



www.ntaatribalair.org
928.523.0526 office
928.523.1266 fax

National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004

October 26, 2018

Executive Committee

Region 1

Jan Paul
Penobscot Nation

Marvin Cling
Passamaquoddy Tribe

Region 2

Angela Benedict
Secretary
Saint Regis Mohawk Tribe

Steven Smith
Shinnecock Nation

Region 4

Scott Hansen
Treasurer
Catawba Indian Nation

Tiffany Lozada
Poarch Band of Creek Indians

Region 5

Brandy Toft
Vice-Chairperson
Leech Lake Band of Ojibwe

Joy Wiecks
Fond du Lac Band of Lake
Superior Chippewa

Region 6

Craig Kreman
Quapaw Tribe of Oklahoma

Jeremy Fincher
Sac and Fox Nation

Region 7

Billie Toledo
Prairie Band Potawatomi Nation

Tanner Zach
Santee Sioux Nation

Region 8

Randy Ashley
Confederated Salish &
Kootenai Tribes

Linda Weeks-Reddoor
Fort Peck Assiniboine-Sioux
Tribes

Region 9

Wilfred J. Nabahe
Chairman
Colorado River Indian Tribes

John C. Parada
Augustine Band of Cahuilla
Indians

Region 10

Maggie Sanders
Nisqually Indian Tribe

Allie McLaughlin
Quinault Indian Nation

Alaska

Mary Mullan
Alaska Native Tribal Health
Consortium

Ann Wyatt
Klawock Cooperative
Association

US Environmental Protection Agency
EPA Docket Center
Air and Radiation Docket
Mail Code 28221T,
1200 Pennsylvania Avenue, NW
Washington DC 20460
Attn: Docket ID # EPA-HQ-OAR-2018-0283; NHTSA-2017-0067; NHTSA-2017-0069

RE: EPA-HQ-OAR-2018-0283, The Safe Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks

To Whom It May Concern:

The National Tribal Air Association (NTAA) is pleased to submit these comments regarding the Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021 - 2026 Passenger Cars and Light Trucks (SAFE Vehicles Rule).

The NTAA is a member-based organization with 136 principal member Tribes. The organization's mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of Indian Tribes and Alaskan Native Villages (herein Tribes). As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important to understand interactions with the organization do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Tribes.

The U.S. Environmental Protection Agency (USEPA) and the National Highway Traffic Safety Administration (NHTSA) (collectively, "the agencies") jointly developed the national program for greenhouse gas (GHG) standards for passenger cars and trucks (also known as the Corporate Average Fuel Economy, or CAFE standards) in order to reduce carbon dioxide (CO₂) and other GHG emissions, save families trillions in fuel costs, and reduce America's dependence on oil through fuel economy improvements. USEPA and NHTSA issued a joint rulemaking titled "Final Rule for Model Year 2017 and Later Light-Duty Vehicle Greenhouse Gas Emission and Corporate Average Fuel Economy Standards," 77 Fed. Reg. 62623, on October 15, 2012. The final rule established the current standards requiring U.S. vehicle fleets to average 54.5 miles per gallon (mpg) by model year 2025. These standards would reduce greenhouse gas emissions by 2 billion metric tons of CO₂, and would save significantly on fuel consumption in model years (MY) 2017 through 2025.¹

¹ EPA-420-R-12-016 Final Rulemaking for 2017-2025 Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards



After the completion of the federal mid-term evaluation and California’s mid-term review, the analyses conducted by the USEPA and the California Air Resource Board (CARB) clearly supported the viability of existing federal and California standards. However, on August 24th, 2018, EPA published a proposed rulemaking in the Federal Register, reversing the agreement among the agencies, California, and major auto manufacturers that set the current standards. The proposed SAFE Vehicles Rule would freeze the standards in MY 2021 - 2025 at 37.0 mpg for the average fuel efficiency requirement and set a CO₂ target of 240 grams/mile by 2025 instead of continued decreases to 163 grams/mile.² The rule also “excludes air conditioning refrigerants and leakage, and nitrous oxide (N₂O) and methane (CH₄) GHGs from average performance calculations after model year 2020.”

NTAA opposes the agencies’ proposal to amend the GHG standards and fuel-efficiency standards under the SAFE Vehicles Rule. NTAA urges USEPA and NHTSA to uphold the current standards as finalized in 2012. NTAA’s position is based on the following concerns of our principal member Tribes:

Vehicle Technology and Safety

NTAA strongly disagrees with the agencies’ conclusions about vehicle technology and safety. First, the agencies’ proposed rule argues that because consumers purchase relatively few hybrid vehicles, consumers must not care about emissions standards. But USEPA’s 2018 annual report found that consumers’ preferences are based not on emissions standards but rather on fuel economy. No one likes paying for gas—a likelier reason that hybrid sales are low is that hybrid vehicles are outside many people’s experience. New technologies are not immediately adopted wholesale by a society, and the agencies should not base this major policy decision on the narrow fact that hybrid sales are a minority of the auto market. Second, the agencies contend that making vehicles lighter will reduce safety for their occupants, and thus vehicles should be kept heavier and less efficient. This conclusion is flatly contradicted by the findings of the National Academies of Science, whose National Research Council determined that “evidence suggests that the [2012] standards will lead the nation’s light-duty vehicle fleet to become lighter but not less safe.”³ USEPA should address these concerns and scientific findings by maintaining the status quo and continuing the path towards a more sustainable and lower-emitting fleet.

