



Transcript of CleanLaw Episode 21: Joe Goffman Talks with Bill Becker about the Clean Car Rollback, May 9, 2019

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Robin Just: Welcome to Clean Law from the Environmental and Energy Law program at Harvard Law School. In this episode our Executive Director Joe Goffman speaks with Bill Becker, who has just coauthored a report with Mary Becker on the Trump proposal to weaken vehicle greenhouse gas emission standards. They describe the effects this proposal will have on public health, state compliance with the Clean Air Act, and industry operations. In addition to increasing greenhouse gas emissions, other harmful emissions will arise such as smog forming pollutants, fine particles, and cancer-causing toxins. Bill was Executive Director of the National Association of Clean Air Agencies until his retirement in 2017 and is currently President of Becker Environmental Consulting. We hope you enjoy this podcast.

Joe Goffman: Hi, Bill. It's good to be talking to you after all the years that we've spent working together.

Bill Becker: Thank you, Joe.

Joe: First of all I appreciate the work you and Mary Becker put into the report that you issued last month. And I appreciate your coming on our podcast to talk about the report. Let's start off by just sharing the top three takeaways from the report after you remind us what the title of it is.

Bill: Well the title of the report is called The Devastating Impacts of the Trump Proposal to Rollback Greenhouse Gas Vehicle Emission Standards. And we subtitled it The Untold Story. And the reason we titled it that is because the untold the story of the Trump proposal that relaxes the Obama Clean Car Standards and also rescinds California's authority to set more astringent standards is that there are devastating impacts not just from greenhouse gas increased emissions, but from the non greenhouse gas emissions that will occur, including smog forming emissions, sulfur oxides, toxic air pollutants, and many other pollutants.

Bill: And so what we did is we decided to analyze the affects of what would happen if the Trump proposal goes forward and air pollution, not just greenhouse gases, but other air pollution emissions increase as well. What we found is startling. There are three major impacts. First, we built upon a study that Environmental



Defense Fund developed that showed over 32,000 people will die prematurely, cumulatively over the course of 30 some years, if this proposal goes forward. And many millions more will get sick. And these are all illnesses and premature deaths that can be avoided.

Bill: Secondly, in addition to the devastating health and welfare affects we found that states' compliance with the Clean Air Act will be jeopardized. They could be subjected to sanctions, the state strategies might get undermined, and many counties around the country would be delayed in coming into compliance or would reach noncompliance with the health-based standards for the first time.

Bill: And then thirdly, in addition to the health impacts and the states' impacts, businesses will be affected if the Trump proposal goes forward because there will be economic uncertainty, there will be small businesses who will have to install controls for the first time if the cost effective vehicle emissions reductions aren't realized, and many of these businesses won't be able to expand their operations as they currently hope to. So this is the untold story, the devastating impacts that the Trump proposal could impose on society, not just from greenhouse gas increases but from the non greenhouse gas air pollution.

Joe: Well there's certainly a lot to unpack here. But it sounds like what the Trump administration is in the processing of doing if it goes forward and finalizes this proposal is not only rolling back an important piece of climate policy, but also rolling back what had been an important piece of air quality improvement, not only in terms of the physical air quality itself, but providing a critical piece of let's say policy making at the level of the federal government that was extremely useful to the states in carrying out their job, putting into place implementation plans for achieving ambient air quality standards. So now that you're telling the previously untold story, looks like we're looking at a double threat in terms of what the administration is doing. A threat to climate policy and a threat to air quality protections.

Bill: And a threat to states' rights. But let's start with the threat to air quality protection. You're absolutely right. States are required by the Clean Air Act to put together state implementation plans. These are state strategies, like a contract between a governor and the EPA administrator, that literally codify all of the pollution control measures that are necessary to demonstrate to EPA satisfaction that the state will comply with the health-based air quality standards by a certain date. And these state plans, these strategies, include not only state and local measures that these agencies develop on their own, but the also necessarily include federal measures, such as motor vehicle controls. After all motor vehicle emissions are probably one-third of the emissions inventory in most states and in some areas, for example Washington, DC, they're the predominant source of air pollution.



