

## DECLARATION OF JAMES AUSMAN

I, James Ausman, declare as follows:

1. I am currently a member of Environmental Defense Fund (EDF). I reside in San Francisco, California with my wife and two daughters, who are 9 and 12 years old. I have resided in California for more than 47 years. I received my bachelor's degree in Biophysics from the University of California, Berkeley and my area of expertise is in engineering project management.

2. I understand that California has long experienced extraordinary air pollution challenges. Growing up as a child with asthma in Riverside, California I frequently experienced acute asthma symptoms such as shortness of breath and tightening in my chest. As an adult living with asthma I chose to move to San Francisco with my family in 1993 because of its superior air quality.

3. I am familiar with, and deeply concerned about, the impacts of climate change due to greenhouse gas emissions. I am aware of the latest scientific evidence, which concludes that warming of the climate is unequivocal, that it is extremely likely that human influences have been the dominant cause of this warming since the mid-20th century, and that continued emissions of greenhouse gases will cause further warming.

4. This evidence demonstrates that climate change is posing a significant threat to the wellbeing of humans, wildlife, and the natural environment. For instance, I am aware of scientific evidence suggesting that certain types of extreme weather events—including heat waves, heavy downpours, and, in some areas, floods and droughts—have become more frequent and/or intense. Studies also confirm that warming is causing sea levels to rise, oceans to become more acidic, and snowpack to decline.

5. I see many of these impacts occurring in California, where my family and I live and recreate. For instance, Californians are experiencing drought and increased incidence of wildfires, reduced snowfall in the mountains, and an increase in both the occurrence and severity of extreme weather events like droughts and heat waves.

6. The evidence also shows that these and other changes threaten human health. For example, among other things, climate change is considered a key driver of the drought and high winds that have exacerbate wildfires in California.<sup>1</sup> Wildfires can cause personal injury, damage infrastructure, and contribute to worsening air pollution. I am aware that the 2018 California wildfire season was the most destructive in the state’s history with 1.8 million acres burned, 17,000 residences and

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<sup>1</sup> California Department of Forestry & Fire Protection, 2019 Fire Season, <https://www.fire.ca.gov/incidents/2019/10/23/> (last visited November 11, 2019).

700 businesses destroyed, and more than 100 fatalities across the state.<sup>2</sup> In 2019, over 250,000 acres burned, destroying over 700 structures and killing three people.<sup>3</sup>

Climate change also leads to increased ground-level ozone formation, and exposure to ozone can lead to and exacerbate a variety of respiratory and cardiovascular problems, including asthma.

7. Those who suffer from respiratory illness are disproportionately impacted by poor air quality exacerbated by climate change. I have suffered from asthma since childhood. When I was a child, I had two hospital admissions due to difficulty breathing caused by bronchitis, which was likely exacerbated by poor air quality. Over the years I have experienced acute asthma symptoms including shortness of breath requiring me to visit the Emergency Room and reduce outdoor physical activity, wheezing, many cases of bronchitis and pneumonia, and shortened vacations.

8. I have used several medications and inhalers throughout the years to treat my asthma. I currently treat my asthma with a steroidal inhaler and allergy medication administered in a series of shots. I have a rescue inhaler containing albuterol and Prednisone for emergencies.

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<sup>2</sup> Joseph Serna, 2018 was California's worst year for fire ever, federal report confirms, Los Angeles Times (March 9, 2019), <https://www.latimes.com/local/lanow/la-me-ln-california-fires-record-report-20190309-story.html>.

<sup>3</sup> CAL FIRE, 2019 Incident Archive, <https://www.fire.ca.gov/incidents/2019/> (last visited May 24, 2020).

9. These treatments are expensive and time consuming. Insurance does not cover the full cost of my asthma treatments and multiple treatments have cost me thousands of dollars. I also spend hours traveling to and from the doctor's office in addition to time spent meeting with physicians and receiving treatment.

10. My family and I enjoy spending time outdoors and frequently engage in camping, hiking, bicycling, and fishing.

11. Following exposure to degraded air quality—including smoke from climate change-exacerbated wildfires, and high ozone levels—I have experienced acute asthma symptoms including shortness of breath and tightness in my chest. Because exposure to air pollution can exacerbate my asthma symptoms, I am forced to limit my time engaging in outdoor activities when air quality is poor. For example, when ozone levels are high I refrain from riding my bike and limit the time I spend outside. Additionally, the acute asthma symptoms I experience during exposure to air pollution have caused me to cut short family vacations and to miss work.

