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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR  
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

May 18, 2020

The Honorable Sean O'Donnell  
Inspector General  
U.S. Environmental Protection Agency  
1301 Constitution Ave. NW, Room 3102  
Washington, DC 20460

Dear Inspector General O'Donnell:

I write to ask that the Office of the Environmental Protection Agency (EPA) Inspector General expand its investigation into whether EPA officials have improperly circumvented section 307<sup>1</sup> of the Clean Air Act, Executive Order 12866,<sup>2</sup> and other rulemaking review and procedural requirements.<sup>3</sup> While I previously asked<sup>4</sup> that you commence such an investigation after I learned of potential irregularities associated with the recent finalization of the Safer Affordable Fuel-Efficient (SAFE) Vehicles 2 Rule,<sup>5</sup> I now have additional information and have obtained documents that confirm such wrongdoing.

The rule, finalized by the EPA and Department of Transportation (DOT) and published in the Federal Register on April 30, 2020, weakened standards beyond the request of any automaker. This rule follows the September 2019 finalization of Part 1 of the rule that preempted the historic authority of California to set and enforce its own greenhouse gas tailpipe standards, as well as that of the 13 additional states that have adopted those standards, including Delaware.

As I've previously described, EPA's concerns with the 2018 proposed SAFE Vehicles Rule to roll back vehicle greenhouse gas and fuel economy standards were properly and well documented<sup>6,7</sup> in the White House Office of Information and Regulatory Affairs (OIRA) rulemaking docket, which generated numerous negative press reports describing the inter-agency disagreement, including EPA's observation that the model DOT used was "unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards." EPA also asked that its logo be removed from the proposed rule because of its lack of input and involvement in its development. My office learned that EPA, White House Office of Management and Budget (OMB) and DOT political officials were angered by the very public airing of the inter-agency disagreement about this rule that resulted from the lawful submittal of written materials created during the review of the proposed rule to the docket.

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<sup>1</sup> <https://www.law.cornell.edu/uscode/text/42/7607>

<sup>2</sup> [https://www.reginfo.gov/public/jsp/Utilities/EO\\_12866.pdf](https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf)

<sup>3</sup> [https://yosemite.epa.gov/sab/sabproduct.nsf/5088B3878A90053E8525788E005EC8D8/\\$File/adp03-00-11.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/5088B3878A90053E8525788E005EC8D8/$File/adp03-00-11.pdf)

<sup>4</sup> [https://www.epw.senate.gov/public/index.cfm/2020/3/carper-asks-epa-ig-to-open-investigation-into-process-illegalities-and-potential-illegalities-associated-with-the-safe-vehicles-and-secret-science-rules#\\_ftn17](https://www.epw.senate.gov/public/index.cfm/2020/3/carper-asks-epa-ig-to-open-investigation-into-process-illegalities-and-potential-illegalities-associated-with-the-safe-vehicles-and-secret-science-rules#_ftn17)

<sup>5</sup> Part 1, which was finalized in September 2019, unlawfully implemented preemption and revocation of California's authority to set more stringent vehicle greenhouse gas standards.

<sup>6</sup> See the June 18, 2018 email from William Charmley which can be accessed at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

<sup>7</sup> <https://www.carper.senate.gov/public/index.cfm/2018/10/carper-urges-chao-wheeler-to-abandon-plan-to-dismantle-clean-car-standards>

My previous request to you observed that an effort to conceal further inter-agency disagreement could result in the concealment of embarrassing and legally risky information related to flaws in the final rule available from the public or potential future litigants. I have learned that this is exactly what has occurred. My office has also documented a number of new concerns associated with the finalization of the rule. These include:

- 1. DOT was the sole author of most, if not all, of the draft final rule submitted in January to OMB. After EPA reviewed the materials, EPA Acting Administrator Idsal was briefed on EPA career staff's concerns with the draft final rule and was made aware that it was not an EPA-co-authored product.**
- 2. Four hard copies of EPA's concerns were sent to DOT on February 5, but EPA political officials apparently purposefully and potentially illegally withheld these documents from being placed into the rulemaking docket and made available to the public.**
- 3. The concerns EPA sent to DOT on February 5 catalogued numerous errors and inaccuracies in the draft final rule, but DOT did not incorporate most of EPA's feedback. In fact, EPA reviewed a second draft of the rule on March 25 and observed internally that the continued failure to correct many of these errors would leave the rule legally vulnerable.**
- 4. After the final rule was signed, the Agencies made significant changes to it before it was published in the Federal Register, raising transparency and potential legal questions associated with what appears to be an unprecedented process used to alter the materials.**