Bill: So imagine if a very significant federal measure is weakened and the states who are to implement these measures are prohibited from filling that gap, then it takes off the table or removes from these state strategies a very important component. That literally just breaks apart the state's strategy and the state is left with an inadequate plan. As I mentioned before, this is horrible because it not only says that the state doesn't have a plan going forward to protect public health, but it also subjects the state to possible economic sanctions, like the withholding of millions of dollars of highway funds and what is called an emissions offset, which is akin to a ban on new construction. And those businesses who are faced with those bans on new construction are affected.

Bill: So the Trump proposal, if adopted, is going to undermine these states' strategies that will interfere with public health, will possibly lead to economic sanctions on the state, and will undermine the ability of businesses to expand their operations and lead to a lot of economic uncertainty. So this is really devastating.

Joe: Just to tease out a couple of things here for people who are not as immersed in the Clean Air Act and the health-based air quality standards and how we have been making progress to achieve them as you and I are. What you're really focusing on is something that I think in your career working on behalf of states and their work to ensure air quality and my career working at the Environmental Protection Agency and other parts of the policy community, essentially what we've seen over the decades now is really dramatic and steady improvement in air quality. I think you could say that that is the result of a very strong, robust working partnership between the EPA and the states. With the EPA not just setting the standards for air quality that then trigger a set of obligations that the states have to meet to adopt state-based measures, but also the EPA contributes its own policies to mesh with state policies in order to continually reduce air pollution and continually make progress to air quality improvements and ultimately the standards.

Joe: And so essentially what it sounds like we're seeing here is that this proposal, this ostensibly climate rollback proposal, is also pulling the rug out from under the states themselves because I think in actual fact the states have been counting on these non greenhouse gas reductions when they put together their plans. Basically all I did was sort of restate in slightly more layman's language what you said, but I assume that captures it.

Bill: Yes, that's absolutely correct. I've been working with states most of my career and I can tell you almost without exception that of all the air pollution control strategies that states examine and analyze for cost effectiveness, for total emissions reductions, for political acceptability, I don't know of any state who has said to EPA these vehicle emissions standards are too stringent. Generally



the states open their arms and welcome any of these federal measures that EPA can provide to assist the state's localities in putting together the strategies that are necessary to meet the health-based standards.

Bill: I read all the regulatory comments that states submitted on the proposal. What I found is, I think without exception, the states really are horrified that EPA is taking a very good deal that the Obama administration worked through with EPA, with the states, with industry, with the environmental community and is breaking it. You're absolutely right, that is pulling the rug from under the states who are reliant on strong federal strategy to meet health-based standards.

Joe: This is probably a good moment to remind people that you, Bill, given what you spent the bulk of your career doing, are uniquely qualified by your expertise and experience to be sort of an expert spokesman on behalf of the states and in particular on behalf of these kinds of issues. I described you to my colleagues here as someone who is absolutely on the Mount Rushmore of clean air policy. I explained to them why I characterized you that way, but maybe this is a good moment for you to spend a couple of seconds telling everybody who's listening to this interview what you spent almost all of your adult life doing.

Bill: Okay. First of all thank you for the compliment. I'm not sure I really qualify for that. I've been working since 1972 on environmental issues. At the beginning of my career I advised Congress at the Congressional Research Service and eventually settled into one of the best jobs I could ever imagine, which is starting an association of all the state and local air pollution control agencies and being its first and only executive director for the 37 years I was there until I retired in 2017. What I learned best from these governmental officials, I learned many, many things, but what I learned best is they know what works and they also know what doesn't work. They have no axe to grind other than they are overworked, under paid, under appreciated. But what they wanted to do was everything they could to provide clean air for the citizens of this country.