Air Quality and the Public Health

Cars and trucks are among the largest sources of GHG and air pollutant emissions in our nation, emitting approximately 1,556 million metric tons in 2016.⁴ Light-Duty Vehicles emit 60% of GHG emissions in the U.S. transportation sector, according to EPA data.⁵ The GHGs from transportation sources include CO₂, CH₄, and N₂O. Additionally, light-duty vehicles emit toxic air pollutants such as volatile organic compounds and certain common air pollutants referred to as “criteria

² [SAFE Vehicles Rule](#), 83 Fed. Reg. at 42989.

³ The National Academies of Science, Engineering, and Medicine, *Analysis Used by Federal Agencies to Set Fuel Economy and Greenhouse Gas Standards for U.S. Cars Was Generally of High Quality; Some Technologies and Issues Should Be Re-examined*, <http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=21744>.

⁴ EPA Office of Transportation and Air Quality, EPA-420-F-18-013, U.S. Transportation Sector Greenhouse Gas Emissions 1990-2016 (2018).

⁵ See EPA, Fast Facts on Transportation Greenhouse Gas Emissions, <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions>.



pollutants” under the Clean Air Act (CAA) which are regulated under the National Ambient Air Quality Standards. The criteria pollutants emitted by motor vehicles during fuel combustion include carbon monoxide (CO), nitrous dioxide (NO₂), particulate matter equal to or less than 2.5 microns (PM_{2.5}), and sulfur dioxide (SO₂).⁴ A small amount of hydrofluorocarbons (HFCs) are also emitted due to leaks and end-of-life disposal from air conditioners. These pollutants contribute to environmental degradation through climate changes, acid deposition, ozone formation, reduced visibility, damaging sensitive ecosystems, and harming wildlife through habitat degradation⁶.

The impact to human health from air pollution is outlined in NHTSA’s draft environmental impact statement: “Criteria pollutants have been shown to cause the following adverse health impacts at various concentrations and exposures: damage to lung tissue, reduced lung function, exacerbation of existing respiratory and cardiovascular diseases, difficulty breathing, irritation of the upper respiratory tract, bronchitis and pneumonia, reduced resistance to respiratory infections, alterations to the body’s defense systems against foreign materials, reduced delivery of oxygen to the body’s organs and tissues, impairment of the brain’s ability to function properly, cancer, and premature death.” This anticipated damage to the public health is corroborated by a 2013 study conducted at the Massachusetts Institute of Technology. Researchers there found that roughly 200,000 early deaths in the United States each year are attributable to combustion emissions.⁷

NHTSA predicts increases in criteria pollutant emissions from the SAFE Vehicles Rule, including increases under the Preferred Alternative from 1% for PM_{2.5} to 9% for SO₂.⁸ Thus, we expect greater adverse impacts to both human health and the environment from the agencies’ proposed relaxation of the 2012 standards. We call on the agencies to maintain the status quo and continue progress towards cleaning our air, sparing communities across the country from adverse impacts.

Cumulative Impacts of Emissions

According to NHTSA’s EIS draft, the proposed SAFE Vehicles rule will increase domestic petroleum consumption by 116 billion gasoline gallons equivalent total for total calendar years 2020-2050, increasing upstream greenhouse gas emissions.⁷ Less stringent standards will increase oil production to meet the new petroleum demand that would have decreased compared to retaining the existing standards. Upstream carbon dioxide emissions from oil production, transportation, refining, and distribution would increase cumulatively by 159 million metric tons for MY 2021 - 2026.⁷ The additional emissions in non-attainment areas would impact current emissions levels and would shift more of the burden of compliance to stationary sources like refineries and power plants’ ability to meet standards. It could also cause areas currently in attainment to slide into non-attainment. The proposed rule also fails to adequately address the new petroleum demand and additional increases in other GHG emissions, including CH₄ and N₂O, which are released by stationary sources and mobile sources during oil extraction, production, refining, transportation, and distribution.

⁶ See EPA, Criteria Air Pollutants, <https://www.epa.gov/criteria-air-pollutants>.

⁷ Caiasso, F. et al., *Air Pollution and Early Deaths in the United States, Part I: Quantifying the Impact of Major Sectors in 2005*, 79 ATMOSPHERIC ENVIRONMENT 198, <https://doi.org/10.1016/j.atmosenv.2013.05.081>.

⁸ https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld_cafe_my2021-26_deis_0.pdf



Tribes, Climate Change, and Consultation

The proposed rule will contribute to climate change by increasing GHG emissions from the United States transportation sector. The agencies estimate that their rule will increase total vehicle emissions by 10%.⁹ This will not adequately address climate change and fails to protect future generations. Climate change impacts are felt across the United States and are already dramatically altering our environment, causing more frequent and intense heat waves, more intense precipitation events, and more prolonged drought.

