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MEMO TO REPORTERS

Clean Cars Rollback: The Absurdity of the Trump Administration’s Safety Claims

Trump Plan Purports to Save Lives by Making It Too Expensive to Drive

Since being implemented in 2012, the Obama-era fuel economy and greenhouse gas emissions standards, also known as clean car standards, have dramatically reduced tailpipe emissions that cause global warming and have saved consumers more than \$60 billion at the gas pump.¹

However, the U.S. Environmental Protection Agency (EPA) and National Highway Transportation Safety Administration (NHTSA) released a [proposed rule on Aug. 2](#) that would freeze clean car standards at 2020 levels through 2026.² The agencies titled the rule “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule,” and claimed it would save 12,700 lives over a decade through decreased accidents. But the evidence does not justify either the moniker or the claim.

Documents released this week reveal that even the Trump administration’s own EPA advised the White House Office of Management and Budget that its analysis was wildly off base.

“The Proposed standards are detrimental to safety, rather than beneficial as suggested by the As-Received version,” William Charmley, director of the Assessment and Standards Division of the EPA, wrote to White House Office of Management and Budget (OMB) officials on June 18. “In other words, results with our code revisions indicate that the proposed standards would result in an increase in the fatality rate of 7 deaths per trillion miles driven.”³

¹ *Thanks to strong standards, US drivers are saving billions at the pump*, UNION OF CONCERNED SCIENTISTS (viewed on Aug. 16, 2018), <https://bit.ly/2nGP8JF>.

² The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, Notice of Proposed Rulemaking, 49 CFR Parts 523, 531, 533, 536, and 537 (Environmental Protection Agency) and 40 CFR Parts 85 and 86 (National Highway Transportation Safety Administration), <http://bit.ly/2vq1o5K>. [Hereinafter, “Proposed rule” and cited in text]. The plan also would revoke a waiver that allows 13 states and the District of Columbia to set more stringent tailpipe pollution standards.

³ William Charmley e-mail to Chandana L. Achanta, Chad S. Whiteman and Jim Laity, all of the Executive Office of the President, Office of Management and Budget (June 18, 2018 12:51 PM), <http://bit.ly/2MfPSUS>. [Hereinafter: EPA memo]

Independent analysis shows that freezing the standards could cost consumers up to \$500 more per year in fuel costs⁴ and would pump an additional 2.2 billion metric tons of global warming pollution into the atmosphere by 2040.⁵

It's hard to conceive of why such a successful program would be rolled back. Indeed, it appears that the administration resorted to cooking the books when defending its decision.

The original standards were based on thousands of hours of research and analysis, as well as a significant amount of technical expertise and stakeholder input. And while the facts haven't changed, the administration has. Less than two months after taking office, President Donald Trump promised to let the automakers out of their commitment to build cleaner, more fuel efficient vehicles,⁶ even if doing so required the agencies to do a complete 180 on the previous technical analysis.

In explaining why it was undermining such a successful program, the administration claimed that a freeze would save consumers money. How? Officials inaccurately claimed that meeting the standards would increase the cost of vehicles by more than consumers would subsequently save from improved fuel economy. While independent modeling shows complying with the standards costs as much as 40 percent less than originally predicted,⁷ the administration's new rule takes the already overestimated compliance costs and inflates them by a factor of more than two.

The administration is required to justify its proposal because existing law calls on the federal government to set fuel economy requirements from 2021 to 2030 at the "maximum feasible standard."⁸ It is inconceivable that freezing standards could represent the maximum feasible standard achievable, especially given that the current year requirements for the European Union and Japan already exceed those planned in the United States for 2021.⁹

Safety Canards

The Trump administration's safety arguments are:

- 1. The rule will save lives because people will drive less, thus decreasing overall risk. (This accounts for 50 percent of the lives the administration promises to save.)**
- 2. The rule will save lives because it will encourage purchase of new vehicles, which officials believe would be safer. (This accounts for 49 percent of the lives the administration promises to save.)**

⁴ *Clean Cars Roll-back*, MJ BRADLEY & ASSOCIATES (viewed on Aug. 13, 2018), <http://bit.ly/2MgxATI>.

⁵ *New EPA Administrator, Same Bad Idea—Car Standard Rollbacks Would be Awful*, UNION OF CONCERNED SCIENTISTS (viewed on Aug. 13, 2018), <http://bit.ly/2MfKe59>.

