COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

June 17, 2019

To: Subcommittee on Consumer Protection and Commerce and Subcommittee on Environment and Climate Change Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on "Driving in Reverse: The Administration's Rollback of Fuel Economy and Clean Car Standards"

On **Thursday, June 20, 2019, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building**, the Subcommittee on Consumer Protection and Commerce and the Subcommittee on Environment and Climate Change will hold a joint hearing entitled, "Driving in Reverse: The Administration's Rollback of Fuel Economy and Clean Car Standards." The hearing will explore the Trump Administration's proposed rollback of fuel economy and greenhouse gas standards for light-duty cars and trucks.

I. BACKGROUND

The Energy Policy and Conservation Act of 1975 directed the National Highway Traffic Safety Administration (NHTSA) to establish Corporate Average Fuel Economy (CAFE) standards for cars and light trucks.[1] The program aimed to reduce U.S. dependence on imported oil by increasing vehicle fuel efficiency.[2] Congress later enacted the Energy Independence and Security Act (EISA) of 2007, which required NHTSA to strengthen standards for passenger vehicles and set new standards for medium- and heavy-duty trucks.[3] The CAFE program accounts for differences in the size and attributes of vehicles within each manufacturer's fleet. Instead of complying with a uniform target, each manufacturer must meet its own unique fleet-wide average CAFE standard.[4]

[1] Energy and Policy Conservation Act of 1975, Pub. L. No. 94-163.

[2] Congressional Research Service, *Vehicle Fuel Economy and Greenhouse Gas Standards: Frequently Asked Questions* (May 24, 2018) (R45204).

[3] Energy Independence and Security Act of 2007, Pub. L. No. 110-140.

[4] Environmental Protection Agency, *Fact Sheet: EPA and NHTSA Finalize Historic National Program to Reduce Greenhouse Gases and Improve Fuel Economy for Cars and Trucks* (Apr. 2010) (EPA-420-F-10-014).

The Environmental Protection Agency (EPA) sets greenhouse gas (GHG) emission standards for vehicles under Section 202 of the Clean Air Act (CAA).[5] In general, the CAA prevents states from setting their own motor vehicle standards. Under Section 209, however, the EPA Administrator may waive preemption and allow a state to adopt its own standards that are "at least as protective of public health and welfare as applicable Federal standards."[6] EPA has issued dozens of such waivers to California over the past 40 years,[7] including, most recently, in 2009 and 2013.[8]

In 2009, EPA and NHTSA announced their intent to harmonize CAFE standards and GHG emission standards under a unified National Program.[9] The joint program would ensure that manufacturers could build fleets that comply with EPA, NHTSA, and California requirements.[10]

II. VEHICLE STANDARDS: PAST AND PRESENT

A. National Program Standards for MY 2012-2016 and MY 2017-2025

In May 2010, EPA and NHTSA finalized standards for light duty vehicles for model years (MY) 2012-2016. The standards required vehicles to meet an estimated combined average emissions level of 250 grams of carbon dioxide (CO_2) per mile in MY 2016, which would equal 35.5 miles per gallon (mpg) if the GHG standard were met exclusively by fuel economy improvements.[11] EPA and NHTSA estimated that the standards would reduce GHG emissions from the U.S. light-duty fleet by approximately 21 percent by 2030, while consumers would save

[5] 42 U.S.C. § 7521 *et seq*.

[6] 42 U.S.C. § 7543.

[7] Government Accountability Office, *Clean Air Act: Historical Information on EPA's Process for Reviewing California Waiver Requests and Making Waiver Determinations* (Jan. 16, 2009) (GAO-09-249R).

[8] Environmental Protection Agency, *California State Motor Vehicle Pollution Control Standards; Notice of Decision Granting a Waiver of Clean Air Act Preemption for California's Advanced Clean Car Program and a Within the Scope Confirmation for California's Zero Emission Vehicle Amendments for 2017 and Earlier Model Years*, 78 Fed. Reg. 2111 (Jan. 9, 2013) (notice).