A more technical description of these concerns as well as new documents obtained by my office are attached. These materials describe a fundamentally and legally flawed rule created by what may be the most procedurally problematic process my office has ever reviewed. I ask that you and your staff commit to taking all necessary measures to protect the identities of those who may have exercised their lawful right under 5 U.S.C. § 7211 to provide information to Congress without fear of retaliation due to their disclosures.

Thank you for your attention to this important matter. If you have any questions or concerns, please ask your staff to contact Michal Freedhoff ([Michal.Freedhoff@epw.senate.gov](mailto:Michal.Freedhoff@epw.senate.gov)) of the Environment and Public Works Committee staff. I look forward to your prompt response.

Sincerely,



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Thomas R. Carper  
Ranking Member

## Description of New Concerns with the SAFE Vehicles 2 Rule

- 1. DOT was the sole author of most, if not all, of the draft final rule submitted in January to OMB. After EPA reviewed the materials, EPA Acting Administrator Idsal was briefed on EPA career staff's concerns with the draft final rule and was made aware that it was not an EPA-co-authored product.**

On January 14, 2020, DOT submitted the draft final rule to OMB for review. My office has learned that on January 30, 2020, EPA career staff briefed Ann Idsal, EPA's Acting Assistant Administrator for Air and Radiation, on "SAFE Final Rule: OTAQ [Office of Transportation and Air Quality] Review of the Preamble Submitted to OMB." That presentation<sup>8</sup> included statements that much of what DOT had submitted for interagency review "was new – we had not previously had an opportunity to review," and that about 650 pages of the 1000 page preamble "is new material that OTAQ did not have an opportunity to review prior to OMB submission." The presentation also describes the DOT writing a rule in EPA's "voice" that says EPA made regulatory and other conclusions that EPA had not, in fact, made.

Courts<sup>9</sup> have<sup>10</sup> repeatedly<sup>11</sup> ruled that agencies can use external input and advice when writing regulations under their own statutory authorities, but must write the regulations themselves. The apparent absence of EPA authorship of its own Clean Air Act vehicle greenhouse gas emissions rule may be unlawful. In fact, it appears that DOT exercised near-complete control over the preparation and finalization of both the fuel economy rule promulgated under its own statutory authority *and* the greenhouse gas emissions rule promulgated under EPA's statutory authority.

I ask that your investigation seek to determine whether EPA satisfied the requirement that it draft these regulations promulgated under the Clean Air Act without delegating the authority for doing so to DOT.

- 2. Four hard copies of EPA's concerns were sent to DOT on February 5, but EPA political officials apparently purposefully and potentially illegally withheld these documents from being placed into the rulemaking docket and made available to the public.**

The January 30, 2020 briefing to Acting Assistant Administrator Idsal included a breakdown of EPA's technical concerns with the draft final rule. For example, the briefing states that EPA "discovered new analytical flaws" in the draft final rule, along with "factually incorrect statements," "incorrect CO2 standards" and "false statements" about a range of EPA's vehicle and fuels modeling and compliance efforts. The briefing also states that EPA planned to send its feedback to DOT. My office has learned that on February 4, 2020, a briefing entitled "SAFE Final Rule: OTAQ Review of the Preamble Submitted to OMB. Preparation for Review of OTAQ Comments with NHTSA" was provided to Sarah Dunham, EPA's top career official involved in the vehicle emissions rule. The briefing described the organization of EPA's comments that would be provided to DOT, with red comments identifying edits to "factually incorrect" items, brown comments identifying edits to items that were "unnecessarily denigrating EPA work or inappropriate/unprofessional tone" and blue comments identifying edits to items that would "improve clarity."