12. In August of 2017, during a family trip to Mexico City following time spent outdoors, I began to have trouble breathing and started to feel disoriented. Over time my symptoms worsened even as I remained indoors. I began to experience shortness of breath, and was unable to lay down due to difficulty breathing when prone. I continued to experience these symptoms until a doctor could travel to and treat me by administering a steroidal (dexamethasone) shot.

13. More recently, I experienced acute asthma symptoms as a result of exposure to wildfire smoke while on vacation with my family in Yosemite National Park in early August of 2018. The Ferguson Fire that started in Sierra National Forest located south of Yosemite had been burning in a northwest direction during the weeks leading up to our vacation.<sup>4</sup> Within a day of arriving at the Evergreen Lodge located near Hetch Hetchy Valley in the northwestern portion of the Park, I began to experience shortness of breath and to feel lethargic. During my second night at the Park, I could not sleep and had trouble breathing. My wife and I feared that I would again have to receive medical treatment to alleviate my symptoms and so we returned home, ending our vacation two days early. Shortly after we left, Yosemite Valley residents were evacuated, and the National Park Service closed the park to the public.<sup>5</sup>

14. California wildfire smoke has caused me to experience acute asthma symptoms in the past. In the fall of 2017, as several wildfires burned in Sonoma and

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<sup>4</sup> The National Wildfire Coordinating Group, Incident Information System, Ferguson Fire, <https://inciweb.nwcg.gov/incident/5927/> (“The Ferguson Fire started on Friday night, July 13 at 9:36 PM in the South Fork Merced River drainage on Sierra National Forest...”)

<sup>5</sup> The National Wildfire Coordinating Group, Incident Information System, Ferguson Fire, <https://inciweb.nwcg.gov/incident/5927/> (“On August 3 the residents of Yosemite Valley were evacuated and the Park Service closed it to the public due to multiple hazards from firefighters working in the area.”).

Santa Rosa California,<sup>6</sup> smoke blew into San Francisco<sup>7</sup> and I started to experience wheezing and shortness of breath on exertion. During this time, the Environmental Protection Agency (EPA) designated San Francisco's air quality as "very unhealthy,"<sup>8</sup> indicating that everyone, not just those with sensitivities, may experience negative health impacts.<sup>9</sup> I again started to experience asthma symptoms. In an attempt to limit my exposure, I bought face masks from a hardware store to wear until the smoke subsided and air quality improved. The symptoms I experienced as a result of this exposure caused me to miss about two days of work.

15. I understand that the transportation sector is the leading cause of carbon dioxide (CO<sub>2</sub>) emissions in the United States and that the majority of greenhouse gas emissions from the transportation sector are from passenger cars and light trucks.<sup>10</sup>

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<sup>6</sup> Peter Fimrite, Jill Tucker, Kurtis Alexander and Demian Bulwa, Wine Country wildfires leave a trail of death, devastation across the North Bay, San Francisco Chronicle (Oct. 10, 2017), <https://www.sfchronicle.com/news/article/2-big-wildfires-prompt-evacuations-in-Napa-County-12262945.php&cmpid=twitter-premium>

<sup>7</sup> Brock Keeling, Smoke and ash covering San Francisco: How bad is it and how long will it last?, Curbed San Francisco, (updated Oct. 10, 2017), <https://sf.curbed.com/2017/10/9/16447874/smoke-ash-fire-air-quality-napa>

<sup>8</sup> Brock Keeling, Smoke and ash covering San Francisco: How bad is it and how long will it last?, Curbed San Francisco, (updated Oct. 10, 2017), <https://sf.curbed.com/2017/10/9/16447874/smoke-ash-fire-air-quality-napa>

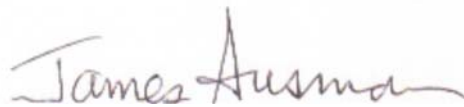
<sup>9</sup> Environmental Protection Agency, AirNow, Current Air Quality Index, <https://airnow.gov/index.cfm?action=airnow.main>

<sup>10</sup> EPA, *Sources of Greenhouse Gas Emissions-Transportation*, <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#transportation> (last updated April 11, 2018).

16. I am aware that EPA and the National Highway Traffic Safety Administration recently finalized regulations that dramatically weaken the federal greenhouse gas standards for light-duty vehicles, and that declare state greenhouse gas standards for vehicles and state zero-emission vehicle standards unlawful.

