

Memorandum



U.S. Department of Transportation
National Highway Traffic Safety
Administration



Subject: EO 12866 Meeting with CARB and EOP

Date: May 12, 2021

From: Hunter B. Oliver, Senior Trial Attorney
Office of the Chief Counsel

To: Docket No. NHTSA-2021-0030

On April 13, 2021, representatives from NHTSA and the Department of Transportation (DOT) attended an Executive Order 12866 meeting with representatives of the California Air Resources Board (CARB) and the Executive Office of the President (EOP). The meeting occurred telephonically to discuss issues relating to the Proposed Rulemaking CAFE Preemption, which was pending EO 12866 regulatory review at the time. NHTSA was represented by Hunter Oliver, Senior Trial Attorney, Office of Chief Counsel; DOT was represented by Tim Mullins, Senior Attorney, Office of General Counsel. CARB was represented by Craig Segall, Pippin Brehler, Annette Herbert, Jennifer Gress, and Richard Corey. The Office of Management and Budget was represented by Chandana Achanta and Mary Fitzpatrick, and the Council on Environmental Quality was represented by Thomas Sharp, Jayni Hein, and Jim Mauldomand.

In the meeting, CARB's representatives discussed CARB's preferred approach to NHTSA's reconsideration of The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 FR 51310 (Sept. 27, 2019) (SAFE I Rule). Specifically, CARB advocated that the Agency repeal the SAFE I Rule on narrow grounds, principally due to a lack of delegated authority to rulemake on EPCA preemption. CARB also emphasized California's long history of motor vehicle emissions regulation and described how the SAFE I action caused substantial damage to the State's regulatory programs in this area. As such, CARB hoped that the reconsideration of the SAFE I Rule would occur swiftly.