

January 31, 2020

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Air and Radiation Docket
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Attn: Docket No. NHTSA-2018-0067
Docket No. NHTSA-2017-0069
Docket No. EPA-HQ-OAR-2018-0283

Re: Supplemental Comment of Center for Biological Diversity, Chesapeake Bay Foundation, Environment America, Environmental Defense Fund, Environmental Law and Policy Center, Natural Resources Defense Council, Public Citizen, Inc., and Sierra Club on the National Highway Traffic Safety Administration's and Environmental Protection Agency's Proposed Rule: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks

Center for Biological Diversity, Chesapeake Bay Foundation, Environment America, Environmental Defense Fund, Environmental Law and Policy Center, Natural Resources Defense Council, Public Citizen, Inc., and Sierra Club respectfully submit this supplemental comment concerning a January 22, 2020, letter from Senator Thomas Carper to the Administrator of the Office of Information and Regulatory Affairs in the White House Office of Management and Budget (“OMB”), which letter is attached hereto as Exhibit A. The letter expresses “deep concerns with the draft final Part 2 of the Safer Affordable Fuel Efficient (SAFE) Vehicles Rule that was submitted to [OMB] on January 14, 2020.”¹ The letter observes that “the draft final rule appears not to have remedied many of the[] deficiencies” in the August 2018 Proposed Rule and that “some of the changes that were made since the rule was proposed have created additional problems.”² Sen. Carper requests that EPA and NHTSA not finalize “this extreme and unlawful environmental rollback in any form that even remotely resembles the document submitted to OIRA on January 14.”³

We believe that Senator Carper’s letter should be made a part of the record of these rulemakings, and we submit this comment at this time because, in light of the timing and subject of Senator Carper’s letter, it could not have been submitted during the comment period.

We have already commented at length on the myriad problems with the Proposed Rule. But the public lacks the information needed to comment further on any “additional problems” that may have been created by significant “changes that were made since the rule was proposed.”⁴ To the extent such changes have been made, the agencies cannot finalize a substantially different rule without allowing the public a further opportunity to comment meaningfully. The agencies thus must re-propose the significantly different rule and re-open the public-comment period so that the public can review and comment on the new approach and its asserted basis, to ensure that the agencies’ policies rest on sound legal and technical foundations.

We therefore reiterate our request that the agencies not finalize a rule amending their respective standards without withdrawing the August 2018 proposal and re-proposing a new rule with consequent opportunity for public comment.

¹ Ex. A, at 1.

² *Id.*

³ *Id.* at 4. *See also* Juliet Eilperin & Brady Dennis, *Trump promised his mileage standards would make cars cheaper and safer. New documents raise doubt about that.*, WASH. POST (Jan. 23, 2020) (attached as Exhibit B), <https://www.washingtonpost.com/climate-environment/2020/01/23/trump-vowed-his-mileage-standards-would-make-cars-cheaper-safer-new-documents-raise-doubts-about-that>.

⁴ Ex. A, at 1.