

Statement of Power Companies Challenging SAFE Vehicles Rule Part One

Today, a coalition of major power companies and municipal utilities filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit challenging a rule issued by the Environmental Protection Agency (EPA) and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA). The rule—known as the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program—significantly undercuts the states' authority to address climate change by barring states from imposing any standards on carbon dioxide emissions from new cars and trucks.

The coalition includes Calpine Corporation, Consolidated Edison, Inc., Los Angeles Department of Water and Power, National Grid, New York Power Authority and Seattle City Light. The coalition's members are leaders in clean energy generation and support the electrification of the transportation sector as a critical strategy to reduce greenhouse gas (GHG) emissions and combat climate change.

In the rule, EPA withdraws the waiver it previously granted California to implement tailpipe GHG standards and require automakers to sell zero-emission vehicles. Never before has a previously granted waiver been withdrawn. EPA also revokes the authority of more than a dozen other states that have adopted California's standards to implement those standards. In the same rule, NHTSA decides that any state standard which regulates emissions of carbon dioxide from cars and trucks is preempted by federal law.

NHTSA's decision contradicts the 2007 rulings of two federal district courts and ignores the Supreme Court's landmark 2007 decision in *Massachusetts v. EPA*. As required by that decision, EPA found a decade ago that GHG emissions from new cars and trucks endanger the health and welfare of existing and future generations. Based on that finding, EPA established its first-ever GHG standards for automobiles and harmonized them with NHTSA's fuel economy standards. The two agencies are expected to finalize a rule weakening those standards later this year.

While GHG emissions from the power sector have declined significantly over the past decade due largely to aggressive investment in clean generation and energy efficiency, transportation sector emissions continue to rise. Barring states from enforcing stricter standards for new cars and trucks will thwart the power companies' efforts to help electrify the transportation sector and could stand as an obstacle to states' achievement of their respective climate goals and federal air quality standards for ozone and fine particulate matter (smog and soot) pollution. For this reason, and to protect the investments they are making to support transportation electrification, the power companies have sued to defend the authority of their states to enforce strong standards for new cars and trucks and require automakers to sell zero-emission vehicles.

Lawsuits have also been filed by other parties challenging NHTSA's decision in the U.S. District Court for the District of Columbia. In addition to filing their petition for review in the Court of Appeals today, the power companies intend to file a motion to intervene in those District Court cases next week.