



California Public Employees' Retirement System

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The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

October 23, 2018

Subject: Notice of Proposed Rulemaking: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Docket ID No. EPA-HQ-OAR-2018-0283)

Dear Acting Administrator Wheeler,

On behalf of the California Public Employees' Retirement System (CalPERS), I submit the following comments in response to the above-referenced Notice of Proposed Rulemaking regarding the U.S. Environmental Protection Agency's proposed rule captioned, "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks" (the "proposed rule")¹.

CalPERS is the largest public defined-benefit pension fund in the United States with approximately \$350 billion in global assets as of October 2018. CalPERS manages investment assets on behalf of more than 1.9 million public employees, retirees, and beneficiaries. In addition, CalPERS is the second-largest purchaser of public employee health benefits in the nation, after the federal government. We purchase health benefits for about 1.4 million active and retired members and their families on behalf of the State of California, and approximately 1,200 public agencies and schools.

As a long-term investor, CalPERS is concerned about the environmental risks caused by companies in our portfolio, as well as how environmental risk factors may affect portfolio company performance. CalPERS believes that a company's long-term value creation requires effective management of environmental risks and opportunities. Our Governance and Sustainability Principles (the "Principles") guide us to focus on "material environmental risks and opportunities."

Summary of CalPERS position

In our public equity portfolio, CalPERS invests over \$4 billion across the Automobile and Auto Components sectors in the U.S. and internationally. By setting stable, transparent and long-term fuel efficiency targets, the 2017- 2025 Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards (the “current standards”)² are important to CalPERS as an investor. These current standards create conditions for our automotive investments to thrive over the long-term while also supporting economic growth and decreasing the financial risk of climate change to our investment portfolio. U.S. automakers have invested an estimated \$63.8 billion in U.S. auto component manufacturing facilities and promised another \$12.4 billion through 2020, largely towards meeting environmental legislation; these facilities employ more than 288,000 American workers. Such long-term and substantial investment decisions are made in view of the regulatory context, and a stable regulatory regime is therefore critical to the ability of these investments to achieve their expected returns.

By its own estimates, EPA projects that the current standards would create more than \$1 trillion in fuel savings, a substantial benefit that dwarfs the associated costs. In contrast, by some estimates³ the proposed rule will reduce demand for the new manufacturing facilities, cost the U.S. economy hundreds of billions in increased fuel costs, and increase the U.S. transportation sector’s greenhouse gas emissions (“GHG”) by 11 percent by 2035. The potential harms to CalPERS of the proposed rule compared to the current standards include (1) wasted capital and higher costs to portfolio companies in the automaker and auto component sectors as the U.S. market is fragmented from the global trajectory towards more fuel-efficient vehicles, (2) increased fuel costs and decreased profitability for other sectors CalPERS invests in that are reliant on light-duty vehicles, and (3) increased financial costs of climate change due to effects of higher GHG emissions from the proposed rule increasing global temperatures.

CalPERS opposes any changes that weaken environmental protection, create greater uncertainty, or threaten global competitiveness, which will likely occur if EPA moves forward with its proposal. Accordingly, CalPERS recommends that EPA and NHTSA withdraw the proposed rule.

Key Issues

In addition to our overarching observations, CalPERS offers the following specific observations with respect to the proposed rule.

First, the current standards must be preserved to provide the regulatory certainty manufacturers and innovators need to ensure the U.S. continues to be globally competitive and to provide economic benefits to Americans and investors in the American economy.

Regrettably, EPA and NHTSA dismiss the cost savings to Americans and the benefits to the U.S. automaker’s global competitiveness derived from the current standards. EPA and NHTSA instead argue that clean car technology is too expensive, and thus American car owners are not

buying safer, more fuel-efficient cars. They argue freezing fuel standards at 2020 levels will save car owners more than \$2,300 in overall vehicle costs making new vehicles more affordable. This logic ignores the economics of more fuel-efficient cars as well as actual market trends. Since 2012, when the current fuel economy standards were put in place, new fuel-efficient vehicle sales have steadily increased, even though the average cost of a new car has risen by more than \$2,100. During this same five-year period, consumers saved an average of \$2,600 in fuel costs,⁴ which more than pays for the cost of cleaner, more fuel-efficient vehicles. From a strictly financial standpoint, therefore, the proposed rule will in fact cost Americans more because of increased fuel needs that persist over the lifetime ownership of the car and that will hurt, not help, car owners financially.