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<sup>8</sup> [https://www.epw.senate.gov/public/\\_cache/files/0/5/053eb995-0a35-49e5-a858-a4d8082e9476/CC650D2AD4D44107AB4FF1F8CB358AFD.01-30-20idsalbriefing.pdf](https://www.epw.senate.gov/public/_cache/files/0/5/053eb995-0a35-49e5-a858-a4d8082e9476/CC650D2AD4D44107AB4FF1F8CB358AFD.01-30-20idsalbriefing.pdf)

<sup>9</sup> *U.S. Telecom v. FCC*, 359 F. 3d 554, 567-68 (D.C. Cir. 2004)

<sup>10</sup> See the illustrative discussion in *Coalition for Responsible Regulation v. EPA* regarding EPA's use of the IPCC reports in crafting the endangerment finding at 684 f 3d at 120

<sup>11</sup> *Ergon-West Virginia, Inc. v. EPA*, No. 17-1839 (4th Cir. 2018)

As I previously informed you, these written comments, including EPA's technical feedback, were only provided in hard copy to DOT, outside the formal interagency review process. I have obtained a copy of these documents,<sup>12</sup> which were provided to DOT on February 5 and clearly follow the color-coded organizational system described in the February 4 briefing for Ms. Dunham.

On March 31, 2020, EPA and DOT held a conference call for Congressional Committee staff to provide a briefing on the SAFE Vehicles 2 Rule. During that call, my staff and other staff on the call repeatedly asked Acting Assistant Administrator Idsal whether EPA's comments on the draft final rule would be placed into the public rulemaking docket as required. Ms. Idsal repeatedly refused to commit to do so, and although she stated that EPA's attorneys would follow up with my staff, no follow-up occurred.

My office has since learned that although EPA career lawyers believed that these materials were legally required to be placed into the rulemaking docket, EPA's General Counsel Matt Leopold overruled them. Indeed, now that the SAFE Vehicles Rule has been finalized, a review of the materials in the docket shows them to be missing, even though many other comments prepared by parties to the inter-agency review process appear to have been publicly released. This would also seem to confirm EPA political officials' intent to at best conceal EPA's concerns with the draft final rule, and at worst indicate a knowing intent to run afoul of section 307 of the Clean Air Act, which states:

“The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation”.

I request that you ensure your investigation determines the reason why these documents were not properly included in the rulemaking docket.

**3. The concerns EPA sent to DOT on February 5 catalogued numerous errors and inaccuracies in the draft final rule, but DOT did not incorporate most of EPA's feedback. In fact, EPA reviewed a second draft of the rule on March 25 and observed internally that the continued failure to correct many of these errors would leave the rule legally vulnerable.**

As a letter I sent to the Administrator of OIRA following a review of the draft final rule that was obtained by my office made clear,<sup>13</sup> the document submitted in January 2020 consisted “only of the DOT rule's preamble, includes some apparent typographical and other errors, and placeholders for analysis and narrative sections that have seemingly not yet been written.” Media<sup>14</sup> reports<sup>15</sup> also described these problems, noting that the draft preamble was missing so much information that there were 111 sections marked “text forthcoming.”

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<sup>12</sup> [https://www.epw.senate.gov/public/\\_cache/files/b/8/b89ba080-25fd-4d39-b9c9- As I previously informed you, these written comments, including EPA's technical feedback, were only provided in hard copy to DOT, outside the formal interagency review process.9ebd3a871c80/9D492D64E435FE651B96C666D2C15E30.02-05-20epacommentstodot-optimized-.pdf](https://www.epw.senate.gov/public/_cache/files/b/8/b89ba080-25fd-4d39-b9c9-As%20I%20previously%20informed%20you,%20these%20written%20comments,%20including%20EPA's%20technical%20feedback,%20were%20only%20provided%20in%20hard%20copy%20to%20DOT,%20outside%20the%20formal%20interagency%20review%20process.9ebd3a871c80/9D492D64E435FE651B96C666D2C15E30.02-05-20epacommentstodot-optimized-.pdf)

<sup>13</sup> <https://www.epw.senate.gov/public/index.cfm/2020/1/after-reviewing-draft-final-vehicles-rule-rollback-submitted-to-white-house-carper-urges-omb-to-abandon-the-trump-administration-s-flawed-safe-vehicles-rule>

<sup>14</sup> <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/>

<sup>15</sup> <https://www.nytimes.com/2020/02/13/climate/trump-fuel-economy-rollback.html>

