



## PROPOSED SAFE VEHICLES RULE UPDATE

JULY 2019

### ***Trump Administration Slows, But Doesn't Stop.***

Initial sources indicated the Trump administration was rushing to finalize the proposed rule in early summer 2019. Finalization in early summer would have allowed the administration to defend the rule during President Trump's current term. Recent updates from three anonymous federal sources, indicate the proposed SAFE Vehicles Rule is anticipated to be finalized after Labor Day 2019.

California's AG's office and a host of environmental groups have already indicated their intent to sue if the rule is finalized. It is anticipated this legal battle will reach the U.S. Supreme Court. Delaying the final rule until September, increases the likelihood that the case won't be litigated until after the November 2020 elections. Under this scenario, the next president is anticipated to be largely influential in determining the SAFE Vehicles Rule's outcome. If President Trump is re-elected; it is assumed the administration will continue the legal battle through the Supreme Court. If a democrat is elected, perhaps, like the early years of the Obama Administration, the administration will withdraw the rule, or refuse to litigate the issue further.

In response, we turn our eyes to the nation, and the 2020 presidential election.

### ***Four Automakers Strike Emissions Deal with California.***

In June 2019, seventeen automakers sent a [letter](#) to President Trump expressing the auto industry's opposition to the proposed SAFE Vehicles Rule. The carmakers called on U.S. EPA and U.S. DOT to jointly promulgate a final rule that results in broad support, arguing it would provide stability and increased affordability by allowing the industry to proceed without fear of litigation. The letter urged President Trump to resume negotiations with the California Air Resources Board. A similar [letter](#) was sent to Governor Newsom as well. The Trump administration rejected the automakers pleas and to date, has not returned to the negotiating table.

July 25, 2019 - Ford, BMW, Volkswagen, and Honda struck a voluntary deal with California on a framework for annual reductions of greenhouse gas emissions for light-duty vehicles that they will incorporate throughout the entire country and that could be incorporated into a final federal rule. This framework was deemed acceptable by California as a reasonable compromise in the face of the Trump Administration's planned rollback.

While the framework would provide additional flexibilities to the carmakers to meet the current emission standards, it delivers the same GHG reductions in five years as the original Obama standards would have achieved in four years. This framework also commits the auto



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companies to accelerate their transition to electric vehicles. Finally, it recognizes and preserves California's authority to regulate greenhouse gas emissions.

The Trump administration is not a party to the agreement. "Today's announcement from CARB has no impact on EPA's regulation of greenhouse gas emissions under the Clean Air Act. This voluntary framework is a PR stunt that does nothing to further the one national standard that will provide certainty and relief for American consumers. As the Administration stated earlier this year, despite our best efforts to reach a common-sense solution with CARB, they continually refused to produce reasonable and responsible proposals," Michael Abboud, an EPA spokesman, said in email.

### ***Odds Slim for House Appropriations Language Preventing Rule Implementation.***

Appropriations bill, HR 3055 section 145 prohibits funding from being used to finalize or enforce the proposed rule. In early July, labor and industry representatives met with Senate Appropriations Committee staff to discuss the prospects of the House appropriations bill language defunding enforcement of a final SAFE Vehicles Rule, surviving in the Senate. Senate staff acknowledged the SAFE Vehicles Rule was an administration priority and very political. The prospects of the House language surviving, as is, are slim.

### **House Energy & Commerce Subcommittees Provide Bipartisan Letter Requesting Trump Administration and California to Return to Negotiating Table.**

On June 20, 2019, the House Energy and Commerce Subcommittees on Energy and Commerce and Environment and Climate Change held a joint hearing Driving in Reverse the Administrations Rollback of Fuel Economy and Clean Car Standards. On June 25, 2019, the chairs and ranking subcommittee members sent a bi-partisan letter to EPA Administrator Wheeler and DOT Secretary Chao. The letter called for all interested parties to return to the negotiating table while acknowledging there were differing views about the Constitution (mainly, state's rights and the role of the interstate commerce clause), the importance of climate change, and how best to make sure the economies of the auto sector are strong along with the traditional and vital questions of safety. At the time of this staff report, the Trump administration has not returned to the negotiating table with California and other interested parties.

### **SAFE Vehicles Rule Architect, EPA Air Chief Wehrum Resigns Abruptly.**

EPA Air Chief, Bill Wehrum, thought to be the architect of the SAFE Vehicles Rule, abruptly resigned at the end of June. In April, House Democrats launched an investigation into whether Wehrum violated ethics rules by launching the rollback of air pollution regulations that benefited his former lobbying clients in the electric utility sector. Democrats are seeking



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communications between the companies, Wehrum and other EPA regulators. "These allegations have raised substantial questions regarding whether Mr. Wehrum and Mr. Harlow are properly carrying out the [Clean Air Act] as directed by Congress or instead changing Agency policies and programs to benefit former clients, who are also clients of your law firm," the lawmakers wrote to Hunton Andrew Kurth managing partner Wendell Taylor – Mr. Wehrum's prior employer. To date, his resignation has had no noticeable impact on the proposed finalization of the rule.

### ***What Next?***

In June, CALCOG reported the proposed SAFE Vehicles Rule had been submitted to the federal Office of Management and Budget (OMB) in May 2019. This was incorrect. To date, the rule **has not** been submitted to OMB. As a refresher, OMB review is one of the last steps in the federal rule making process. OMB is the agency responsible for regulatory policy, including coordination and review of all significant Federal regulations by executive agencies. As part of that review process, OMB will grant meetings with interested parties. We encourage agencies to schedule individual meetings with OMB (note – meetings can be held via conference call) to discuss concerns. A template outlining how to request a meeting with OMB can be found [here](#) or on the CALCOG Policy Tracker website.

### **CALCOG website provides continuing updates.**

Please visit the CALCOG Policy Tracker ([www.calcog.org/policytracker](http://www.calcog.org/policytracker)) for up to date information regarding the Proposed SAFE Vehicles Rule.