Bill: So when they see a proposal that just undermines their lifelong efforts to clean up the air, you know they're upset. And I sensed this throughout the last couple years as I moved on into my retirement, although still working, and I feel just terrible not only for them but for the citizens of this country who have no idea what impact this could have if it goes forward. So my career has been really working on environmental issues, primarily with government, and helping them meet the requirements of the Clean Air Act as best they can.

Joe: Basically if there's such a thing as troops on the frontlines of the battle to reduce air pollution and to deliver air quality for the public, then you and the members of your association are the epitome of troops on the frontlines. Essentially, if I understand correctly, your association, the National Association



of Clean Air Agencies, represent the folks who are the backbone of delivering air quality. These are the folks that are in the state government air bureaus who really have to figure out what the state policies are going to be to reduce pollution and how they're going to put those policies together to, in concert, achieve air quality improvements. And I think we both know that there's only so much the states can do by themselves. What the federal government has the authority and the know how and the expertise to do in terms of say reducing emissions from the on-road fleet has just always been indispensable to their work. I would observe that in addition to the fact that they are overworked, under paid, and often under resourced the members of your association are also incredibly dedicated to public service.

Bill: Yes-

Joe: So when you or they tell the public that a significant tool is being taken away from them, they have sort of supreme credibility and authority in delivering that message.

Bill: I hope that is the case and it was well stated. For the listeners, the Clean Air Act is a very, very complicated piece of legislation and its implementation is even more complicated. But like with any family when you are determining how to best spend your resources and how to make decisions you array the most obvious, cost-effective, meaningful decisions from top to bottom and you start with the ones at the top, the ones that are most important. And that's how a state puts together a strategy. It starts with the most cost-effective, significant emissions reductions it possibly can. And in this case it so happens to be the Federal Motor Vehicle Control program. We have learned over the past literally 50 years that the Federal Motor Vehicle Control program is one of the most effective clean air strategies ever developed and implemented.

Bill: And the states are so reliant upon these emissions reductions, they are at the top of the list. And to take those away, to freeze those standards, and equally worse, to take away the insurance policy in the law which is California's ability to adopt more stringent standards in the event that the federal program is taken away or weakened is a double whammy. These state agencies have to look at some other place to find these lost emissions reductions. And there are very few places that offer the kinds of substantial reductions that are necessary in lieu of the federal vehicle measures that are taken away to allow compliance with the Clean Air Act.

Bill: And so while it makes our job much more difficult, it makes public health and welfare suffer dramatically. I mean these are avoidable tens of thousands of premature deaths and millions of illnesses from a decision that could easily be over turned. I'm confident that the states, once they see what's happening and



their starting to rebel now, are going to stand up and take some actions in the future to prevent this or to remedy it because it's just a travesty what's happening.

Joe: Let's focus on that. Kind of let's do a little reset here in terms of where we are in the narrative. What the administration proposed, and I think the proposal was signed in August of last summer, August of last year rather. I believe the proposal went out for comment, the comment period's been closed for a couple months now. But the draft final version of this has not yet gone over to OMB for review. So we're sort of in the middle of the pipeline. What the Obama administration left as part of its legacy was a program that required new cars to be progressively lower emitting year by year going into the next decade, to be progressively lower emitting of greenhouse gas emissions, and progressively more fuel efficient.

Joe: What the administration proposed was instead of each model year going into the 2020s being lower and lower emitting, what the administration proposed was simply to freeze the greenhouse gas emission standards at a fixed level. In addition, and this is one of the things you were just referring to, the proposal was to take away from California an authority that it's had under the Clean Air Act to set its own standards for greenhouse gas emissions and to take away from non-California states the ability to opt into the standards that California set. So it's a double whammy because what the proposal is saying to the states is no, we the federal government are going to take away the progressive improvement in tailpipe emissions standards and we're going to take away California, and by extension other states', ability to step in and replace the removed federal requirement with our own standards.