⁶ Bill Vlastic, *Trump, Easing Emissions Rule, Vows to Expand Auto Jobs*, THE NEW YORK TIMES (Aug. 13, 2018), <https://nyti.ms/2K0ejmT>.

⁷ International Council on Clean Transportation, Press Release, *New ICCT study shows cost estimates for meeting MPG and pollution standards are overstated by as much as 40 percent* (March 22, 2017), <http://bit.ly/2nzzGAD>.

⁸ H.R.6 - Energy Independence and Security Act of 2007, H.R. 6, 110th Congress (Dec. 19, 2007), <http://bit.ly/2rzYMyF>.

⁹ Brad Plumer and Nadja Popovich, *How U.S. Fuel Economy Standards Compare With the Rest of the World's*, THE NEW YORK TIMES (April 3, 2018), <https://nyti.ms/2Meod5K>.

3. The rule will save lives because it will lead to the manufacture of heavier vehicles, which the rule says would be safer. (This accounts for 1 percent of the lives the administration promises to save.)

These claims are demonstrably false.

Claim 1: The rule will save lives because people will drive less. Why? Because vehicles will consume more gas per mile, so it will cost more to drive. (Proposed rule, page 26)

It is true that people may drive less because it would cost more to do so with worse fuel economy, and therefore some people would be at less risk of injury or a fatal accident. However, curtailing fatalities by disincentivizing driving is not a valid justification for blocking increases to fuel economy standards, let alone a legitimate primary justification.

We need a fuel economy rule (or any auto regulation) because people deem driving a beneficial activity, even after taking into account the risks and costs of doing so. Moreover, if the administration desires price effects to deter driving, forcing consumers to waste money on gasoline expenditures due to inefficient vehicles that pollute the atmosphere with carbon and other pollutants is a dumb way to achieve the objective. A smarter approach would be to favor efficient vehicles and then adopt a gasoline or carbon tax, the proceeds of which could be returned in part or total to the citizenry.

Notably, the administration does not claim that its rule will make the risk of actually driving any less. On the contrary, the version of the rule upon which the EPA commented in June concluded that there would be 4.5 *more* fatalities per trillion miles driven under its plan than if the existing rules are retained. The EPA's analysis was even grimmer, concluding that the administration's plan would increase the rate by 6.5 fatalities per trillion miles driven. Both of these analyses suggest that the only factor in the proposed rule resulting in fewer fatalities is that it would reduce driving.¹⁰

The authors of the NHTSA rule acknowledge the contradiction embedded in their use of this "rebound effect," and they reveal some ambivalence in using it to support their case. For instance, they exclude the benefits from deterred driving from certain cost-benefit calculations relating to the proposed rule because they acknowledge that benefits of driving exceed the risks and costs.¹¹

Setting aside the intellectual problems of claiming greater safety by deterring driving, the administration may have greatly exaggerated how many lives these deterred driving effects would actually save. That is because, the EPA said in comments, the administration inexplicably assumed that there would be 7.2 million more vehicles on the road in 2035 under the Obama-era rules than under its proposal. Crucially, in the Trump-administration analysis, the average number of miles driven per vehicle would be exactly the

¹⁰ EPA memo, above.

¹¹ Specifically, they wrote: "While NHTSA notes the value of rebound effect fatalities, as well as total fatalities from all causes, the agency does not add rebound effects to the other CAFE-related impacts because rebound-related fatalities and injuries result from risk that is freely chosen and *offset by societal valuations that at a minimum exceed the aggregate value of safety consequences plus added vehicle operating and maintenance costs.*" [emphasis added] (Proposed rule, page 356)

same under both models.¹² Common sense would dictate that if the same number of people share a greater number of vehicles, the miles driven per vehicle would be less.

“The effect of this error is to erroneously inflate the total [miles traveled], and thus increase the estimated fatalities due to the [Obama-era] standards by many hundreds of lives,” the EPA’s analysis concluded.¹³

If the administration is truly concerned about reducing auto fatalities, there are plenty of targeted steps it could take.

