

OVERVIEW OF CFA'S COMMENTS ON NOTIFICATION OF REGULATORY REVIEW

The Department of Transportation's goal for (de)regulation stated in the Notice is incorrect. The goal in the underlying statutes and executive branch guidance is not to "minimize burdens;" it is to maximize energy conservation, or minimize pollution, by adopting rules that maximize net benefits to the nation. Overemphasizing costs and underemphasizing benefits distorts the analysis and undermines the ability of the responsible agencies to accomplish the goals of the statutes. This distortion is not simply illegal, it is bad policy – robbing consumers and the economy of valuable resources and imposing unnecessary harm on the environment and public health.

- Failing to adopt a standard whose benefits outweigh its costs because of the "two-out, one-in" rule (O.E. 13777, February 24, 2017) violates the underlying statutes.
- Wasting public and private resources by favoring expensive production over lower cost conservation and efficiency (O.E. 13783, March 28, 2017) is both illegal and irrational.

A freeze and roll back of current standards that have proven and strong positive cost benefit ratios constitutes a direct contradiction of the statute and executive guidance (OMB Circular A-94).

The administration's bias in favor of industry contradicts the underlying statutes and disturbs the "objective" balance the executive orders sought to achieve. Because the underlying statutes and executive guidance are still in place, the challenge for the agencies will be to build hearing records that support a new direction. Throughout this analysis we show that they are very unlikely to be able to make a convincing case. We directly address the tired old industry arguments, which we are likely to be offered anew. In a sense, these comments and much of the analysis in the Attachment can be read as rebuttal of those arguments.

CFA's comments directly address many of the key issues that are being raised in the broad attack on regulation across a number of agencies. Following are the key arguments against freezing or rolling back the fuel efficiency standard with citations to their location in the CFA Comments.

- The cost of compliance is invariably much less than anticipated as outlined in Section X on vehicles, Section XV on appliances, and Section XVI on computers.
- Cost is closely linked to the feasibility of standards, a topic explicitly addressed in several Sections, including all of Part VIII, covering current fuel economy standards, Section VIII addressing past fuel economy standards, Section XIII on heavy-duty trucks and Section XVI covering computers.
- Consumer desires and abilities, frequently cited as evidence against standards are shown to be the opposite of the government's current position on both counts: Consumer want more efficiency than the manufacturers admit (Sections VII and VIII) and have less ability to implement their desires than the manufacturers claim (Section IX).
- The claim that weakening standards helps low income households is shown to be incorrect on all three measures of the impact of standards in Section XIX, which

exposes the true consumer pocketbook, public health, and macroeconomic stimulation benefits.

- Claims that standards slow the economy, reduce sales and cost jobs are shown to be false (Section XI and XIX).

From the consumer point of view, CFA's comments show the following:

- The freeze and rollback of the key regulations identified in the notice would impose massive harm on consumers, the economy and public health – totally well over \$1 trillion, with cost savings of less than \$100 billion. These losses violate the statute, which obliges the industry to deliver maximum feasible energy savings and, because they have a negative benefit cost ratio, they are contrary to OMB guidance.
- The consumer stakes are not only huge, but low and middle-income households benefit disproportionately from efficiency standards, which means that weakening the standards is a hidden tax on households in the bottom half of the income distribution.

From a legal/technical point of view, the comments demonstrate the following two critical points that contradict the broad effort to gut standards:

- Independent technology assessments and the long history of declining costs for efficiency contradict the complaints from industry that the standards hurt them, which rebuts the primary rationale for freeze and rollback.
- There is an inseparable between pollution reduction, consumer pocketbook savings and macro-economic growth, which means that complaints about agencies exceeding their authority by counting “co-benefits” are illogical and contradicted by the statutes.