



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 2, 2017

THE ADMINISTRATOR

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Brown:

Like you, I want cleaner and more efficient vehicles, but I also want to ensure that we follow the letter of the law and the required regulatory process. I've made a commitment to follow the principles of cooperative federalism underlying environmental statutes and that means ensuring states have a seat at the federal rulemaking table. Many states were not given a voice during the last administration and this dynamic often led to bad public policy and negligible environmental results. I want to change that dynamic to ensure federal regulations are fair and produce meaningful environmental benefits that provide regulatory certainty to the American people. I hope you share this philosophy.

One example of a flawed process that ignored these principles was the Obama Administration's review of vehicle emission and fuel economy standards. I believe it would be a disservice to the American people and the rule of law to embrace the flawed review of the prior administration. As you are aware, in 2012 the U.S. Environmental Protection Agency and the Department of Transportation (DOT) jointly issued greenhouse gas and fuel economy standards for model year 2017-2025 light-duty vehicles that required EPA conduct a Mid-term Evaluation (MTE). Due to the unprecedented and far reaching length of the standards – spanning vehicles manufactured over the course of more than a decade – the MTE was designed to review the underlying assumptions that shaped the 2012 rulemaking and inform whether the standards for MY2022-2025 light-duty vehicles warrant revision. Per the 2012 rulemaking, the formal MTE process included: 1) a draft Technical Assessment Report (TAR), issued by EPA, DOT, and the California Air Resources Board with opportunity for public comment by no later than November 15, 2017; 2) a Proposed Determination or similar step, providing the opportunity for public comments; and 3) a Final Determination by April 1, 2018. Unfortunately, the EPA under the last administration circumvented this process.

In the first instance, the draft TAR was issued on July 27, 2016, more than fifteen months prior to its due date. The TAR was meant to reflect the most up-to-date data, yet the prior administration opted to short-circuit this critical data-gathering step. Due to the rushed nature of this process, concerns have been raised about whether the EPA adequately responded to public comments on the Draft TAR, as well as denying several requests to extend the 60-day comment period.

Then, without any public notice or meaningful consultation with DOT, the EPA released its proposed determination on November 30, 2016. In addition, the critical Office of Management and Budget (OMB) review period was bypassed for the proposed determination, and the EPA provided a mere 30-day public comment period on the proposed determination, to review hundreds of pages and thousands of modeling outputs underlying the proposal and denied numerous requests for an extension. On January 12, 2017 – nearly a year and a half before it was due – the EPA issued the final determination. Again, the determination did not undergo full DOT or OMB review and the EPA failed to adequately consider the hundreds of thousands of public comments. This effort not only diverged from the required process outlined in the 2012 rule, it also gave short shrift to the American public.

To get the agency back on track with the required regulatory process, on March 15, 2017, DOT Secretary Chao and I announced a collaborative reconsideration of the MTE consistent with the president's directive and the 2012 rulemaking. With your participation, this reconsideration will be based on the best available data and part of a robust, timely and inclusive process. We hope you will work with us to be part of this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Scott Pruitt", with a large, sweeping flourish above the name.

E. Scott Pruitt

cc: Mary D. Nichols
Chair, California Air Resources Board