires holding additional hearings in easily accessible locations, including especially Los Angeles.

California's ability to adopt more stringent motor vehicle emissions standards than those established at the federal level.

For all these reasons, the City respectfully requests that Los Angeles be reinstated as the location of a public hearing on the proposed rule. The City also fully supports the requests already made by others to hold additional public hearings in Washington, D.C.; Portland, Oregon and/or Seattle, Washington; New York State; Baltimore, Maryland; and Hartford, Connecticut and/or Boston, Massachusetts.

Thank you for your consideration of this request.

Sincerely



Mike Feuer
City Attorney
City of Los Angeles

cc: VIA CERTIFIED MAIL

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

Docket Management Facility, M-30
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Docket No. NHTSA-2017-0069

We will be placing a copy of your letter in the rulemaking docket. If you have further questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Heidi B. King". The signature is stylized and cursive.

Heidi B. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
Acting Administrator, EPA

the federal government's leadership in delivering effective regulatory limits on carbon dioxide emission from motor vehicles is a critical component of our ability to meet adopted environmental objectives and standards.

One such federal program is the 2012 Greenhouse Gas and CAFE Final Rule promulgated jointly by the EPA and the National Highway Traffic Safety Administration (NHTSA), which set federal tailpipe CO₂ emission and CAFE standards for light duty vehicles. This rule, resulting from a partnership between the federal government, the California Air Resource Board (CARB), and the automobile industry, is a comprehensive program to improve the fuel efficiency and to reduce motor vehicle emissions of greenhouse gases and criteria pollutants.

Poor air quality not only affects the residents living and working in the Washington region, but also millions of tourists that visit the region each year. Over the last five ozone seasons, the region recorded an average of eleven unhealthy air days, which are in part caused by emissions transported into the region, making this not only a regional issue but a national one.

While significant progress has been made in the Washington region to reduce emissions, addressing sources of NO_x, including those from on-road vehicles, is critical to continuing to deliver cleaner air for the residents of the region. We are concerned that any relaxation of the 2012 Greenhouse Gas and CAFE Final Rule will make it increasingly difficult for the region to realize the reductions in NO_x emissions needed to comply with the 2015 Ozone NAAQS.

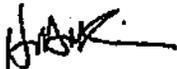
Additionally, relaxation of the 2012 Greenhouse Gas and CAFE Final Rule will make it extremely challenging for the National Capital Region, and communities across the United States, to meet their greenhouse gas reduction goals.

As such, MWAQC, TPB, and CEEPC believe the existing CAFE and tailpipe CO₂ emission standards for passenger cars and light duty vehicles model year 2017 and later are appropriate, feasible, and needed, and must be maintained to protect public health in the Washington region.

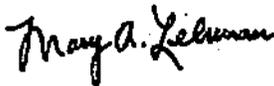
Further, we concur with the conclusions of the 2016 Technical Assessment Report (TAR) that there is a wide range of technologies that manufacturers can employ to meet the MY 2022-2025 standards with similar or lower costs than those projected in the 2012 Final Rule. We are encouraged to note that progress made to improve fuel economy and reduce emissions in recent years has been greater than expected, and that there are clear indications that consumers are accepting of and benefiting from the advancements in automobile technologies.

Thank you again for the opportunity to provide comments on the EPA's and NHTSA's consideration of carbon dioxide and greenhouse gas standards for light duty vehicles.

Sincerely,



The Honorable Hans Riemer
Chair, Metropolitan Washington Air Quality Committee (MWAQC)



The Honorable Mary Lehman
Chair, Climate Energy and Environment Policy Committee (CEEPC)

777 NORTH CAPITOL STREET NE, SUITE 300, WASHINGTON, DC 20002
MWCQG.ORG (202) 962-3200

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U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Mary Lehman
Chair, Climate Energy and Environment Policy Committee
Metropolitan Washington Council of Governments
777 North Capitol Street, NE, Suite 300
Washington, DC 20002

Dear Chairwoman Lehman:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter. A similar response has been sent to each cosigner of your letter.

Sincerely yours,

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 13, 2018

The Honorable Hans Riemer
Chair, Metropolitan Washington Air Quality Committee
Metropolitan Washington Council of Governments
777 North Capitol Street, NE, Suite 300
Washington, DC 20002

Dear Chairman Riemer:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

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Sincerely yours,

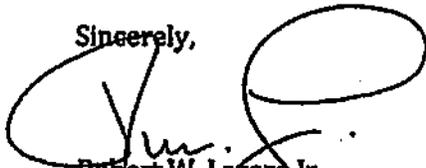
Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency

acknowledged that climate change is a threat to the economic, environmental and social health of this region and has prioritized the reduction of greenhouse gas emissions in its workplans.