For example, in January 2017, NHTSA issued a proposed rule calling for new cars to incorporate “vehicle-to-vehicle” communications that could “help vehicle systems identify potential crash situations with other vehicles and warn their drivers.”¹⁴ The agency forecasts that the rule would cost no more than \$300 per vehicle to implement and, when fully implemented, would prevent a staggering 594,000 auto accidents per year, and prevent at least 955 fatalities annually.¹⁵ The administration has not moved forward on the rule.¹⁶

That proposal rule and many other targeted strategies could achieve the goal of improving safety without subjecting the planet to collateral damage.

Claim 2: The rule will save lives because it will encourage people to buy new vehicles, which are inherently safer. (Proposed rule, p. 473)

The theory behind this argument is that cars will be cheaper than they would be if the existing standards are retained. Therefore, consumers will more rapidly purchase new (safer) cars, thus taking older (less safe) vehicles off the road.

In comments on the draft rulemaking, the EPA found the administration’s claims on vehicle turnover to be vastly overblown. “The scrappage model produces vastly unrealistic growth in the overall fleet size, which in turn causes an unrealistic over-inflation of the fatalities estimated for the [Obama-era] standards.”¹⁷

The administration assumed that 8,000 fewer cars would be sold each year under the existing standards due to higher costs than the proposed standards, but that would somehow result in there being an extra 512,000 used cars added to the nation’s fleet each year, according to the EPA’s memo. “It’s hard to imagine any real-world scenario under which over 60 additional used vehicles are retained” for each vehicle not purchased, the EPA wrote.

¹² EPA memo, above.

¹³ EPA memo, above.

¹⁴ Federal Motor Vehicle Safety Standards; V2V Communications, Proposed Rule, National Highway Transportation Safety Administration (published in Federal Register on Jan. 12, 2017), <http://bit.ly/2Mulkea>.

¹⁵ *Id.*

¹⁶ Federal Motor Vehicle Safety Standard (FMVSS) 150 – Vehicle to Vehicle (V2V) Communication, status, RegInfo.gov (viewed on Aug. 8, 2018) <https://www.reginfo.gov/public/do/eAgendaViewRule?pubid=201710&RIN=2127-AL55>.

¹⁷ EPA memo, above.

The proposed rule makes the dubious assumption that vehicles would be far cheaper if clean car standards are frozen.

The administration almost certainly exaggerates how much it would cost automakers to comply with the standards that are currently on the books for 2021 to 2025. The proposed rule forecasts that it will cost automakers between \$1,850 and \$2,260 (Proposed rule, p. 804-805) to meet the standards. In contrast, the Obama administration predicted in 2016 that it would cost automakers just \$875 per vehicle to meet these same standards.¹⁸ Thus, the Trump administration assumes that compliance costs for the same years will be 2.1 to 2.6 times higher than the Obama administration estimated two years ago.

The EPA wrote in its memo: “the technology packages applied by the model tend to be much more costly than necessary.” The model used in the administration’s estimate, according to the EPA, “tends to produce fleets that over-comply and make sub-optimal use of available credits, resulting in an unrealistic over-estimation of costs.”¹⁹

The Trump administration’s estimated compliance costs are highly suspect in light of recent experience. The automakers exceeded the first phase of the clean car standards that took effect in 2012 at costs that were either *equal or below* the Obama administration’s expectations.²⁰ If anything, this success would point toward the automakers completing the final phase of improvements at a lower cost than predicted by the Obama administration.

(Pessimistic forecasts by the auto industry and its allies are nothing new when it comes to fuel economy standards, nor is industry’s penchant for overcoming obstacles. In 1979, as the fuel economy standards were first being implemented, Chase Manhattan Bank issued a voluminous study concluding that meeting the standard set for 1985 would cost 1.3 million jobs and depress economic output by a staggering \$220 billion through the 1980s.²¹ As it turned out, the automakers met their target for 1985 and sold more vehicles that year than ever before.²²)

The proposed rule correlates a \$1,000 increase in the price of a vehicle to a reduction of 170,000 vehicles sold (Proposed rule, p. 191). Thus, the administration’s significantly higher estimate of the costs to comply with the existing standard magnifies the effect its proposed rule would have on vehicle sales by a factor of more than two.

The administration’s estimate on the effects of fuel economy improvements on recent new vehicle prices and sales also is dubious. The opening language in the proposed rule notes that “the industry has achieved tremendous gains in fuel economy over the past decade,” then says:

¹⁸ *Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation*, ENVIRONMENTAL PROTECTION AGENCY (November 2016), <http://bit.ly/2s1PPkH>.