Joe: And since non greenhouse gas air pollutants and reductions in those pollutants ride along, if you will, with reductions in greenhouse gases, the states are now on the verge of being deprived of not only the incremental reductions, but what had been their own authority to replace those reductions by setting their own greenhouse gas emissions standards for automobiles. Did I capture that right, Bill?

Bill: Yes, that was perfect. And to put a finer point on it, California by having the ability over the several decades setting its own standards and the Clean Air Act allowing states to opt into California always presented an insurance policy in the event that the federal program, irrespective of the administration, was not up to snuff, did not capture the maximum cost-effective emissions reductions. If EPA failed at least we had the California program and we had other states opting in the California program that could ameliorate the deficiency. And that's been used in the past.



- Bill: With the Obama program, President Obama worked with California and the manufacturers to come up with a harmonized program. They didn't need to have a dual program because the last administration did it right. And you're absolutely right, Joe. What the Trump proposal does is not only weaken the standards, weaken the gradual reductions over the course of five years or six years, but it takes away the insurance policy. It takes away the ability of California to fix that problem and the other states to opt into the fix. And so we're not only facing a program now, if this goes forward, that is weakened, but also California and the states aren't able fill the gap and the whole country suffers accordingly. And the 13 states plus DC who have opted into California represent close to half of the vehicles on the road, so this is not inconsequential.
- Joe: Yeah, let's pick up on something you said about, I think you said something like the states seem to be kind of waking up to this problem. One of the features of your report that I found very useful was the table you included that went state by state on what your and other people's analysis showed would be the air quality and mortality and illness impact in each state if this proposal was finalized. So what were the most striking findings from your perspective in terms of going through each state's potential fate here?
- Bill: Well I'll tell you a couple things. One was we identified probably close to a dozen areas who are out of compliance, the citizens are exposed to dirty air, who are well on the way toward attainment, but whose compliance will be delayed as a result of these increased emissions by taking away the rule. And that's unfair to the citizens who live in those areas who will have to be delayed by a year or two or three more simply because this rule goes forward. And then we identified through EPA's own air quality data around 200 counties throughout the country that have clean air, but are so close to the health-based standard that if those counties get extra pollution from this rule they could be triggered into dirty air status. So not only will the public health of those communities suffer, but by becoming a so called non-attainment area then the industries will have to install controls that they never had to install before and states will have to go through this really difficult process of putting together state strategies as we discussed previously.
- Joe: State strategies that aren't selected from a menu of second, third, and fourth best-
- Bill: Exactly.
- Joe: ... pollution reduction options in terms of leverage and cost effectiveness.



- Bill: And just to be clear, the alternative controls to the cost-effective vehicle controls will be costlier and less cost effective and politically more unpalatable. Which imposes hardship not only on the breathers but on the state regulatory officials who have to figure out what in the heck are they going to do now. And it just creates such a mess. But then on top of this, as you mentioned, we had charts in our report, and I hope your listeners will look at the report, where we used some models that no one else has done this exercise before. We went state by state, we examined the individual health and welfare impacts of states and without exception we found that every state in the country is going to experience some serious health effect and some states, you can guess them, the larger states, are going to really experience thousands, tens of thousands of increased premature deaths and many hundreds of thousands of illness, all that could've been prevented if this rule does not go forward.
- Joe: Yeah, I noticed that Texas, Florida, New York, Ohio all kind of weigh in with some pretty significant numbers in terms of premature mortality, avoidable illnesses, and just emissions reductions lost.
- Bill: And these are redder states.
- Joe: Yeah, and look, so essentially the headlines have been this is a critical reversal in terms of climate policy, but it's also a critical reversal in terms of air quality, public health, and the entire state/federal apparatus that we've all been counting on for a long time. As you look at the report, Bill, and listen to your comments in this discussion it's almost as if not only is public health in the crosshairs, but the states themselves are in the crosshairs.
- Joe: We're having this discussion as I said before the draft final rules even gone out of the agency to the White House for review. I hear this as a sort of call to the states to take some action here. I'm wondering if you have any sense of whether the states themselves are hearing it the same way.
- Bill: Well one of the things that I am pledging to do over the next several months is to provide that clarion call to help tell this untold story. This is the greatest opportunity that the states have to turn this around. They understand that they need the very substantial emissions reductions expected from the clean car proposal and if they lose it they also understand, or they certainly will understand in the next few months as I continue to just shine a bright light, and thank you, Joe, for doing the same, that there are serious and adverse impacts, as I've said several times, not just on public health, but on other businesses, on the states. There are so many manufacturers and there are so many other businesses that if they open their eyes and saw this they'd say, "Wait a second, this isn't fair. This is inequitable that this administration is weakening some controls that are cost effective and the state's support on one sector of the