As you know, the greater Metropolitan Washington DC region is designated as non-attainment for federal National Ambient Air Quality Standards (NAAQS) for ozone. NVRC wishes to express its concern in this regard and encourage the Administration to discourage the burning of fossil fuels that harms the vitality of our region's health.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lazaro Jr.', with a large, stylized flourish extending from the end of the signature.

Robert W. Lazaro Jr.
Executive Director

Attachments

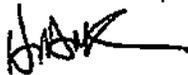
Acting Administrator Andrew Wheeler
October 10, 2018
Page 2

The EPA set National Ambient Air Quality Standards for a wide variety of air pollutants. State and local governments in metropolitan Washington have worked for over 20 years to attain these standards. Burning fossil fuels results in increased emissions of pollutants such as ozone precursors and fine particulates, particularly in the upwind areas that contribute to air pollution in our region. These pollutants have negative impacts on public health and welfare. There is also concern about the impacts of additional pollutants associated with fossil fuel-burning Electric Generating Units, such as arsenic, mercury and lead.

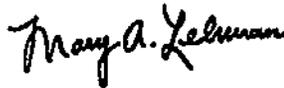
Federal government leadership in delivering effective regulatory limits on emissions from power plants, including measures to reduce demand and increase renewable energy production, is a critical component of the region's ability to meet mandated environmental objectives. The ACE rule must be revised to ensure pollution levels are further reduced both in metropolitan Washington and in upwind areas.

We urge the EPA to reconsider the ACE rule and to resolutely act against the harmful impacts of greenhouse gas emissions and other air pollutants.

Sincerely,



The Honorable Hans Riemer
Chair, Metropolitan Washington Air Quality Committee



The Honorable Mary Lehman
Chair, Climate Energy and Environment Policy Committee



the federal government's leadership in delivering effective regulatory limits on carbon dioxide emission from motor vehicles is a critical component of our ability to meet adopted environmental objectives and standards.

One such federal program is the 2012 Greenhouse Gas and CAFE Final Rule promulgated jointly by the EPA and the National Highway Traffic Safety Administration (NHTSA), which set federal tailpipe CO₂ emission and CAFE standards for light duty vehicles. This rule, resulting from a partnership between the federal government, the California Air Resource Board (CARB), and the automobile industry, is a comprehensive program to improve the fuel efficiency and to reduce motor vehicle emissions of greenhouse gases and criteria pollutants.

Poor air quality not only affects the residents living and working in the Washington region, but also millions of tourists that visit the region each year. Over the last five ozone seasons, the region recorded an average of eleven unhealthy air days, which are in part caused by emissions transported into the region, making this not only a regional issue but a national one.

While significant progress has been made in the Washington region to reduce emissions, addressing sources of NO_x, including those from on-road vehicles, is critical to continuing to deliver cleaner air for the residents of the region. We are concerned that any relaxation of the 2012 Greenhouse Gas and CAFE Final Rule will make it increasingly difficult for the region to realize the reductions in NO_x emissions needed to comply with the 2015 Ozone NAAQS.

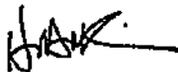
Additionally, relaxation of the 2012 Greenhouse Gas and CAFE Final Rule will make it extremely challenging for the National Capital Region, and communities across the United States, to meet their greenhouse gas reduction goals.

As such, MWAQC, TPB, and CEEPC believe the existing CAFE and tailpipe CO₂ emission standards for passenger cars and light duty vehicles model year 2017 and later are appropriate, feasible, and needed, and must be maintained to protect public health in the Washington region.

Further, we concur with the conclusions of the 2016 Technical Assessment Report (TAR) that there is a wide range of technologies that manufacturers can employ to meet the MY 2022-2025 standards with similar or lower costs than those projected in the 2012 Final Rule. We are encouraged to note that progress made to improve fuel economy and reduce emissions in recent years has been greater than expected, and that there are clear indications that consumers are accepting of and benefiting from the advancements in automobile technologies.

Thank you again for the opportunity to provide comments on the EPA's and NHTSA's consideration of carbon dioxide and greenhouse gas standards for light duty vehicles.

