



Gavin Newsom, Governor
Jared Blumenfeld, CalEPA Secretary
Mary D. Nichols, Chair

DEPARTMENT OF
TRANSPORTATION

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DOCKET OPERATIONS

December 27, 2019

Christopher Lieske
U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC)
EPA West Room B102
1301 Constitution Avenue NW
Washington, DC 20460

James Tamm
National Highway Traffic Safety Administration
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

ATTN: U.S. EPA Docket ID No. EPA-HQ-OAR-2018-0283
NHTSA Docket ID No. NHTSA-2018-0067
NHTSA Docket ID No. NHTSA-2017-0069

RE: Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years
2021-2026 Passenger Cars and Light Trucks

Dear Mr. Lieske and Mr. Tamm:

The California Air Resources Board (CARB) submits this supplemental comment concerning Washington Post article and an additional study to the federal dockets on the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Proposal). Specifically, CARB is submitting "2°C: Beyond the Limit – Fires, Floods and Free Parking: California's Unending Fight Against Climate Change" by Scott Wilson,¹ which shows that coastal Southern California has been warming at twice the rate of the continental United

¹ Scott Wilson, *2°C: Beyond the Limit – Fires, Floods and Free Parking: California's Unending Fight Against Climate Change*, Wash. Post (Dec. 5, 2019), <https://www.washingtonpost.com/graphics/2019/national/climate-environment/climate-change-california/>.

States, and Osborne et al. (2019),² which contains new evidence on the extraordinary acidification of California's coastal waters. The study and article were recently published, well after the closing of the period for public comment on the Proposal. Because this study and article contain material "of central relevance to the rulemaking,"³ CARB is submitting this letter and accompanying article and study to all three Proposal dockets.⁴

CARB noted in its initial comments on the Proposal that the U.S. Environmental Protection Agency and the National Highway Traffic and Safety Administration (collectively, the Agencies) have failed to analyze properly the climate impacts of the Proposal, as well as the notable climate harms California is facing and will continue to face.⁵ Instead, the Agencies have claimed that the impacts of climate change will be so severe that the Proposal's increase in greenhouse gas emissions (and, by extension, the long-term effects of stalling emissions progress in the auto industry) are insignificant. The Agencies' position represents an abdication of their statutory duties and responsibilities and is contrary to law.⁶ The Agencies were required to analyze and consider the expected results.⁷

The attached article and study further demonstrate the need for thorough, careful analysis of the Proposal's climate impacts, as well as the compelling and extraordinary conditions California faces from climate change and increased greenhouse gas emissions. In the Washington Post article, Wilson analyzed monthly temperature data from the National Oceanic and Atmospheric Administration at the national, state, and county levels between 1895 and 2018 for the lower 48 states, from which he calculated annual mean temperature trends in each state and county using linear regression. Based on this assessment, Wilson found that "the coastal curve that bends

² Osborne, E.B., Thunell, R.C., Gruber, N. et al. Decadal variability in twentieth-century ocean acidification in the California Current Ecosystem. *Nat. Geosci.* (2019) doi:10.1038/s41561-019-0499-z.

³ 42 U.S.C. § 7607(d)(4)(B)(i); see also *id.* § 7607(d)(7)(A) (providing that such material forms part of the administrative record for judicial review); SAFE Vehicles Rule, 83 Fed. Reg. 42,986, 43,471 (Aug. 24, 2018) (citing 49 C.F.R. § 553.23 (committing that "[l]ate filed comments will be considered to the extent practicable")).

⁴ EPA-HQ-OAR-2018-0283; NHTSA-2018-0067; NHTSA-2017-0069.

⁵ E.g., CARB, Comment Letter on Proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Oct. 26, 2018) at 82, 85, 367-69, EPA-HQ-OAR-2018-0283-5054, NHTSA-2018-0067-11873 [hereinafter "CARB Comments"]; see also State of California, et al., Comment Letter on the Draft Environmental Impact Statement for the SAFE Vehicles Rule, NHTSA-2017-0069-0625.

⁶ E.g., *Massachusetts v. EPA* (2007) 549 U.S. 497, 523-26.

⁷ See, e.g., 5 U.S.C. § 553; 42 U.S.C. § 4332; 42 U.S.C. §§ 7521(a), 7607(d); 49 U.S.C. 32902; 40 C.F.R. § 1508.27; *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1216 (9th Cir. 2008) ("The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct."); see also CARB Comments, 72-85, 409-13.

south from Santa Barbara through the Los Angeles metroplex to the arroyos along the Mexican border is warming *at double the rate of the continental United States*" (emphasis added). And, Wilson concluded, "during the past five years, the pace has accelerated." Ventura County, which has warmed by 2.6 degrees Celsius since preindustrial times, "ranks as the fastest-warming county in the Lower 48 states."

Osborne et al. (2019) fills a previously notable knowledge gap by providing a century-long, year-by-year proxy record for ocean acidification in the California Current Ecosystem. The authors analyzed the carbonate in almost 2,000 foraminifera shells collected from core samples of the sea floor off Santa Barbara and used a radioisotope-based model to reconstruct a 100-year history of ocean acidification for this area. Generally, the more acidic ocean water becomes, the less carbonate organisms like foraminifera have in their shells, as carbonate more readily dissolves in lower pH. Based on this analysis, the authors found that these waters off California's coast have seen a 0.21 decline in their pH since 1895—which is over twice the estimated global pH decline of 0.1. Thus, Osborne et al. (2019) show that the waters off the California coast are acidifying at much faster rates.⁸ Moreover, the authors "attribute the long-term reduction in [carbonate, resulting from increased acidification] largely to air-sea exchange of anthropogenic CO₂."

As the Agencies acknowledge, the Proposal will result in a notable increase in CO₂ emissions, and yet, in the face of ample evidence of an already changing climate from unprecedented greenhouse gas emissions, the Agencies are pursuing the Proposal and did not analyze how the Proposal will affect the already changing climate. The attached Washington Post article and Osborne et al. (2019) further illustrate the climate impacts already underway, that California has been increasingly grappling with compelling and extraordinary climate harms, and that finalizing the Proposal would be arbitrary and capricious.

Sincerely,



Ellen M. Peter
Chief Counsel
California Air Resources Board

⁸ Osborne et al. (2019) supplements one of CARB's earlier supplemental comments, in part submitting Northcott et al. (2019) to the Proposal's records. See NHTSA-2018-0067-12411; NHTSA-2017-0069-0717. Northcott et al. (2019) found that the CO₂ concentrations over coastal waters ebb and flow throughout the day over Monterey Bay and may cause those coastal waters to absorb up to 20 percent more CO₂ than previously thought, hastening acidification of those waters.