The adverse effects of climate change are keenly, and uniquely, felt by Tribes and Alaskan Native Villages.¹⁰ Like the rest of the nation, Tribes are seeing the effects of climate change through increased storm surge, erosion, flooding, prolonged droughts, wildfires, and insect pest outbreaks in their forests. However, Tribal peoples are more deeply affected than most American citizens, as their cultures are rooted in the natural environment and closely integrated into the ecosystem. Tribal citizens hunt and fish, use native flora and fauna for medicinal and spiritual purposes, and associate their identities and histories closely with the land and water under their care. In addition, many Tribal communities are heavily dependent on fish, wildlife, and native plants for sustenance. We, therefore, expect that climate change will cut more deeply at the Tribal lifeways and standard of living than other sectors of society.

As climate change disrupts ecosystems, even the very survival of some Tribes as unique and distinct cultures are at risk. The loss of traditional cultural practices, due to climate-driven die-off or range shift of culturally significant flora and fauna, may prove too much to withstand on top of other external pressures faced by Tribes. The extent and magnitude of these changes depend on the amount of GHG emissions released into the atmosphere today and in the future, and thus NTAA believes it is essential to maintain the current, protective standards.

Despite these more severe impacts to Tribes as populations vulnerable to climate change, the agencies completely failed to conduct any outreach or coordination to these populations, ignoring the requirements of Executive Order (EO) 13175, “Consultation and Coordination With Indian Tribal Governments.” The rule also undermines Tribal sovereignty by weakening their power to improve air quality and reduce GHG emissions on Tribal lands, and, as discussed above, will increase air pollution and its accompanying health problems for Tribes. Therefore, the agencies must engage in government-to-government consultation on this and future actions related to GHG emissions and air pollution, especially considering the unique and disproportionate vulnerabilities to climate change experienced by Tribes.

California Waiver and Tribes’ Treatment as States

California has for decades possessed authority under the 1970 CAA to establish its own pollution standards. California’s extraordinary and longstanding challenges in transportation and air pollution are the basis for the California waiver. The state continues to face these challenges with the addition of new threats from climate change. The proposal, if implemented, will revoke the

⁹ https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld_cafe_my2021-26_deis_0.pdf

¹⁰ NTAA has presented the facts of climate change’s impact to Tribes and Alaskan Native Villages before, NTAA [Impacts of Climate Change on Tribes in the United States](#) submitted December 11, 2009 to EPA’s Office of Air and Radiation by the National Tribal Air Association, and we refer the agencies again to that analysis.



waiver of California's ability to set its own vehicle emission standards, undermining the state's rights without precedence. NTAA supports California's ability to maintain this waiver. Furthermore, California's waiver is aligned with USEPA's 2nd goal on restoring power to states through cooperative federalism in Fiscal Year (FY) 2018 – FY 2022 Strategic Plan.¹¹ The proposed SAFE Vehicle rule goes against the basic principles of cooperative federalism and rollbacks states' authority to protect their constituents from harmful air pollution and consequences of weakened GHG standards. Section 209(b) enables Tribal and State agencies continuously and cooperatively work together as co-regulators to set vehicle emission standards. EPA must uphold the foundational role to support states and tribes' efforts to provide clean air.

Under the CAA, Tribes have the option to be more stringent in setting emissions standards than the federal guidelines under Section 209. USEPA should not attempt to withdraw California's waiver due to the continuous "compelling and extraordinary conditions" California faces. This proposed rule will modify this longstanding authority. NTAA has interest in ensuring California's ability to establish more stringent vehicle emission standards than the federal level to ensure Tribes under Treatment as a State status have the option to set more stringent standards if they so choose.

Conclusion

NTAA opposes the proposal by USEPA and NHTSA to amend the GHG standards and fuel-efficiency standards under the SAFE Vehicles Rule. We urge the agencies, on behalf of our member Tribes, to uphold the current standards, recognizing the value of those standards in protecting the environment and public health, and avoiding the disproportionate impacts to Tribes and Alaskan Native Villages anticipated by NTAA and described here. Additionally, we ask that the agencies pause this process to engage appropriately in outreach and coordination with Tribes pursuant to EO 13175.

If you have any questions or seek clarification from NTAA, please do not hesitate to contact NTAA's Project Director, Andy Bessler, at 928-523-0526 or andy.bessler@nau.edu.

On Behalf of the National Tribal Air Association's
Executive Committee,


Wilfred J. Nabahe
Chairman

National Tribal Air Association's Executive Committee

CC: Office of Information and Regulatory Affairs,
Office of Management and Budget (OMB)
Executive Office of the President
National Highway Traffic Safety Administration (NHTSA)

¹¹U.S. Environmental Protection Agency, EPA-190-R-18-003, Fiscal Year 2018-2022 U.S. EPA Strategic Plan (February 2018) <https://www.epa.gov/planandbudget/strategicplan>.