

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CALIFORNIA AIR RESOURCES BOARD
1001 I Street
Sacramento, CA 95814,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION,
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590,

Defendants.

Case No. 1:20-cv-1293 (TJK)

JOINT PROPOSED SCHEDULE

Pursuant to the Court's June 24, 2020, Minute Order ("Order"), the parties respectfully submit this joint proposed schedule for disclosure:

1. In this Freedom of Information Act (FOIA) lawsuit, plaintiff California Air Resources Board (CARB) alleges that the U.S. Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), collectively "defendants," failed properly to respond to a request for records related to The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 Fed. Reg. 51,310 (Sept. 27, 2019) ("SAFE I Rule"). *See generally* Compl.

2. As directed in the Order, the parties have met and conferred about a possible schedule for briefing or disclosure. Based on those discussions, the parties agreed on clarifications, limitations, and revisions to the scope of the requests and parameters for processing those requests, and the defendant agencies have committed to process the requests and disclose any responsive records by September 24, 2020.

3. The parties, after conferring, agree that CARB's December 10, 2019, FOIA requests to defendants are clarified, limited, and revised to seek the following records:

Request to EPA.

All emissions analyses and other technical or scientific records regarding whether revoking CARB's waiver of federal preemption under the Clean Air Act for its zero-emission vehicle (ZEV) regulations has any impacts on emissions of criteria pollutants or effects on California's attainment of national ambient air quality standards under the Clean Air Act that the U.S. Environmental Protection Agency (U.S. EPA) considered or relied on in The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 Fed. Reg. 51,310 (Sept. 27, 2019).

Request to NHTSA.

All emissions analyses and other technical or scientific records regarding whether preempting CARB's zero-emission vehicle regulations has any impact on emissions of criteria pollutants or any conformity impacts on California's responsibilities under the Clean Air Act and ability to attain national ambient air quality standards under the Clean Air Act that the National Highway Traffic Safety Administration (NHTSA) considered or relied on in The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 Fed. Reg. 51,310 (Sept. 27, 2019).

4. The parties agree that the defendants will not produce potentially responsive records that are already in the administrative record in litigation challenging the SAFE I Rule, *Union of Concerned Scientists v. NHTSA*, D.C. Cir. No. 19-1230 and the cases consolidated therewith. The parties further agree that the agencies will not identify which of the documents within the administrative record are potentially responsive to the FOIA requests.

5. The parties agree that the agencies will process CARB's FOIA requests, as set forth above, by having the relevant custodians search for records rather than by conducting an electronic term search through agency records.

6. The defendant agencies will complete their responses to CARB's FOIA requests, as set forth above, no later than September 24, 2020. The defendant agencies agree that CARB can enforce this schedule through the court if the agencies do not complete their responses by September 24, 2020.

7. Once the defendants have responded to CARB's FOIA requests, as set forth above, the parties wish to allow for a period for them to discuss amicably any questions or concerns that Plaintiff may have about the response before proceeding with further litigation, if needed.

8. Accordingly, the parties propose to submit a joint status report on September 30, 2020, if the matter has not yet been voluntarily dismissed at that time, advising what, if any, further steps they propose for this matter. If summary judgment briefing does prove necessary, the parties propose to submit a proposed briefing schedule at that time.

Respectfully submitted,

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