The February 5, 2020 feedback EPA provided to DOT on the flawed and incomplete draft final rule included 460 comments and many more specific edits. My office's review of the 1005-page long document revealed EPA's identification of numerous errors and inaccuracies, a few examples of which are described below, and many of which remain unaddressed in the final published rule:

- EPA repeatedly noted DOT's apparent misunderstandings and mischaracterizations of the light duty vehicle emissions rule as well as the underlying Clean Air Act.<sup>16</sup>
- EPA observed that counter to the text stating that the "overall benefits of the final standards outweigh" the costs, the analysis included in the rule actually showed the opposite.<sup>17</sup>
- EPA observed that while the draft final rule claimed that "this action will result in reductions in climate change-related impacts and most air pollutants compared to the absence of regulation," that in fact "this action revising the GHG standards will result in increased climate impacts and air pollution emissions compared to the existing standards."<sup>18</sup>
- EPA found many specific numeric errors in the draft final tables describing the effects of the Obama and draft final rules, even observing that the draft stringency for MY 2021 cars was *less* stringent than that for MY 2020 in draft final Tables V-10 and V-14, and that Table V-12 which purported to describe each year's 1.5% stringency increase was incorrect.<sup>19</sup>
- EPA observed many instances in which DOT, sometimes writing in EPA's voice, belittled EPA's analysis and modeling and denigrated individual public commenters' written feedback on the proposed rule.<sup>20</sup>
- EPA pointed out numerous other technical inaccuracies, mischaracterizations or misunderstandings associated with the DOT draft final rule and justification thereof.<sup>21</sup>

On March 25, 2020, a new version of the rule's preamble was made available by DOT for inter-agency review.<sup>22</sup> According to an internal email<sup>23</sup> obtained by my office, that draft was sent by DOT to EPA late in the evening of March 24, 2020, and EPA career officials were asked to ascertain whether DOT had incorporated their February feedback. Although the staff were unable to complete the review in the brief period of time they were given, by early the morning of March 26, they had concluded and informed other EPA officials (including at least one lawyer from EPA's Office of General Counsel) in an email that "the vast majority of EPA's comments have not yet been addressed," and that they had "identified more than 250 EPA comments that have not been addressed." Additionally, they observed that "EPA's goal regarding these detailed comments (red in the February 5, 2020 markup provided to NHTSA) is to improve the legal defensibility of the final rule. It is unhelpful for EPA's future defense of the final rule GHG standards if the preamble and RIA had numerous factual inaccuracies which litigants can easily disprove." The email went on to specify several factual inaccuracies as examples of their concerns about the legal defensibility of the rule if they were left uncorrected. The EPA officials also included a copy<sup>24</sup> of

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<sup>16</sup> See for example comments A2, A3, A59, A93, A96, A129, A139, A213, A390, A391, A392, A394, A421, A422, A427, A430, A437

<sup>17</sup> See comment A6

<sup>18</sup> See comment A459

<sup>19</sup> See, for example, comments A94, A98, A99, A107, A108, A109, A110, A111, A112, A113, A114

<sup>20</sup> See, for example, comments A60, A63, A152, A167, A169, A172, A181, A189, A190, A206, A232, A413

<sup>21</sup> See, for example, comments A208, A214, A215, A216, A217, A218, A228, A230, A243, A257, A279, A280, A281, A372, A373, A374, A375, A376, A377, A378, A379, A380, A381, A382

<sup>22</sup> <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-7664>

<sup>23</sup> [https://www.epw.senate.gov/public/\\_cache/files/2/7/271e8a4d-c1c2-48d7-b02f-ffb4dcdea571/86494CCC77280979C9077C188FA23314.03-26-20epaemail.pdf](https://www.epw.senate.gov/public/_cache/files/2/7/271e8a4d-c1c2-48d7-b02f-ffb4dcdea571/86494CCC77280979C9077C188FA23314.03-26-20epaemail.pdf)

<sup>24</sup> [https://www.epw.senate.gov/public/\\_cache/files/4/b/4b278947-fe36-4c57-99eb-9855bc9d8be9/52B386DFAE5E95350519F08DE89A1145.03-26-20epacomments.pdf](https://www.epw.senate.gov/public/_cache/files/4/b/4b278947-fe36-4c57-99eb-9855bc9d8be9/52B386DFAE5E95350519F08DE89A1145.03-26-20epacomments.pdf)

the rule's preamble they had added their edits and comments to that my office has obtained, but this document was not placed into the rulemaking docket.