17. I am deeply concerned that these new rules will increase climate-harming and ozone-forming pollution, intensifying and extending California's wildfire season and likewise worsening ground-level ozone pollution. These pollutants present an imminent and concrete injury to my health and well-being and that of my family. More intense wildfires likewise threaten the survival, health, and natural beauty of the ecosystems where I live and recreate.

I declare under penalty of perjury that the foregoing is true and correct.



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James Ausman

Executed on June 1, 2020

## DECLARATION OF DYLAN BROCK

I, Dylan Brock, declare as follows:

1. I am a member of Environmental Defense Fund (EDF). I reside in Denver, Colorado. I have lived in Denver since 2015.
2. I am a pediatric neurologist at Children's Hospital Colorado. As a pediatric physician, I understand that children are particularly vulnerable to air pollution because they typically spend more time outdoors than adults, and because their lungs are still developing.
3. I have a 16-month-old daughter who loves to be outside, and spends time playing in our backyard every day.
4. I am aware that Denver County, where my family and I reside, is in nonattainment with EPA's health-based ozone standard. I understand that this means Denver County has unhealthy levels of ground-level ozone, or smog.
5. I am familiar with the Suncor refinery off Brighton Boulevard in Denver. The facility sits between three major highways—I-25, I-70, and I-270. I understand that it produces about a third of the gasoline consumed in Colorado.<sup>1</sup>

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<sup>1</sup> Moe Clark, Suncor oil refinery agrees to \$9 million settlement with Colorado for air quality violations in Commerce City (March 6, 2020), <https://coloradosun.com/2020/03/06/suncore-commerce-city-colorado-settlement-air-quality/>.



According to Google Maps, I-270 runs within 2,000 feet from the refinery. I-25 and I-70 run within two miles from the refinery.

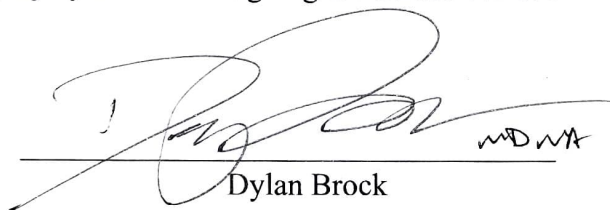
6. The Suncor refinery is notorious for permit exceedances, evidenced by periodic local news reports of air and water pollution events caused by malfunctions at the complex.<sup>2</sup>
7. I live approximately six miles from the refinery and pass it frequently when I drive with my daughter in the car on I-25, I-70, and I-270. I use these highways on at least a weekly basis. I use stretches of I-25 and I-70 that pass the refinery to get from my home to other parts of Denver, and to get to the recreation areas west of the city. I use the stretch of I-270 that directly passes the refinery to get to Boulder and recreation areas northwest of Denver. When we near the refinery from I-270 the fumes pervade our car.
8. I am aware that the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) have recently issued a rule that dramatically weakens the federal greenhouse gas and fuel economy standards for passenger vehicles. I understand that this rule will increase fuel consumption—and demand for gasoline—compared to the prior standards.

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<sup>2</sup> *See, e.g., id.* (reporting that the refinery “emitted volatile organic compounds in excess of its permit, including sulfur dioxide, hydrogen sulfide, hydrogen cyanide, nitrogen oxides, carbon monoxide, and particulate matter.”).

9. In the course of my daily life I will continue to drive in close proximity to the Suncor refinery with my daughter in tow. I am deeply concerned that this rule will result in an increase in emissions of dangerous pollution from the refinery—directly impacting my health and the health of my daughter—both because we will have to continue driving in close proximity to the refinery, and because the refinery will contribute more ozone-forming pollution to the already unhealthy ozone levels in Denver county.

I declare under penalty of perjury that the foregoing is true and correct.



A handwritten signature in black ink, appearing to read 'Dylan Brock', is written over a horizontal line. To the right of the signature, the initials 'MDWA' are written in a smaller, less legible hand.

Executed on May 29, 2020

## **DECLARATION OF ARTHUR P. COOLEY**

I, Arthur P. Cooley, declare as follows:

1. I am a member of Environmental Defense Fund (“EDF”) and have been a board member since I and several other scientists founded EDF on Long Island, New York, in 1967. I reside in La Jolla, a neighborhood in San Diego, California, having moved here from New York in 2003.

