

June 14, 2019

VIA ELECTRONIC SUBMISSION

Andrew R. Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

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

Re: Supplemental Comment of Center for Biological Diversity, Environmental Defense Fund, Natural Resources Defense Council, Public Citizen, Inc., and Union of Concerned Scientists on the Environmental Protection Agency's and National Highway Traffic Safety Administration's Proposed Rule: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks, 83 Fed. Reg. 42,986 (Aug. 24, 2018)

The Center for Biological Diversity, Environmental Defense Fund, Natural Resources Defense Council, Public Citizen, Inc., and Union of Concerned Scientists respectfully submit the attached letter from 17 automakers to President Trump for inclusion in the rulemaking dockets for the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration's (NHTSA) Proposed Rule: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks, 83 Fed. Reg. 42,986 (Aug. 24, 2018).

This letter could not have been submitted during the formal period for public comment because it was sent to President Trump just last week. The letter was also sent to Administrator Wheeler and Secretary of Transportation Elaine Chao, and thus should already be part of the administrative record. We are nonetheless submitting it now in an abundance of caution because it contains material “of central relevance to the rulemaking.”¹

¹ 42 U.S.C. § 7607(d)(4)(B)(i); *see also id.* § 7607(d)(7)(A) (providing that such material forms part of the administrative record for judicial review); Proposed Rule, 83 Fed. Reg. 42,986, 43,471 (Aug. 24, 2018) (committing to consider late comments “[t]o the extent practicable”).

Specifically, the letter indicates that 17 automakers—representing 86 percent of the U.S. new car market²—do not back the Proposed Rule’s preferred alternative, but rather “support a unified standard that both achieves year-over-year improvements in fuel economy and facilitates the adoption of vehicles with alternative powertrains.” The automakers also expressed concern that the Proposed Rule will usher in “an extended period of litigation and instability.”

The White House reflexively rejected this outreach from automakers, stating the next day that the administration is “moving forward to finalize” its rollback of the Clean Car Standards.³

This coordinated industry effort nearly 8 months after the close of the formal comment period underscores the irregularity and inadequacy of EPA and NHTSA’s rulemaking process. The undersigned commenters once again request that the agencies withdraw the fatally flawed Proposed Rule, or at the very least reopen the formal comment period so that interested parties can raise concerns through the normal administrative process that EPA and NHTSA are required to address and take into consideration in promulgating a final rule.

Please contact Brenden Cline (bcline@nrdc.org) if you have any questions about this comment.

Respectfully submitted,

CENTER FOR BIOLOGICAL DIVERSITY
ENVIRONMENTAL DEFENSE FUND
NATURAL RESOURCES DEFENSE COUNCIL
PUBLIC CITIZEN, INC.
UNION OF CONCERNED SCIENTISTS

² See MarkLines Automotive Industry Portal, *USA - Flash report, Sales volume, 2018* (Jan. 4, 2019), https://www.marklines.com/en/statistics/flash_sales/salesfig_usa_2018.

³ Juliet Eilperin & Brady Dennis, *White House poised to relax mileage standards, rebuffing automakers and setting up probable fight with California*, WASH. POST (June 7, 2019), <https://wapo.st/2IpMfa9>.