Sincerely,



The Honorable Hans Riemer
Chair, Metropolitan Washington Air Quality Committee (MWAQC)



The Honorable Mary Lehman
Chair, Climate Energy and Environment Policy Committee (CEEPC)

777 NORTH CAPITOL STREET NE, SUITE 300, WASHINGTON, DC 20002
MWCOG.ORG (202) 962-3200

S10-181023-036

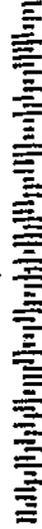
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**NORTHERN VIRGINIA
REGIONAL COMMISSION**
3040 Williams Drive, Suite 200
Fairfax, VA 22031

Secretary Elaine Chao
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

S10-181023-036





U.S. Department of Transportation
National Highway Traffic Safety
Administration



October 16, 2018

Mr. Mike Feuer
City Attorney
City of Los Angeles
200 N. Spring Street, 14th Floor
Los Angeles, CA 90012

Dear Mr. Feuer:

Thank you for your September 7, 2018, letter on behalf of the City of Los Angeles regarding the joint notice of proposed rulemaking (NPRM), the *Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks*, which published on August 24, 2018. The letter requested that the agencies extend the comment period for the NPRM from 60 days to 120 days and that the current deadline for the draft Environmental Impact Statement (DEIS) be aligned with that of the requested 120-day comment period for the joint proposed rule.

The National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency (EPA) have formally responded to multiple requests for extension of the comment period and for additional hearings in a *Federal Register* notice, which published on September 26, 2018 (83 FR 48578).

The notice denies the requests for extension of the comment period to 120 days and for additional public hearing locations; however, it does grant the request to align the comment period for the DEIS with that of the NPRM. The agencies recognize, however, that the original schedule for the NPRM public comment period should reflect the Clean Air Act requirement for an additional comment period. Specifically, it requires that the record of proceedings allowing oral presentation of data, views, and arguments on a proposed rule be kept open for 30 days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information. (See 42 U.S.C. 7607(d)(5)). As the final proceeding was at the September 26, 2018 hearing in Pittsburgh, Pennsylvania, the comment period for the proposed rule was extended by 3 days to Friday, October 26, 2018. NHTSA is also extending the public comment period for the DEIS by 32 days to Friday, October 26, 2018. The agencies believe that this amount of time should be adequate for stakeholders to submit comments on both the proposal and on NHTSA's DEIS.

1200 New Jersey Avenue SE., Washington, DC 20590

NHTSA000029

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
WWW.GOVERNOR.MO.GOV

Michael L. Parson

GOVERNOR
STATE OF MISSOURI

October 29, 2018

The Honorable Elaine L. Chao
Secretary of Transportation
United States Department of Transportation
Washington, D.C. 20201

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Madam Secretary and Acting Administrator Wheeler:

I write to you in support of the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule proposed by the National Highway Traffic Safety Administration and the Environmental Protection Agency, reforming the current Corporate Average Fuel Economy (CAFE) standards.

The CAFE standards enacted by the previous administration created unrealistic fuel economy requirements that pitted environmental preservation against free enterprise. The SAFE Vehicles Rule provides realistic fuel economy goals that conserve energy while also protecting the environment.

States have demonstrated that environmental preservation and free enterprise are compatible and necessarily linked. No longer will manufacturers be required to meet onerous emissions standards or be forced to jump through duplicative regulatory hoops to bring their cars to market.

Although states differ in many ways, all of our citizens benefit from free-market policies that increase prosperity. Again, I write to you expressing my support for the SAFE Vehicles Rule, and urge the National Highway Traffic Safety Administration and the Environmental Protection Agency to adopt this rule and reform the CAFE standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Parson".

Michael L. Parson
Governor

S10-181113-020

ES18-004102



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

November 16, 2018

The Honorable Michael L. Parson
Governor of Missouri
State Capitol
201 W. Capitol Avenue, Room 216
Jefferson City, MO 65101

Dear Governor Parson:

Thank you for your letter to the U.S. Department of Transportation and the U.S. Environmental Protection Agency (EPA) regarding the joint proposed rulemaking on the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.

The Department's National Highway Traffic Safety Administration and EPA published a notice of proposed rulemaking in the Federal Register on August 24, 2018. The comment period for the proposed rule closed on October 26, 2018. We are reviewing all public comments on the proposed standards. We will place a copy of your letter in the rulemaking docket, which is available at www.regulations.gov/docket?D=NHTSA-2018-0067.

Again, thank you for your comments and information presented in your letter.

Sincerely yours,

Heidi R. King
Deputy Administrator

cc: The Honorable Andrew R. Wheeler
U.S. Environmental Protection Agency