¹⁹ EPA memo, above.

²⁰ *Final Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation*, ENVIRONMENTAL PROTECTION AGENCY (January 2017), <http://bit.ly/2AZH9Rg>.

²¹ John M. Berry, *Auto Mileage Hearings Open in the House*, THE WASHINGTON POST (March 13, 1979).

²² *Total Vehicle Sales*, FEDERAL RESERVE BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/TOTALSA#0> and *Summary of Fuel Economy Performance*, NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION (May 12, 2012), <http://bit.ly/2MxKoAT>.

Along with these gains, there have also been tremendous increases in vehicle prices, as new vehicles become increasingly unaffordable – with the average new vehicle transaction price recently exceeding \$36,000 – up by more than \$3,000 since 2014 alone. (Proposed rule, p. 22)

This language (“along with these gains”) implies that increases in fuel economy are primarily responsible for increases in the price of vehicles. This is not true. As auto analysts Alan Baum and Dan Luria documented in December 2016, most of the recent increase in the price of new vehicles has been due to three factors that have nothing to do with fuel economy standards:

- People are buying more trucks and SUVs, which are more expensive;
- Automakers are turning features that were once optional into standard features; and
- Consumers are choosing expensive optional features at a higher rate.²³

“Fuel economy standards are not free, but they are hardly a primary driver of why new vehicle prices have outpaced median income,” Baum and Luria wrote.

Even with the “tremendous” increases in new vehicle costs that the proposed rule’s authors lament, the administration’s claim that new vehicles are becoming unaffordable is contradicted by recent sales results. U.S. auto sales set all-time records in 2016 and 2017 and were nearly at records levels in 2018.²⁴

The proposed rule exaggerates correlation between vehicles’ age and their susceptibility to fatal accidents.

The proposed rule makes reference to a research note published by NHTSA in April showing that “a driver of a vehicle 18 years or older being 71 percent more likely to be killed in a crash than a driver in a new vehicle.” (Proposed rule, p. 320) But even the proposed rule acknowledges that the age of the vehicles may not be the reason for this result. “Drivers of older vehicles, on average, tend to have lower belt use rates, are more likely to drive inebriated, and are more likely to drive over the speed limit,” the proposed rule notes. (Proposed rule, p. 334) Elsewhere, the proposed rule says, “Drivers of older cars are on average younger and may be less skilled drivers or less risk-averse than drivers of new vehicles.” (Proposed rule, p. 269)

The research note to which the proposed rule refers concluded that a failure to use a seat belt is far more predictive of a passenger’s outcome in an accident than the age of the vehicle. “Among vehicles age 3 all the way up to age 19, the percentage killed among unrestrained drivers varied little,” it said.²⁵

These factors suggest that behavioral factors that are associated with the drivers of older vehicles are largely responsible for the discrepancy in fatality rates. It is difficult to determine if the administration has properly controlled for these factors in its calculations. Its methodology should be examined closely.

²³ Alan Baum and Dan Luria, *Fuel Economy Rules a Bogeyman for Long-Term Trends in Auto Industry*, THE HILL (Dec. 21, 2016), <http://bit.ly/2rzfsIX>.

²⁴ *Total Vehicle Sales*, FEDERAL RESERVE BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/TOTALSA#0>.

²⁵ *Passenger Vehicle Occupant Injury Severity by Vehicle Age and Model Year in Fatal Crashes*, NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION (April 2018), <http://bit.ly/2M76uNN>.

Claim 3: The rule will save lives because heavier cars are safer. (Proposed rule, page 14)

This is the most predictable claim in the proposed rule – but note that the administration claims that this factor, which is the only one of the three claims that actually addresses vehicle safety performance, is responsible only for 1 percent of the claimed safety advantages of the clean car rollback. For as long as there have been fuel economy standards, critics have alleged that they encourage automakers to manufacture vehicles that are lighter and, critics say, less safe.

In fact, there is no consensus about this, and evidence indicates the opposite.