economy, the vehicle industry. And the upshot is we in the manufacturing community, not just large facilities but mom and pop facilities that can ill afford it, will be asked to clean up for their mess."

Bill: And there are so many equity problems here and there are environmental justice issues associated with this. I think when the states and others wake up to the fact that this is not all about greenhouse gases alone, but about other air pollutants, they will understand that this goes well beyond how this is being teed up and they'll see the opportunities of trying to turn this around and really reap the benefits of the Obama Clean Car proposal that everyone supported. That's what's so outrageous that that was a success story. The existing greenhouse gas standards were a success story. There's no reason to undermine them to overturn them.

Joe: Well as many of us predicted when you announced your "retirement" from the National Association of Clean Air Agencies, you were not going to actually be able to follow through and retire from the mission. Unfortunately we have to ask Bill, "What have you done for us lately?" You're still clearly on mission. Now that you've got this I think extremely useful report out it sounds like the answer to the question, "What have you done for us lately?" is you're going to be trying to work with the states to bring these issues to the forefront. I assume, or maybe I'm just being wishful here, when the draft final rule goes over to OMB the states are going to have a significant opportunity to weigh in with the administration since OMB is pretty much obligated to meet with anyone who wants to talk to them about the rule when it finally goes over for review. I know there are an awful lot of people across the country who spent years, to their benefit, listening to you and so I hope they listen to you again and hear the call to really let the federal government know that there's a significant suite of damages that could be done here if the administration follows through.

Bill: I appreciate that. I hope they will listen. I know that you also, just back at you, Joe, this is your legacy as well and you must be just flabbergasted at seeing all this incredibly hard work and successful work, which you were responsible for, not just at EPA but working in Congress and elsewhere that with a couple bad decisions it all just falls apart.

Bill: One point that I just don't want to lose and that is I talked to a lot of states whose governors are lukewarm about greenhouse gases. Many governors are very supportive, the governors of the climate alliance of course is very supportive. But there are a number of governors who are lukewarm about climate. But when I mention to the state officials that in addition to greenhouse gas impacts this rule will also help you or hurt you, depending upon how it comes out, with your non greenhouse gas compliance, your state strategies, all of sudden they perk up and they realize that there's something beyond this



politically divisive climate fight. There's the air pollution fight and that's, I think, what's going to capture the attention of states, or at least I hope, and will bring them to meet with OMB and to have their governors write letters and to do everything possible to just show that this really isn't deserving of reaching any kind of final stage, that we need to overturn this proposal.

Joe: Yeah. I mean it's bad air quality policy and it's disruptive of this sort of central state/federal partnership that even in your worst imagination about the motivations of the administration, it's various ideological goals, it really seems that when you think through as you and Mary have with this report, what the actual consequences of this proposal are this seems like a sort of outlier even for this administration given the damage it poses for the fundamental federalism or state/federal apparatus that up until this point even this administration hasn't seemed to be particularly interested in disrupting.