A non-exhaustive review of both the version of the final rule that was signed by Administrator Wheeler,<sup>25</sup> the version of the rule that was posted as a 'pre-publication' version<sup>26</sup> and the version that was published in the Federal Register<sup>27</sup> indicate that DOT did not remedy some fairly basic errors that were repeatedly pointed out by EPA. For example:

- DOT did not correct the text to reflect the fact that EPA's light duty vehicle emissions rules address all greenhouse gases from light duty vehicles, not just carbon dioxide.
- DOT failed to delete the inaccurate statement that the final rule changes the manner in which the "use/leakage of other air conditioning refrigerants" are regulated.
- EPA provided edits to the draft final rule indicating that while one type of compliance credit requested by the natural gas vehicle industry was being included in the rule,<sup>28</sup> a request for another type of credit was being rejected.<sup>29</sup> However, the regulatory text in both the signed and published versions of the rule provide for *both* types of credits, even though the preamble states in conflict with the regulatory text that the second type of credit had been rejected.
- DOT did not correct any of the specific examples of inaccuracies EPA officials warned could raise legal defensibility concerns following their review of the March 25 version of the rule's preamble.

I request that your investigation determine whether EPA's March 26 comments on the March 25 preamble were transmitted to DOT, and if so, why EPA officials subsequently chose not to place them into the rulemaking docket. I also ask that you determine whether EPA political officials were aware that the majority of EPA's feedback on the draft final rule remained unincorporated and that questions regarding the legal defensibility of the rule existed as a result before Administrator Wheeler signed the final rule on March 30.

**4. After the final rule was signed, the Agencies made significant changes to it before it was published in the Federal Register, raising transparency and potential legal questions associated with what appears to be an unprecedented process used to alter the materials.**

It is not unusual for some minor technical or typographical corrections to be made to a rule after it has been signed but before it is published in the Federal Register. However, typically, when more significant errors are found to have been made in a final rule, a new notice and comment technical corrections rulemaking process is required to remedy the errors. For example, an error in the way the 2012 Obama Administration vehicle greenhouse gas emissions rules calculated electric vehicle and other compliance credits was remedied only after a public rulemaking first proposed in 2018<sup>30</sup> and finalized in March 2020.

A review of documents associated with the SAFE Vehicles 2 Rule shows that far more dramatic changes seem to have been made to both the materials describing the new regulations and to important parts of the

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<sup>25</sup> [https://www.epw.senate.gov/public/\\_cache/files/a/4/a42e2912-ed1c-40c3-a7bf-882821b01fbf/AA7146CD54ED72F0DCBD5990555CCF68.signedversion.pdf](https://www.epw.senate.gov/public/_cache/files/a/4/a42e2912-ed1c-40c3-a7bf-882821b01fbf/AA7146CD54ED72F0DCBD5990555CCF68.signedversion.pdf)

<sup>26</sup> [https://www.epw.senate.gov/public/\\_cache/files/e/7/e7a7d586-e6a4-49b6-8560-fbc184e1a0e0/B7729D1B325DDAB91119F273E54D45B7.inspectionversion.pdf](https://www.epw.senate.gov/public/_cache/files/e/7/e7a7d586-e6a4-49b6-8560-fbc184e1a0e0/B7729D1B325DDAB91119F273E54D45B7.inspectionversion.pdf)

<sup>27</sup> <https://www.govinfo.gov/content/pkg/FR-2020-04-30/pdf/2020-06967.pdf>

<sup>28</sup> See, for example, comment A12

<sup>29</sup> See, for example, comment A427.

<sup>30</sup> <https://www.federalregister.gov/documents/2018/10/01/2018-21195/light-duty-vehicle-ghg-program-technical-amendments>

regulations themselves, all without any notice and comment whatsoever. This has been described to my office as highly unusual and in potential violation of the Administrative Procedure Act or other rulemaking requirements. In fact, EPA Administrator Wheeler himself seems to have requested that some of these changes be made in a highly unusual April 13, 2020 memo<sup>31</sup> sent two weeks after he signed the final rule.

