

May 31, 2019

VIA ELECTRONIC SUBMISSION

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

Re: Supplemental Comments of Center for Biological Diversity, Conservation Law Foundation, Environmental Defense Fund, NRDC, Public Citizen and Sierra Club 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. 42986 (Aug. 24, 2018)

The Center for Biological Diversity, Conservation Law Foundation, Environmental Defense Fund, NRDC, Public Citizen and Sierra Club (“Commenters”) respectfully submit this supplemental comment on the Environmental Protection Agency’s (“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. 42986 (Aug. 24, 2018) (“Proposal”). This supplemental comment discusses the United Nations’ recent, landmark assessment finding unprecedented, climate change-exacerbated degradation of the environment on a global scale.¹ The assessment must be considered as part of the on-going rulemaking because it contains material “of central relevance to the rulemaking” that became available only after the close of the formal comment period in October 2018.²

As the Report points out, among the factors that drive the unparalleled degradation of the terrestrial, freshwater and marine environment on which human life depends, climate change

¹ IPBES, Global Assessment Report on Biodiversity and Ecosystem Services (May 6, 2019), <https://www.ipbes.net/deliverables/2b-regional-assessments> (the “Report”).

² 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) (citing 49 C.F.R. § 553.23 (committing that “[l]ate filed comments will be considered to the extent practicable”).

constitutes the direct driver “*that is increasingly exacerbating the impact of other drivers on nature and human well-being.*”³

The Report culminates a three-year assessment which draws on thousands of peer-reviewed sources and includes the work of experts from 50 countries. It provides the ominous context of accelerating global environmental collapse in which NHTSA’s and EPA’s unprecedented proposal willfully to *increase* greenhouse gas pollution from the nation’s light duty vehicle fleet over current levels must be evaluated. The Report finds that the wholesale degradation of natural systems (*i.e.*, terrestrial, freshwater and marine ecosystems and species) is now critical, undermining the well-being of some *3.2 billion people*, and pushing the planet towards a sixth mass species extinction.⁴ It identifies climate change as the third most important direct driver of that degradation, after land and sea use changes and the direct exploitation of organisms, and before pollution and the impact of invasive alien species.⁵

Among the Report’s alarming findings are these:

- “The biosphere, upon which humanity as a whole depends, is being altered to an unparalleled degree across all spatial scales. Biodiversity – the diversity within species, between species and of ecosystems – is declining faster than at any time in human history.”⁶
- Nature is declining globally at rates unprecedented in human history, with the rate of species extinctions accelerating.⁷
- Some *one million species* are at risk of extinction in coming decades due to man-made dangers, including climate change.⁸
- 75% of the land surface is significantly altered, 66% of the ocean area is experiencing increasing cumulative impacts, and over 85% of wetlands area has been lost.⁹
- Since 1970, the index of the average population size of wild land-based species of vertebrates dropped by 40% and freshwater species by 84%.¹⁰

³ Diaz, Sandra et al., Summary for Policymakers of the Global Assessment Report on Biodiversity and Ecosystem Services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (May 6, 2019), https://www.ipbes.net/system/tdf/spm_global_unedited_advance.pdf?file=1&type=node&id=35245 (“Summary”) at 4.

⁴ IPBES Media Release: Worsening Worldwide Land Degradation Now Critical, Undermining Well-Being of 3.2 Billion People (March 23, 2019), <https://www.ipbes.net/news/media-release-worsening-worldwide-land-degradation-now-%E2%80%99critical%E2%80%99-undermining-well-being-32> (“Land Degradation”).

⁵ Summary at 3.

⁶ Summary at 2.

⁷ United Nations, UN Report: *Nature’s Dangerous Decline ‘Unprecedented’; Species Extinction Rates ‘Accelerating’* (May 6, 2019), <https://www.un.org/sustainabledevelopment/blog/2019/05/nature-decline-unprecedented-report/> (“Nature’s Dangerous Decline”).

⁸ Summary at 3.

⁹ Id.

¹⁰ Summary at 13.

- Land degradation and climate change are likely to force 50 to 700 million people to migrate by 2050.¹¹
- By 2050, land degradation and climate change will reduce crop yields by an average of 10% globally, and up to 50% in certain regions.¹²
- Land degradation has reduced the productivity of 23% of the global land surface, up to \$577 billion in annual global crops are at risk from pollinator loss alone, and 100 to 300 million people are at increased risk of floods and hurricanes because of loss of coastal habitats and protection.¹³
- The distribution of 47% of land-based flightless mammals and almost a quarter of threatened birds may already have been negatively affected by climate change.¹⁴

As Sir Robert Watson, IPBES' Chair, summed up the Report: "The health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever. We are eroding the very foundations of our economies, livelihoods, food security, health and quality of life worldwide."¹⁵ The Report also points out that it is not too late to make a difference to this outcome if transformative change occurs at every level, from the local to the global.

NHTSA's and EPA's proposal to weaken the current light duty vehicle fleet fuel efficiency and greenhouse gas standards – in defiance of Congressional mandates in the Clean Air Act to protect us from dangerous air pollution and to conserve energy – will add enormous amounts of greenhouse gas emissions to the already far overburdened atmosphere, directly causing climate change to accelerate. The Proposal, if finalized, would thus amplify the effects of the key driver that itself exacerbates all other drivers eroding the foundations of life on earth.¹⁶

The agencies must consider the Report and must explain how their proposal to drive up the light duty fleet's greenhouse gas emissions can be justified in light of these truly alarming findings. We submit that no such justification could withstand scrutiny, and that the agencies' failure even to consider these crucial scientific facts would be plainly unlawful.

¹¹ Land Degradation.

¹² Id.

¹³ Nature's Dangerous Decline; Summary at 2-3.

¹⁴ Nature's Dangerous Decline.

¹⁵ Id.

¹⁶ See Summary at 4.