From a global standpoint, the proposed rule is putting U.S. automakers at a competitive disadvantage in many other countries that are implementing increasingly more stringent standards. For example, China, the world's largest car market, will require 40 percent of sales by 2030 to be clean energy vehicles, while France, the United Kingdom, and other countries are considering policies that will incentivize or require high mileage vehicles.⁵ Clearly, to remain relevant and globally competitive, we need to stay ahead of the curve, not fall behind it. Weakening the current standards moves in the opposite direction of global and future demand.

Second, the current standards for model years 2021-2025 are appropriate and necessary to maintain a predictable path to reduce GHG emissions and other pollutants, which account for 28 percent of total U.S. GHG emissions and 39 percent of California's GHG emissions.⁶ Without the continuous improvements in fuel economy afforded by the current standards, GHG emissions from vehicles will increase and the financial risk from the impacts of climate change will also increase for CalPERS and the American economy.

In dismissing the harmful environmental impacts of the proposed rule, EPA and NHTSA are contradicting EPA's own technical experts. In comments to the White House Office of Management and Budget (OMB) EPA's experts indicated that emissions of some pollutants including, methane, carbon dioxide, particulate matter and volatile organic compounds will increase under the proposed rule.⁷ This is troubling, particularly at a time when the impacts of climate change are already being felt across the nation - the recent hurricanes have been more severe due to warmer ocean temperatures. Furthermore, in California and other parts of the Southwest, climate change has contributed to decreased rainfall and snowpack, as well as wildfires and floods.⁸ Increasing emissions, even if minimally as EPA and NHTSA expect under the proposed rule, is counterproductive, irresponsible, and could contribute to further economic damage and investment risk to pension funds like CalPERS.

Third, EPA's determination that the current standards for model years 2021-2025 are no longer appropriate ignores EPA's and the California Air Resources Board's (CARB) robust January 2017 midterm review. That review was based on 24 peer-reviewed studies that clearly, carefully, and unequivocally demonstrated that the current standards are working and continue to be appropriate.⁹

EPA and NHTSA now dismiss the previous review and instead rely on an April 2018 mid-year report¹⁰ as a basis to weaken the current standards. They now believe the current standards

are too stringent, cost too much, don't comport with reality, and may not be feasible or practicable. Their central argument for rolling back the standards is that continuing to increase fuel economy through model year 2025 will increase vehicle prices, keeping consumers in older, dirtier, and less safe vehicles longer.

The facts, however, do not support EPA and NHTSA's assertions. The current standards are both feasible and practicable according to the 2016 Technical Assessment Report (TAR) jointly issued by EPA, NHTSA, and CARB, which conclude:

"A wider range of technologies exist for manufacturers to use to meet the MY 2022-2025 standards, and at costs that are similar or lower, than those projected in the 2012 rule ... the agencies note that the automotive industry, on average, is over-complying with the first several years of the National Program... The industry has now seen six consecutive years of increases and a new all-time sales record in 2015, reflecting positive consumer response to vehicles complying with the standards."¹¹

Similarly, according to a July 2018 study by the Consumer Federation of America:

"Each year for the past five years, an average of 16.9 million new, safer and more fuel efficient vehicles... have been added to the fleet while an average of 13 million older, less safe and less fuel efficient vehicles have been retired. Along with becoming more fuel efficient, the fleet is becoming safer every year".¹²

These findings, along with the 2017 midterm review clearly demonstrate that the current standards for model years 2021-2025 are feasible, will achieve significant projected CO₂ reductions and will provide significant benefits to consumers and to the public, all at a reasonable cost. Moreover, the current standards are being met by the auto industry more quickly than required.¹³ Neither EPA nor NHTSA provide any information or analysis to suggest that these findings and conclusions are incorrect or that the current standards should be changed.

Fourth, EPA has a questionable basis for revoking California's waiver and doing so poses inconsistency with section 209(b) of the CAA.¹⁴

Congress gave California special authority to impose its own vehicle emissions standards upon approval of a federal preemption waiver by EPA. Congress originally included this waiver provision more than 60 years ago¹⁵ and retained it in subsequent rewrites of the CAA because of California's extraordinary conditions and severe air pollution problems. Moreover, Congress wanted to make sure that such waivers would be granted so they allowed EPA's ability to deny a waiver request only if (1) California's standards are arbitrary and capricious, (2) there are no compelling and extraordinary conditions, or (3) the standards and enforcement procedures are inconsistent with the CAA. None of which is currently the case. That is why California has requested and been granted waivers more than 50 times including in 2009, when EPA granted CARB's most recent federal preemption waiver request to enforce its GHG standards for model year 2009 and later.¹⁶

EPA and NHTSA, in the proposed rule, now assert that California does not meet the conditions for a federal preemption waiver and propose to revoke the waiver EPA granted in 2009. Their central argument is that the state's vehicle emissions standards are technically infeasible and there are no compelling or extraordinary conditions to justify a waiver. Both assertions appear untrue.

As noted above in EPA's January 2017 final determination and in the 2016 TAR, the current standards are technically feasible at a reasonable cost, in fact at a lower cost than anticipated, and can be met through a number of different technologies many of which are already in commercial production.¹⁷ Additionally, while EPA and NHTSA claim that GHG emissions are a global problem, and therefore outside the scope of the waiver, this completely ignores the devastating local and regional impacts of climate change and contradicts assumptions used in their Regulatory Impact Analysis used to justify the rule.¹⁸ It also dismisses the connected relationship between strong vehicle emission standards and climate change. The fact is, California's GHG vehicle emissions standards for which EPA granted a waiver in 2009 are key to the state pursuing lowest-cost strategies to protect its population from the impacts of climate change and must be preserved.

Fifth, EPA is justifying the proposed rule by relying on an artificially low social cost of carbon. Doing so undervalues the health and environmental benefits of the current standards and disregards the costs and damages from increasing GHG emissions that will likely occur under the proposed rule.

For purposes of the proposed rule, EPA and NHTSA assume that each ton of CO₂ emitted by a vehicle would only cause between \$1 to \$7 in economic damages, a far lower estimate than the inflation adjusted \$42 per ton in damages that EPA and NHTSA used to estimate benefits and costs of the current standards.¹⁹ This makes a huge difference in the cost-benefit calculations that EPA and NHTSA use to support the proposed rule and their claim that weakening the current standards will have virtually no environmental impact.

Using an unrealistically low social cost of carbon inappropriately undervalues the costs and damages of recent real-world climate-related events. Experts estimate hurricanes Harvey, Irma and Maria caused \$250 billion in damages, and were more severe due to warmer ocean temperatures caused by GHG emissions. While still unknown, are the damages caused by hurricanes Florence and Michael will substantially increase total damages caused by recent hurricanes. This should not be ignored. According to Commerce Secretary Wilbur Ross, Hurricane Florence alone could reach upwards of \$180 billion and become the costliest storm ever to hit the U.S. in terms of property loss. In other parts of the country, hotter and dryer conditions from climate change are causing larger, longer and more costly wildfires.

Last year, in California alone, wildfires *"burned more than 9.8 million acres, destroyed over 15,000 homes and businesses, and caused 44 deaths, racked up a cost of \$18 billion – three times the previous high mark of \$6 billion for wildfires set in 1991."*²⁰

Conclusion

In 1970 President Richard Nixon created EPA to “*make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food.*”²¹ Today that purpose is highlighted prominently on EPA’s website in its mission statement, to protect human health and the environment, to ensure that Americans have clean air, land, and water, and to reduce environmental risks based on the best available scientific information.

The current standards that EPA and NHTSA promulgated in 2012 with the support of states and automakers meet EPA’s mission. The current standards are working well and are environmentally sound while providing the regulatory certainty needed for innovation, smart investment, and global competitiveness.

Contrary to EPA’s mission, the proposed rule rolls back the progress the U.S. is making to reduce GHG emissions from vehicles, undermines states’ rights under the CAA by revoking California’s vehicle emissions standards, and creates regulatory uncertainty that will threaten investments and the global competitiveness of U.S. automakers. Accordingly, we urge EPA and NHTSA to withdraw the proposed rule and go back to the drawing board to reach an agreement with California and the auto industry to continue the current program beyond model year 2025.

If you would like to discuss any of these points or should you have any questions, please do not hesitate to contact Assistant Division Chief of Federal Policy, Gretchen Zeagler (916) 795-2911.

Sincerely,

Marcie Frost
Chief Executive Officer

¹ See Environmental Protection Agency and National Highway Traffic Safety Administration Notice of Proposed rulemaking, “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks; Docket No. EPA-HQ-OAR-2018-0283; August 24, 2018 <https://www.govinfo.gov/content/pkg/FR-2018-08-24/pdf/2018-16820.pdf>

² See 2017-2025 Model Year Light-Duty Vehicle Emissions and Corporate Average Fuel Economy Standards, 77 Federal register 62624, October 15, 2012 <https://www.gpo.gov/fdsys/pkg/FR-2012-10-15/pdf/2012-21972.pdf>