Specifically, a non-exhaustive comparison of both the version of the final rule that was signed and released to the public by Administrator Wheeler,<sup>32</sup> the version of the rule that was posted as a ‘pre-publication’ version,<sup>33</sup> and the version that was published in the Federal Register<sup>34</sup> indicate that the agencies made some significant, material modifications to the rule.

For example, Tables II-15, II-16, II-17 and II-19 of the signed final rule all describe the requirements of the final standards. Many of the values included for the greenhouse gas stringency of the new standards in the signed version of the final rule are incorrect. Specifically, the greenhouse gas stringency of MY 2021 vehicles is shown in these tables to be subject to as much as a 4.5% increase as compared to MY 2020 vehicles – not the 1.5% annual increase EPA’s press release claims.<sup>35</sup> These values were all changed in the published version of the final rule.

Similarly, Tables II-1, II-2 and II-3 of the signed version of the final rule included uncorrected values for the stringency of the *final* rules even though the tables were supposed to include the values for the stringency of the *proposed* rules. Tables II-10, II-12, II-13 and II-14 all had significant errors with respect to the greenhouse gas targets for each vehicle footprint, which are the legal obligations established by the final rule, but some of these errors were corrected in the pre-publication version.

Finally, the regulatory text itself was also changed. Numerous, significant changes were made to the greenhouse gas standards for light-trucks, for model years 2021 and later. Compare the March 30, 2020 signed version, pages 1957 to 1961, with the pre-publication version, pages 2645 – 2649, 40 CFR 86.1818-12(c)(3). These changes were all made in a non-transparent manner after the final rule was signed and released to the public on March 30, 2020:

- The stringency of the greenhouse gas standards for light trucks with a footprint of less than or equal to 41 square feet was changed (86.1818-12(c)(3)(i)(A)).<sup>36</sup>
- The values used to calculate the stringency of the greenhouse gas standards for light trucks with a footprint greater than 41 square feet and less than or equal to a specified maximum footprint value were significantly modified (86.1818-12(c)(3)(i)(B)).<sup>37</sup>
- The stringency of the greenhouse gas standards for the largest light trucks was also changed (86.1818-12(c)(3)(i)(D)).<sup>38</sup>

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<sup>31</sup> <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-7685>

<sup>32</sup> [https://www.epw.senate.gov/public/\\_cache/files/a/4/a42e2912-ed1c-40c3-a7bf-882821b01fbf/AA7146CD54ED72F0DCBD5990555CCF68.signedversion.pdf](https://www.epw.senate.gov/public/_cache/files/a/4/a42e2912-ed1c-40c3-a7bf-882821b01fbf/AA7146CD54ED72F0DCBD5990555CCF68.signedversion.pdf)

<sup>33</sup> [https://www.epw.senate.gov/public/\\_cache/files/e/7/e7a7d586-e6a4-49b6-8560-fbc184e1a0e0/B7729D1B325DDAB91119F273E54D45B7.inspectionversion.pdf](https://www.epw.senate.gov/public/_cache/files/e/7/e7a7d586-e6a4-49b6-8560-fbc184e1a0e0/B7729D1B325DDAB91119F273E54D45B7.inspectionversion.pdf)

<sup>34</sup> <https://www.govinfo.gov/content/pkg/FR-2020-04-30/pdf/2020-06967.pdf>

<sup>35</sup> <https://www.epa.gov/newsreleases/us-dot-and-epa-put-safety-and-american-families-first-final-rule-fuel-economy-standards>

<sup>36</sup> Compare page 1958 of the signed version with page 2646 of the pre-publication version.

<sup>37</sup> Compare page 1959 of the signed version with page 2647 of the pre-publication version.

<sup>38</sup> Compare pages 1960-61 of the signed version with pages 2648-49 of the pre-publication version.

The federal government's "Document Drafting Handbook"<sup>39</sup> that sets forth the process for federal agencies preparing materials for publication in the Federal Register states that when 'minor changes' are requested to a document before it is published, a letter from the head of the Agency must accompany the request. However, the changes requested in Administrator Wheeler's letter cannot be classified as 'minor.' I request that you determine how so many significant changes were made to the rule after it was signed and before it was published, and whether the process followed to make such changes was appropriate, transparent and precedented.

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<sup>39</sup> <https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf>