

May 11, 2018

Dear Senators,

The undersigned organizations are writing to express our strong concerns around the nomination of Heidi King to become the Administrator of the National Highway Traffic Safety Administration (NHTSA). We are gravely concerned about Ms. King's ability to lead NHTSA, when her actions thus far have undermined the mission of NHTSA. While serving as the Deputy Administrator of NHTSA, Ms. King demonstrated an anti-environmental record, a disregard for state cooperation and failure to prioritize critical safety protections. For these reasons, we are concerned she will weaken NHTSA and threaten American consumers' pocketbooks, health, and safety.

### **Establishment and Enforcement of Corporate Average Fuel Economy (CAFE) standards**

NHTSA sets fuel economy standards for passenger vehicles and enforces the standards, including by fining auto companies that violate the rules. However, we write to convey our deep concerns with the agency's approach, under King's leadership, toward both setting fuel economy standards and enforcement. The recent leaked joint draft proposal for light-duty vehicle standards for fuel economy and greenhouse gas emissions shows that NHTSA, alongside the Environmental Protection Agency (EPA), intend to significantly weaken the existing standards through MY 2026. The preferred regulatory approach outlined in the document proposes maintaining "[e]xisting standards through MY 2020, then 0%/year increases for both passenger cars and light trucks, for MYs 2021-2026." This proposal relies on unjustified cost analysis and data, flawed safety assumptions and blatant disregard for energy conservation and climate change. This proposal would increase oil consumption by 206 billion gallons of gasoline between 2020-2050. As our nation's premier oil use reduction program, this rollback of the CAFE standards is unacceptable.

Additionally, this proposal violates NHTSA's statutory obligation to set the "maximum feasible" standard for each model year. The assertion that the American auto industry cannot not improve or innovate their fleets for the better part of a decade is not only unbelievable, but it is inconsistent with an industry which prides itself on leadership in innovation and technology. . Further, it will put the American industry behind in the global market, where many of our largest competitors, like China and India, are moving forward with more stringent standards.

In addition to attempting to weaken the CAFE standards, under Ms. King's leadership, NHTSA has also undermined the ability to enforce vehicle performance standards. In fact, the agency attempted to unlawfully delay implementation of inflation-adjusted civil penalties meant to ensure auto companies invest in fuel-saving technologies. This attempted delay was recently stayed by the U.S. 2nd Circuit Court of Appeals on April 23. The agency attempted to establish a perverse incentive by making it cheaper for auto companies to simply pay a fine rather than

meet fuel economy standards. The result is that consumers will have less fuel-efficient vehicle choices on the market, will pay more at the gas pump, and will suffer from increased pollution.

The importance of these standards to the public is tremendous. Consumers can expect to save between \$3,200-\$4,800 over the lifetime of a new vehicle meeting the standards, even at low gas prices. As prices currently approach a three year high and are expected to continue to rise, the savings will be up to \$8,200 per truck.<sup>1 2 3</sup> A recent Consumers Union survey found nearly 9 out of 10 consumers want automakers to continue to raise fuel efficiency.<sup>4</sup> Moreover, 2012-2025 standards are expected to cut our reliance on oil by 2.4 million barrels per day by 2030.<sup>5</sup> And annual carbon pollution in 2030 would be reduced by 570 million metric tons of CO<sub>2</sub>, which is equivalent to the pollution from 85 million of today's cars or 140 coal-fired power plants.

### Partnership with state and local governments

NHTSA "is responsible for keeping people safe on America's roadways. Through enforcing vehicle performance standards and partnerships with state and local governments..."<sup>6</sup> While the Department of Transportation claims to be working alongside states in furtherance of vehicle standards,<sup>7</sup> the leaked proposed light-duty vehicle standards for fuel economy and greenhouse gas emissions fly in the face of over half a century of cooperative federalism.

Under King's leadership, NHTSA appears to be illegally trying to preempt states' authority to enforce vehicle pollution standards. District courts in [Vermont](#) and [California](#) have already confirmed that California may regulate vehicle greenhouse gas emissions under the Clean Air Act, while NHTSA regulates fuel economy. The leaked notice of proposed rulemaking purports "states may not adopt or enforce tailpipe greenhouse gas emissions standards when such standards relate to fuel economy standards and are therefore preempted under EPCA [Energy Policy and Conservation Act], regardless of whether EPA granted any waivers under the Clean Air Act." This policy ignores the congressional record and threatens the authority of the very state and local government actors that Ms. King **supposedly** is working alongside.

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<sup>1</sup> <https://gasprices.aaa.com/>

<sup>2</sup> <http://consumersunion.org/2016/09/new-cafe-standards-help-consumers-save-big/>

<sup>3</sup> <https://www.cnbc.com/2018/04/24/gas-prices-are-near-a-three-year-high-heres-how-to-save-at-the-pump.html>

<sup>4</sup> <http://consumersunion.org/news/2017-fuel-economy-survey/>

<sup>5</sup> <https://www.nrdc.org/experts/luke-tonachel/clean-car-and-fuel-economy-standards-whats-next>

<sup>6</sup> <https://www.nhtsa.gov/about-nhtsa>

<sup>7</sup> U.S. Congress, Senate Committee on Environment and Public Works hearing, "*The Administration's Framework for Rebuilding Infrastructure in America*," March 1, 2018. Transcript online at [https://www.epw.senate.gov/public/\\_cache/files/4/f/4fa932cf-9a97-42bc-959e-1e1e5536e197/C03D6C188C459DAE0ADA8B8CA9695A06.spw-030118.pdf](https://www.epw.senate.gov/public/_cache/files/4/f/4fa932cf-9a97-42bc-959e-1e1e5536e197/C03D6C188C459DAE0ADA8B8CA9695A06.spw-030118.pdf)

## Addressing safety

We also have grave concerns about the long-delayed safety regulations which the agency has failed to promulgate. Under Ms. King's guidance, NHTSA has prioritized pursuing the administration's deregulatory agenda rather than completing statutorily mandated safety rulemakings.

The Moving Ahead for Progress in the 21st Century Act (MAP-21) was signed into law in July of 2012. MAP-21 required a rule to better protect children in car seats during side-impact crashes. MAP-21 required NHTSA to write a rule on improving child-restraint-anchorage systems by 2015. NHTSA issued a notice of proposed rulemaking in 2014, but there has been no further action. This rule is now more than 2 years overdue.

MAP-21 also required NHTSA to issue a final safety standard no later than October 2015, which would amend the Federal Motor Vehicle Safety Standard to provide a safety belt reminder system for rear seats. According to the National Safety Council, more than 1,000 back-seat passengers died in 2016, more than half of whom were not wearing seatbelts.<sup>8</sup> According to NHTSA's website, "one of the safest choices drivers and passengers can make is to buckle up".<sup>9</sup> Yet under Ms. King's guidance, the administration has failed to even propose, let alone issue a final rule.

Fixing America's Surface Transportation (FAST) Act was signed into law in December of 2015. The FAST Act required a rule to ensure consumer notification of recalls electronically, in addition to notification by email. The final rule was due in 2016, but NHTSA has only issued an NPRM. This rule is more important than ever considering the urgency around the Takata airbag recall.

Tens of millions of vehicles from 19 different automakers with Takata airbags are under recall, in what NHTSA has called "the largest and most complex safety recall in U.S. history."<sup>10 11</sup> The airbags, made by major parts supplier Takata, were mostly installed in cars from model year 2002 through 2015. Some of those airbags could deploy explosively, injuring or even killing car occupants.<sup>12</sup> To date, there have been 15 deaths due to this problem in the U.S.

**Please visit [www.safercar.gov](http://www.safercar.gov) to check the recall status of your vehicles.**

These concerns are by no means exhaustive, but rather highlight the need for further investigation into Ms. King's priorities as they relate to our oil savings, state cooperation and

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<sup>8</sup>[https://www.washingtonpost.com/news/tripping/wp/2018/03/20/the-u-s-needs-to-move-forward-on-rear-seat-safety-belts/?noredirect=on&utm\\_term=.35b7acd0870d](https://www.washingtonpost.com/news/tripping/wp/2018/03/20/the-u-s-needs-to-move-forward-on-rear-seat-safety-belts/?noredirect=on&utm_term=.35b7acd0870d)

<sup>9</sup> <https://www.nhtsa.gov/risky-driving/seat-belts>

<sup>10</sup> <https://www.nhtsa.gov/equipment/takata-recall-spotlight>

<sup>11</sup> <https://www.nhtsa.gov/press-releases/nhtsa-releases-more-data-takata-air-bag-repairs>

<sup>12</sup> <https://www.consumerreports.org/car-recalls-defects/takata-airbag-recall-everything-you-need-to-know/>

safety. We urge the Senate to carefully consider all the issues surrounding this nominee to protect the critical work all Americans expect and need from NHTSA.

Sincerely,