³ Energy Innovation. “Trump’s Fuel Economy Standard Rollback Will Cost \$450 Billion Through 2050, Increase Emissions 11% Through 2035,” July 26, 2018. https://energyinnovation.org/wp-content/uploads/2018/07/Trump-Fuel-Efficiency-Standard-Rollback-Research-Note_7.26.18.pdf

⁴ See Consumer Federation of America Fuel Economy Standards: There is No Tradeoff with Safety, Cost and Fleet Turnover, July 24, 2018 Update <https://consumerfed.org/wp-content/uploads/2018/05/fuel-efficiency-vs-safety-cost-and-fleet-turnover-1.pdf>

⁵ See Ceres Report “What’s Driving the U.S. Auto Industry’s Financial Performance?” August 7, 2017, *op. cit.*; and the International Council on Clean Transportation, 2017 global Update: Light-Duty Vehicle Greenhouse Gas and Fuel Economy Standards https://www.theicct.org/sites/default/files/publications/2017-Global-LDV-Standards-Update_ICCT-Report_23062017_vF.pdf)

⁶ See https://www.epa.gov/sites/production/files/2018-01/documents/2018_complete_report.pdf); and California Air Resources Board letter to EPA, Christopher Lieske and NHTSA Rebecca Schade dated October 5, 2017 <https://ww2.arb.ca.gov/sites/default/files/2017-10/state-of-ca-comments-reconsider-ldghg-mte-.PDF>

⁷ See EPA technical staff email to dated June 18, 2018 to OMB entitled EPA Initial Review of CAFE Model & Inputs, February 9, 2018, page 16 of, *op.cit.*

⁸ California Air Resources Board comment letter to Christopher Lieske and Rebecca Schade, October 5, 2017, *op.cit.*

⁹ See Final Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation, January 2017 <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100QQ91.pdf>; and California’s Advanced clean Cars Midterm Review, January 18, 2017 https://www.arb.ca.gov/msprog/acc/mtr/acc_mtr_finalreport_full.pdf

¹⁰ See 83 *Federal Register* 16077 Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022–2025 Light-Duty Vehicles <https://www.gpo.gov/fdsys/pkg/FR-2018-04-13/pdf/2018-07364.pdf>

¹¹ See Midterm Evaluation of Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards for Model Years 2022-2025 <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100OXEO.PDF?Dockey=P100OXEO.PDF>

¹² Consumer Federation of America Fuel Economy Standards: there is No Tradeoff with Safety, Cost and Fleet Turnover, July 24, 2018 Update, page 2, *op.cit.*

¹³ Final Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation, January 2017, *op.cit.*; and California’s Advanced clean Cars Midterm Review, January 18, 2017, *op.cit.*

¹⁴ 42 U.S. Code § 7543 (b), *op.cit.*

¹⁵ See The Air Quality Act of 1967, Public Law 90-148 90th Congress, S. 780 November 21, 1967, Title II National Emissions Act, Section 208 <https://www.tandfonline.com/doi/pdf/10.1080/00022470.1968.10469096>

¹⁶See GAO report entitled Clean Air Act: Historical information on EPA’s Process for reviewing California Waiver requests and making Waiver Determinations; GAO-09-249R <https://www.gpo.gov/fdsys/pkg/FR-2009-07-08/pdf/E9-15943.pdf>

¹⁷ See Midterm Evaluation of Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards for Model Years 2022-2025, *op.cit.*

¹⁸ Ironically, the Regulatory Impact Analysis for this proposal takes a much narrower view that the geographic impacts of GHG emissions should be confined to those occurring within the U.S. and not globally; see page 1062 in <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld-cafe-co2-nhtsa-2127-al76-epa-pria-180823.pdf> ; and page 43248 in the Environmental Protection Agency and National Highway Traffic Safety Administration Notice of Proposed rulemaking, “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks *op.cit.*

¹⁹ See Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, August 2016, see page 4 in https://www.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf, ; and March 28, 2017 Presidential Executive Order on Promoting Energy Independence and Economic Growth <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-promoting-energy-independence-economic-growth/>; and page 1011 in the Preliminary Regulatory Impact Analysis The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Year 2021 – 2026 Passenger Cars and Light Trucks, op.cit.

²⁰ See <https://www.newsweek.com/hurricane-florence-damage-could-cost-over-170-billion-1120532>; <https://www.c2es.org/content/wildfires-and-climate-change/>; and <http://fortune.com/2018/01/09/2017-fires-hurricanes-natural-disasters-cost/>

²¹ <http://time.com/4696104/environmental-protection-agency-1970-history/>