

# BENEFIT-COST RECISSION & SAFE 1 WITHDRAWAL RULES

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# Interim Final Rule - Rescission of 2020 Benefit-Cost Rule

- May 31, 2021 – EPA issued an interim final rule effective June 14, 2021 to rescind the rule entitled “Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process,” also known as the Benefit-Cost Rule.
- On January 20, 2021, President Biden signed an Executive Order directing EPA to review all regulations and policies undertaken by the previous administration and rescind or revise any that do not protect public health and the environment.
- Accordingly, the EPA conducted a comprehensive review of the Benefit-Cost Rule and concluded that the rule should be rescinded in its entirety for several reasons.
- EPA will consider comments on this rule received on or before June 14, 2021.

# Reasons for Rescission

- The Benefit-Cost Rule imposed broad restrictions and requirements on when and how the Agency must conduct benefit-cost analyses (BCA) for CAA rulemakings without explaining why those requirements were needed.
- The rule was not necessary to carry out the CAA because EPA already prepares a BCA for CAA rules that warrant such analysis.
- The rule limited the EPA's ability to rely on the best available science.
- The rule's requirements invited net benefit calculations in regulatory preambles that are misleading and inconsistent with economic best practices.
- The rule did not reconcile its provision that EPA consider the required BCAs with the substantive mandates of the Clean Air Act.
- The pre-existing and ongoing administrative process provides for ample consistency and transparency.

# Notice of Reconsideration – Withdrawal of SAFE 1 Rule

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April 28, 2021 – EPA published a Notice of Reconsideration on whether the decision to withdraw portions of California’s 2013 Advanced Clean Cars program waiver was a valid and appropriate exercise of the Agency’s authority.

This Notice of Reconsideration seeks comment on several issues in SAFE-1 including:

- Whether it was proper for EPA to reconsider a previously issued CAA waiver;
- Whether EPA’s action to withdraw California’s waiver in consideration of EPCA preemption was appropriate;

# Notice of Reconsideration – Withdrawal of SAFE 1 Rule

- Whether the interpretation of CAA section 209(b)(1)(B) presented in SAFE-1 as another reason for withdrawing California's waiver was appropriate; and
- Whether EPA's interpretation in SAFE-1 of section 177 of the CAA that allows States to adopt California motor vehicle emission standards, but not California's GHG standards, was appropriate.
- If EPA determines that SAFE-1 was inappropriate and rescinds that action in a final determination, then the ZEV mandate and GHG emission standards within the ACC program would become effective.
- The written comment period closes July 6, 2021.
  - All comments should be identified by Docket ID No. EPA-HQ-OAR-2021-0257 and submitted at [www.regulations.gov](http://www.regulations.gov). For additional submission methods, please visit [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets). A virtual, public hearing will be held on June 2, 2021.