[9] Environmental Protection Agency and Department of Transportation, *Notice of Upcoming Joint Rulemaking to Establish Vehicle GHG Emissions and CAFE Standards*, 74 Fed. Reg. 24007 (May 22, 2009) (notice of intent).

[10] The White House, Presidential Memorandum Regarding Fuel Efficiency Standards (May 21, 2010) (obamawhitehouse.archives.gov/the-press-office/presidential-memorandum-regarding-fuel-efficiency-standards).

[11] Environmental Protection Agency and Department of Transportation, *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards*, 75 Fed. Reg. 25324 (May 7, 2010) (final rule).

more than $3,000 over the lifetime of MY 2016 vehicles.[12] Various stakeholders, including automakers, supported the National Program.[13]

In October 2012, EPA and NHTSA finalized standards for MY 2017-2025. The updated standards would require MY 2025 vehicles to meet an estimated combined average emissions level of 163 grams of CO_2 per mile, or 54.5 mpg.[14] The agencies calculated that, as a result of the final standards, MY 2025 vehicles would emit half as much CO_2 as MY 2010 vehicles "representing the most significant federal action ever taken to reduce GHG emissions and improve fuel economy."[15] Consumers would realize a net lifetime savings of $3,400 to $5,000 from MY 2025 vehicles.[16]

EPA and NHTSA's collaboration with California in developing the National Program standards also resulted in California agreeing that compliance with the harmonized standards constitute compliance with the state's regulations.[17]

As part of the 2012 rulemaking, EPA and NHTSA committed to conduct a three-step Midterm Evaluation (MTE) of the standards set for MY 2022-2025. First, in July 2016, the agencies issued and sought public comment on a Draft Technical Assessment Report of the standards. Second, in November 2016, EPA issued a proposed determination on the MY 2022-2025 standards and sought public comment. Lastly, EPA and NHTSA made a final determination in January 2017 to maintain the previously promulgated 2022-2025 standards.[18]

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[12] Environmental Protection Agency, *EPA and NHTSA Finalize Historic National Program to Reduce Greenhouse Gases and Improve Fuel Economy for Cars and Trucks* (Apr. 2010) (EPA-420-F-10-014).

[13] Environmental Protection Agency, 2011 Commitment Letters for 2017-2025 Light-Duty National Program (Jul. 2011) (www.epa.gov/regulations-emissions-vehicles-and-engines/2011-commitment-letters-2017-2025-light-duty-national).

[14] Environmental Protection Agency and Department of Transportation, *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 Fed. Reg. 62624 (Oct. 15, 2012) (final rule).

[15] Environmental Protection Agency, *EPA and NHTSA Set Standards to Reduce Greenhouse Gases and Improve Fuel Economy for Model Years 2017-2025 Cars and Light Trucks* (Aug. 2012) (EPA-420-F-12-051).

[16] *Id*.

[17] Letter from Mary D. Nichols, Chairman, California Air Resources Board, to Secretary of Transportation Ray LaHood and EPA Administrator Lisa Jackson (July 28, 2011).

[18] Environmental Protection Agency, *Midterm Evaluation of Light-Duty Vehicle Greenhouse Gas Emissions Standards for Model Years 2022-2025* (www.epa.gov/regulations-emissions-vehicles-and-engines/midterm-evaluation-light-duty-vehicle-greenhouse-gas) (Mar. 6, 2019).

B. Trump Administration Standards for MY 2022-2025 and Beyond

In March 2017, under the Trump Administration, EPA and NHTSA announced that they would reopen the MTE and that EPA would reconsider the January 2017 final determination. On April 2, 2018, then-EPA Administrator Scott Pruitt issued a revised final determination that found the MY 2022-2025 standards were "not appropriate in light of the record before EPA and, therefore, should be revised as appropriate."[19]

On August 24, 2018, EPA and NHTSA released a notice of proposed rulemaking (NPRM) known as the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for MY 2021-2026 Passenger Cars and Light Trucks.[20] The proposed rule would maintain the current standards through MY 2020 but allows them to plateau thereafter. In practice, the proposal would freeze vehicle standards starting in MY 2020 at 43.7 mpg (204 grams of CO_2 per mile) for passenger vehicles and 31.3 mpg (284 grams of CO_2 per mile) for light-duty trucks.