2. I have a graduate degree in biology from Cornell University, and am a retired high school biology teacher. I am also a former adjunct Associate Professor in the Marine Sciences Research Center at Stony Brook University in Stony Brook, New York, a part of the New York State University System. In that role, I taught marine biology to secondary school teachers for seven summers. I served for 20 years as a Naturalist and Expedition Leader for Lindblad Expeditions, an organization that offers small-ship expedition cruises that give passengers the opportunity to encounter some of the world’s most pristine places with the experts who know them best. As a naturalist and expedition leader, I have taught guests about the natural world and have coordinated our guests’ outdoor activities. Through this process I have traveled to all seven continents and learned a great deal about the birds, whales, geology, and other natural phenomena in these areas.

3. I am familiar with and concerned about emissions of greenhouse gases, which are causing climate change. I am aware of the latest scientific evidence,

which concludes that warming of the climate is unequivocal, that it is extremely likely that human influences have been the dominant cause of this warming since the mid-20th century; and that continued emissions of greenhouse gases will cause additional warming.<sup>1</sup>

4. I understand that climate change poses an imminent threat to human health and the environment. I am aware of science suggesting that certain types of extreme weather events—including heat waves, heavy downpours, and, in some areas, floods and droughts—have become more frequent or more intense due to climate change.<sup>2</sup> Data also shows that warming is causing sea levels to rise; oceans to become more acidic;<sup>3</sup> and snowpack to decline.<sup>4</sup> California’s Fourth National Climate Assessment projects that San Diego County, in which I live, will see

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<sup>1</sup> International Panel on Climate Change, Understanding Global Warming of 1.5°C, Summary for Policymakers, available at <https://www.ipcc.ch/sr15/chapter/spm/> (“Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8 °C to 1.2°C. Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate.”).

<sup>2</sup> International Panel on Climate Change, Understanding Global Warming of 1.5°C, 3.4.2.2 Extreme Hydrological events (floods and droughts), *available at* <https://www.ipcc.ch/sr15/chapter/chapter-3/>

<sup>3</sup> *See generally* International Panel on Climate Change, Understanding Global Warming of 1.5°C, 3.4.4 Ocean Ecosystems, *available at* <https://www.ipcc.ch/sr15/chapter/chapter-3/>

<sup>4</sup> International Panel on Climate Change, Understanding Global Warming of 1.5°C, 3.4.9.1 Tourism, available at <https://www.ipcc.ch/sr15/chapter/chapter-3/> (“Studies from 27 countries consistently project substantially decreased reliability of ski areas that are dependent on natural snow, increased snowmaking requirements and investment in snowmaking systems, shortened and more variable ski seasons...”).

increases in temperature of between five and ten degrees Fahrenheit by the end of this century.<sup>5</sup> Such changes also threaten human health. For example, among other things, increasing temperatures caused by climate change contribute to deteriorating air quality by exacerbating ozone pollution.<sup>6</sup> California is home to seven of the ten most smog-polluted cities in the nation.<sup>7</sup> The San Diego region in which I live, was recently ranked number 6 out of 228 metropolitan areas for greatest number of high ozone days.<sup>8</sup>

5. I also understand that immediate action to reduce greenhouse gas emissions is necessary to mitigate the impacts of climate change. Incremental actions addressing significant emissions sources can lessen harms associated with a changing climate and can reduce the risk that the climate system reaches certain

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<sup>5</sup> California's Fourth Climate Change Assessment, San Diego Region Report, at 6 (2019) <https://www.energy.ca.gov/sites/default/files/2019-07/Reg%20Report-%20SUM-CCCA4-2018-009%20SanDiego.pdf>

<sup>6</sup> See American Lung Association, 2019 State of the Air Report, Key Findings Ozone Pollution, available at <https://www.lung.org/our-initiatives/healthy-air/sota/key-findings/ozone-pollution.html> ("Increased heat in 2017 likely drove this increase in ozone. Warmer temperatures stimulate the reactions in the atmosphere that cause ozone to form, and 2017 saw the second warmest temperatures on record in the United States.").

<sup>7</sup> American Lung Association, 2019 State of the Air Report, Most Polluted Cities, <https://www.lung.org/our-initiatives/healthy-air/sota/city-rankings/most-polluted-cities.html>.

<sup>8</sup> American Lung Association, 2019 State of the Air Report, Most Polluted Cities, San Diego-Chula Vista-Carlsbad, CA, <https://www.lung.org/our-initiatives/healthy-air/sota/city-rankings/msas/san-diego-chula-vista-carlsbad-ca.html#ozone>.