Contrary to common perceptions, the current fuel economy standards do not give manufacturers an incentive to make smaller vehicles. Since 2011, federal fuel economy standards have been set in relation to a vehicle's size, or footprint.²⁶ Mileage requirements for larger vehicles are less stringent than for smaller vehicles. This system enabled Ford Motor Co. to embark on its new plan to convert almost its entire lineup to large vehicles, namely trucks and SUVs.²⁷

Even at that, the premise that heavier vehicles are indeed safer is highly suspect. Innovations in materials combined with safety features and improved engineering have led to steady improvements in safety even as fuel economy has improved markedly. In 1975, when Congress first called for fuel economy standards,²⁸ there were 3.35 fatalities per 100 million miles driven in the United States. In 2016, the most recent year for which such data are available, there were 1.18 fatalities per 100 miles driven.²⁹

Meanwhile, the real-world fuel economy achieved by the U.S. fleet of passenger vehicles has increased from 13 mpg in 1975 to 25 mpg in 2017.³⁰ (Laboratory tests used by the government to gauge compliance with economy standards yield much higher results.) The weight of the average vehicle on the road in 1975 was 4,060 pounds. In 2017, the average weight was slightly less, at 4,044 pounds.³¹

Therefore, since 1975:

- Fuel economy has improved 92 percent;
- Vehicle weight has remained virtually constant; and
- Fatalities per mile driven have decreased 65 percent.

This fact pattern belies the claim that a tradeoff exists between fuel economy and safety.

For reasons that experts do not fully understand, auto fatalities have risen markedly in recent years – by about 9 percent from 2014 to 2016 on a miles-driven basis and by more than 4,700 over those years on an

²⁶ Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011, 49 CFR Parts 523, 531, 533, et al., Final Rule, National Highway Transportation Safety Administration, <http://bit.ly/2OSpA8M>.

²⁷ Peter Holley, *Say Goodbye to the Ford Sedan*, THE WASHINGTON POST (April 26, 2018), <https://wapo.st/2M1dqwy>.

²⁸ *A Brief History of U.S. Fuel Efficiency Standards*, UNION OF CONCERNED SCIENTISTS (viewed on Aug. 8, 2018), <http://bit.ly/2rmpVal>.

²⁹ Motor Vehicle Fatalities and Fatality Rates, 1899-2016, NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION, <http://bit.ly/2MvaQLz>.

³⁰ *Light-Duty Automotive Technology, Carbon Dioxide Emissions, and Fuel Economy Trends: 1975 Through 2017*, ENVIRONMENTAL PROTECTION AGENCY (January 2018), <http://bit.ly/2OTgwk0>.

³¹ *Id.*

absolute basis.³² This represents the most rapid two-year increase in the auto fatality rate since the early-1930s and the largest two-year increase in absolute numbers since the mid-1960s.³³

But this recent trend contradicts, rather than affirms, the argument that heavier vehicles are safer. The market share of truck sales (including SUVs) increased from 50 percent of passenger vehicles in 2012 to 61 percent in 2016.³⁴ The average vehicle on the road in 2012 weighed 3,979 pounds and has increased every year since, to 4,044 in 2017.³⁵ Therefore, fatalities are rising as vehicles are growing heavier, not lighter.

The overall premise that fuel economy standards alter the safety of vehicles, while enduring as a trope, is only marginally relevant to the administration's case for freezing the current standards, as the rule attributes increases in vehicle weight to only 1 percent of the lives it promises to save.

Conclusion

Next up: A 60-day public comment period will begin when the proposed rule has been published in the Federal Register. During that period, the public can send comments to the EPA and NHTSA dockets Docket No. EPA-HQ-OAR2018-0283 and/or NHTSA-2018-0067. The agencies will hold public hearings in Los Angeles, Detroit and Washington, D.C. Hearing dates have not been announced.

During this time, we urge reporters to carefully examine the rule and the rulemaking process and call us with any questions.

³² Motor Vehicle Fatalities and Fatality Rates, 1899-2016, NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION, <http://bit.ly/2MvaQLz>.

³³ *Id.*

³⁴ *Auto and Truck Seasonal Adjustment, Table 6: Light Vehicle and Total Vehicle Sales*, BUREAU OF ECONOMIC ANALYSIS (Aug. 3, 2018), https://www.bea.gov/national/xls/gap_hist.xlsx.

³⁵ *Light-Duty Automotive Technology, Carbon Dioxide Emissions, and Fuel Economy Trends: 1975 Through 2017*, ENVIRONMENTAL PROTECTION AGENCY (January 2018), <http://bit.ly/2OTgwk0>.