The proposed SAFE Vehicles Rule would also revoke California's 2013 CAA preemption waiver.[21] By doing so, it would consequently repeal several other states' adopted vehicle standards.

Under Section 177 of the CAA, states may adopt California's standards.[22] As of June 2019, 13 states have done so. Those 13 states, along with California and the District of Columbia, together represent more than one-third of new light-duty vehicle sales in the United States.[23]

The public comment period for the SAFE Vehicles Rule closed on October 26, 2018. EPA and NHTSA are now finalizing the rule.

III. EFFECTS OF THE PROPOSED ROLLBACK

According to EPA and NHTSA, the SAFE Vehicles Rule would eliminate 60,000 direct jobs in the U.S. automotive industry,[24] which ranks among the nation's top employers in the

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[19] Environmental Protection Agency, *Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles*, 83 Fed. Reg. 16077 (Apr. 13, 2018) (notice).

[20] Environmental Protection Agency and National Highway Traffic Safety Administration, *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks*, 83 Fed. Reg. 42986 (Aug. 24, 2018) (notice of proposed rulemaking).

[21] *Id*.

[22] 42 U.S.C. § 7507.

[23] California Air Resources Board, *States that have Adopted California's Vehicle Standards under Section 177 of the Federal Clean Air Act* (Mar. 18, 2019) (ww2.arb.ca.gov/sites/default/files/2019-03/177-states.pdf).

[24] *See* note 20.

manufacturing sector.[25] Indirect effects on automotive suppliers would drive that figure even higher. According to the BlueGreen Alliance, more than 288,000 Americans currently work for companies developing advanced vehicle technologies to improve fuel economy and reduce emissions.[26] IHS Markit projects that the proposed rule would eliminate a total of 500,000 direct, indirect, and induced automotive jobs by 2025.[27]

EPA and NHTSA estimate that the rule will increase cumulative CO_2 emissions by 873 million metric tons (MMT) over the lifetime of vehicles manufactured through MY 2029, while fuel consumption will increase by nearly 80 billion gallons.[28] The agencies also expect increased sulfur dioxide (SO_2) and particulate matter emissions, both of which have negative health and environmental effects, by MY 2025. Cumulative SO_2 emissions will increase by 71,000 metric tons by MY 2029, compared to the current vehicle standards.[29]

Independent analyses have affirmed that the SAFE Vehicles Rule will increase CO_2 emissions and gasoline consumption. According to the Rhodium Group, the rule will increase CO_2 emissions by as much as 931 MMT by 2035.[30] Energy Innovation, a technology and policy think tank, anticipates an even higher rise in emissions. According to that analysis, the rule would increase CO_2 emissions by as much as 1,293 MMT by 2035 – an 11 percent increase over the current standards – while costing the U.S. economy a total of $450 billion through 2050.[31]

According to the Rhodium Group study, U.S. oil consumption under the proposed rule will increase by as much as 283,000 barrels per day (bpd) in 2025 and 644,000 bpd in 2030. That analysis also showed the proposed vehicle standards could amount to one of the Trump Administration's most consequential climate rollbacks, noting that "the increase in annual CO_2 emissions resulting from the NPRM by 2035 would be larger than the total national annual emissions today of 82% of the countries on earth."[32]

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[25] Analysis of data from U.S. Bureau of Economic Analysis, National Data: National Income and Product Accounts: Section 6 (apps.bea.gov/iTable/iTable.cfm?reqid=19&step=2&isuri=1&1921=survey) (accessed Jun. 3, 2019).