Joe: But I don't think we can necessarily count on the political leadership in the administration to be sensitive to it. But as you're pointing out you can imagine that this is a nonpartisan issue that every state leader is invested in the federalism that they and their predecessors have counted on and can be rallied to focus on that.

Bill: Yeah and if the administration really took the time to read the comments from regulatory agencies, from governmental agencies as I said before who have no ax to grind, they don't make more money as a result of more regulation, they will see that there is widespread, both ideologically and geographically, widespread support for our view to oppose this rule. It makes no sense that this rule should go forward. Especially I hope your listeners will take the time to read our report and better yet dive down into some of the detail in our footnotes where the justification for these change, for these relaxations are totally trumped up, no pun intended, they are totally exaggerated claims that allow them without a straight face to propose this. But when you actually see what their faulty assumptions are and how they're trying to cook the books, then you can easily see that what they're saying isn't right.

Bill: And all we did, with the help of some very smart modelers, is take the current models the EPA uses and NTSA, the transportation agency, uses and correct the faulty assumptions they put in and get back to normalcy in analysis. And if you do that you find that their proposal is very, very serious. So I hope the listeners will take a closer look at what's being done and engage with not only the administration directly, but also with their regulatory agencies who can provide a good perspective and a respectful one to the administration.

Joe: I'm going to second that that for people who haven't read the report I think we both hope that this discussion really motivates them to look at the report



because it's extremely useful, you pack a lot of easily accessible information in there in a pretty short space. You know I think we both know as a matter of law the agency is obligated to respond to every single comment. I haven't looked at the comment record myself, but one thing that this discussion really piques my interest in is going back and looking at what the states actually submitted and the extent to which comment by comment they identified the state implementation plan and air quality stakes in this rule, because I think it would really put the EPA in particular at sort of on a sharp point to come to grips with the air quality impacts and the disruption of the basic tenets of the Clean Air Act.

Bill: My wife and I read every single regulatory agency comment. We read the comments submitted by governors, by mayors, by regional agencies, by state and local air agency officials. We read them all. We quoted several of them, nowhere near all of them. And as I said before, I don't recall a single commenter saying, "Great job, Trump administration, for freezing the successful motor vehicle standards and wonderful job for taking away California State's authority and the other states' authority to reduce emissions since the federal government was unable and unwilling to do so." I mean every comment that we read was opposing what Trump was proposing. I don't know if every single state in the country commented, but many did.

Bill: And many, for example, the Conference of Mayors' letter had dozens and dozens of mayors who signed on. And there were associations of state and local government officials who opposed it and regional groups opposing it and individual agencies opposing it. And put aside all the environmental and health communities or citizens, I'm just talking about governmental agencies whose jobs are on the line to find cost-effective strategies. They are the ones that really EPA should be listening to and taking very seriously because as you articularly pointed out earlier, the federal/state partnership is so important. There are assigned responsibilities to each branch of government and if one branch fails, if the federal government for example fails then the state branches fail. And that's why we're so reliant on the federal government, EPA, providing the necessary tools, the necessary federal measures to make our job easier so we can provide public health protection for the citizens of this country.

Joe: Well, you know, until January of 2017 there were a few groups, few constituencies, that were more influential on EPA decision making than state officials. Because again they were on the frontlines of the obligation, the responsibility, and in many cases the know how to deliver air quality. So it will be really interesting to see, although nerve wracking let's face it, to see if the influence that historically state and local officials have had on the EPA manages to survive enough to reverse course here. But I think what you and Mary have



done in this report is really extremely valuable and let's hope that we can pull this one out.

Joe: Bill, thank you very much for doing the report, same to Mary as your coauthor. And thank you very much for talking and being willing to participate in our podcast.

Bill: Well thank you, Joe, and thanks for all you've done over the years as well. You've been very complimentary to me, but I hope your listeners understand the incredible role you've played over the years and I wish you the best of success in your new endeavor because you're doing a great job.

Joe: Thanks, Bill, thanks a lot.

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