Today, the Emmett Institute submitted comment letters to EPA and NHTSA urging the withdrawal of the Trump Administration’s so-called “Safer Affordable Fuel-Efficient” Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks. The proposed rule would freeze federal fuel economy standards for MY 2021-2026 vehicles at 2020 levels, and revoke California’s waiver, granted five years ago, to adopt its own motor vehicle emission standards through the Advanced Clean Cars (“ACC”) Program. The entire rule is concerning, but the proposal to revoke California’s waiver is unprecedented, and extremely significant: twelve other states tack to California’s standards, making up about 40 percent of the U.S. auto market, and, in addition to reducing GHG emissions from cars, the standards are a necessary part of the states’ strategies to comply with federal ambient air quality standards for conventional pollutants like ozone and $PM_{2.5}$.

I’ve written before about the many logical inconsistencies underpinning the rule; there’s much to take issue with in the proposed rule and supporting analysis. While we object to many aspects of the rule, our comments focus on our conclusion that EPA’s proposed revocation of California’s ACC waiver is inconsistent with its statutory authority and with Congress’s intent in enacting the Clean Air Act. Revocation of the ACC waiver would be both unlawful and inappropriate, for a number of reasons: first, the Clean Air Act does not provide authority to revoke a waiver; second, even if there were authority to revoke a waiver, waiver revocation is time-barred here, as the waiver was granted over five years ago—meaning that both states and industry have acted in reliance on the waiver grant—and finally, California’s waiver continues to satisfy the requirements of Clean Air Act section 209, which governs waiver grants.

Revocation of California’s waiver would ignore the “compelling and extraordinary” conditions that supported the correct 2013 decision to grant the waiver, conditions which, if they have changed at all, have only worsened. Multiple regions in California fail to meet federal ozone and $PM_{2.5}$ standards; nearly a third of California counties are out of attainment for ozone, and both the San Joaquin Valley and the South Coast Air Basins suffer from “extreme” ozone pollution (South Coast, where UCLA is located, experiences “serious” $PM_{2.5}$ pollution, while San Joaquin’s “extreme” $PM_{2.5}$ pollution is the worst in the country). Studies have shown that climate change will only worsen impacts from these conventional pollutants, along with all of the other harms that California will disproportionately experience due to its geography, climate, and topography, including sea level rise and increased wildfire risk. The ACC program—and particularly the ACC’s zero-emissions vehicle

(“ZEV”) mandate—is critical to meeting California’s climate goals and mitigating these harms.

As the IPCC’s recent report stressed, we cannot afford to abdicate responsibility on climate change now, and mobile source emissions are a critical piece of any successful emission reduction strategy. But if the federal government refuses to step up to the plate, it should—and must—at least respect California’s right to take appropriate action.