[26] BlueGreen Alliance, Visualizing the Clean Economy: The Automotive Sector (www.bgafoundation.org/programs/visualizing-the-clean-economy-autos/about/) (accessed May 31, 2019).

[27] Motor & Equipment Manufacturers Association, *Fuel Economy Standards: Investments and Jobs in the U.S. Are on the Line* (Nov. 27, 2018).

[28] *See* note 20.

[29] *Id*.

[30] The Rhodium Group, The Biggest Climate Rollback Yet? (rhg.com/research/the-biggest-climate-rollback-yet) (Aug. 2, 2018).

[31] Energy Innovation, *Trump's Fuel Economy Standard Rollback Will Cost $450 Billion Through 2050, Increase Emissions 11% Through 2035* (Jul. 2018).

[32] *See* note 30.

Additionally, while EPA and NHTSA claim that the SAFE Vehicles Rule will reduce motor vehicle fatalities and injuries,[33] independent analyses dispute that finding. Public comments submitted by Consumer Reports (formerly known as Consumers Union) highlighted the agencies' own acknowledgement that their findings were not statistically significant.[34] Consumer Reports, along with Public Citizen, also found various flaws in the agencies' analysis of fatalities caused by light-weighting vehicles, as well as their estimation of "rebound fatalities" (i.e., additional fatalities that would have resulted because of an increase in the number of miles driven due to increased deployment of new, more fuel-efficient vehicles).[35] In particular, EPA and NHTSA "erroneously[] include rebound fatalities in their justifications supporting the rollback," despite the fact that such fatalities "are not relevant to decisions about the stringency of the standards."[36]

The underlying safety analysis conducted by the agencies also contradicts the concerns of EPA career staff about the model NHTSA used to develop the rule. According to these career experts at EPA, the SAFE Vehicles Rule would likely result in more fatalities per mile driven than the current standards.[37] Research published in the journal *Science* reaffirmed that the safety analysis was based on "unfounded concerns about unintended safety consequences of the current standards," adding that "[c]rash fatalities and injuries can increase (as opposed to decrease) with the rollback."[38]

[33] Environmental Protection Agency and National Highway Traffic Safety Administration, MYs 2021-2026 CAFE Proposal - by the Numbers (Aug. 2, 2018) (nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100V26H.pdf).

[34] *See, e.g.*, Consumers Union's Comments on NHTSA and EPA's Notice of Proposed Rulemaking "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks," Shannon Baker-Branstetter (Oct. 2018).

[35] Public Citizen, *Clean Cars Rollback: The Absurdity of the Trump Administration's Safety Claims* (Aug. 16, 2018) (www.citizen.org/wp-content/uploads/migration/ford2g-clean_cars_safety_response.pdf).

[36] *See* note 34.

[37] Email from William Charmley to Chandana L. Achanta, Chad S. Whiteman, and Jim Laity, Office of Management and Budget, Executive Office of the President (Jun. 18, 2018).

[38] Antonio Bento, et al., *Flawed analyses of U.S. auto fuel economy standards*, Science (Dec. 7, 2018).

IV. WITNESSES

The following witnesses have been invited to testify:

Panel 1

The Honorable William L. Wehrum
Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency

Heidi King
Deputy Administrator, National Highway Traffic Safety Administration
U.S. Department of Transportation

Panel 2

The Honorable Mary D. Nichols
Chair
California Air Resources Board

David Friedman
Vice President, Advocacy
Consumer Reports

Ramzi Y. Hermiz
President and Chief Executive Officer
Shiloh Industries, Inc.

Josh Nassar
Legislative Director
United Auto Workers

The Honorable Shoshana M. Lew
Executive Director
Colorado Department of Transportation

The Honorable Jeff Landry
Attorney General
State of Louisiana

David Schwietert
Interim Chief Executive Officer
Alliance of Automobile Manufacturers

Nick Loris
Deputy Director of the Thomas A. Roe Institute for Economic Policy Studies; Herbert and Joyce Morgan Fellow in Energy and Environmental Policy
Heritage Foundation