“tipping points”—reflecting abrupt or irreversible changes in climatic conditions.<sup>9</sup> Meaningful actions in the United States can also help to encourage other countries to take similar action.

6. My home in La Jolla is one block from the ocean. The ability to live so close to the ocean and the beach was a significant reason why my wife and I chose this residence and it features prominently as a factor in the economic value of our property. I routinely visit the ocean where I walk along Windansea beach, and intend to continue to do so. I also visit, examine, and immensely enjoy the biology and ecology of the ocean shore. I have a significant recreational, aesthetic, and personal connection to this particular area of the ocean and Windansea beach that I regularly visit. I will not be able to continue to enjoy our property and my current recreational routine if the sea level continues to rise and the current beach changes or disappears.

7. Indeed, there is already documented sea level rise in San Diego coastal communities,<sup>10</sup> and Windansea beach on which I take frequent walks is now

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<sup>9</sup> U.S. Executive Office of the President, *The cost of Delaying Action to Stem Climate Change*, at 20 (July 2014) (“[T]he Earth’s climate history suggests the existence of ‘tipping points,’ that is, thresholds beyond which major changes occur that may be self-reinforcing and are likely to be irreversible over relevant time scales.”).

<sup>10</sup> Erik Anderson, *Sea Level Rise Could Sink California Property Values*, KPBS (June 18, 2018), <https://www.kpbs.org/news/2018/jun/18/sea-level-rise-could-sink-california-property-valu/>

completely inundated in high surf and high tide conditions.<sup>11</sup> Recent analysis projects that along the San Diego County coastline, sea levels will rise by one foot by the middle of this century.<sup>12</sup> The most recent United States climate assessment also found that “[w]ithout significant reductions in global greenhouse gas emissions and regional adaptation measures, many coastal regions will be transformed by the latter part of this century.”<sup>13</sup> If greenhouse gas emissions continue unabated and the sea level continues to rise, I am concerned that the sandy beach will disappear, and I will be unable to enjoy this activity.

8. As a biologist who studies nature, I spend extensive time outside, along the coast and the beach, to carry out my work. As a naturalist for Lindblad Expeditions, my duties included teaching guests about many different types of wildlife including, birds, whales, and dolphins, and also educating guests about the geology of the areas we visited. As an Expedition Leader, I coordinated all the activities of the guests, which included landings, zodiac cruises, lectures, arrivals,

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<sup>11</sup> Matthew Baldwin, *Those Giant Tides Are Worse Than Ever and May be Hint of What’s to Come*, Voice of San Diego (Jan. 7, 2016), <https://www.voiceofsandiego.org/topics/science-environment/those-giant-tides-are-worse-than-ever-and-may-be-hint-of-whats-to-come/>

<sup>12</sup> California’s Fourth Climate Change Assessment, San Diego Region Report, at 6 (2019) <https://www.energy.ca.gov/sites/default/files/2019-07/Reg%20Report-%20SUM-CCCA4-2018-009%20SanDiego.pdf>

<sup>13</sup> U.S. Global Change Research Program, Fourth National Climate Assessment, Summary of Findings, *available at* [https://nca2018.globalchange.gov/downloads/NCA4\\_Ch01\\_Summary-Findings.pdf](https://nca2018.globalchange.gov/downloads/NCA4_Ch01_Summary-Findings.pdf).

and departures, much of which involves enjoyment, observation, or use of natural areas.

9. I also spend additional time outside because of my deep appreciation for and interest in nature. I am very concerned about the adverse impact of climate change on the wildlife, resources, and ecosystems that I study and routinely visit. If climate change causes adverse impacts to these natural systems, as is occurring now and will likely continue to occur, I expect to be personally harmed by being unable to observe these systems free of such impacts.

10. Climate change is already adversely impacting the natural systems that I value, including the oceans.<sup>14</sup> For example, ocean acidification threatens to upset the ocean's delicate balance of marine life by harming those organisms that rely upon calcium carbonate to build their shells.<sup>15</sup> This is negatively impacting both

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<sup>14</sup> See Susan Murphy, *Rising Acidity Threatens Marine Ecosystems Off of San Diego*, KPBS, (Nov. 19, 2013), <https://www.kpbs.org/news/2013/nov/19/ocean-acid-threatens-san-diego-marine-ecosystems/>

<sup>15</sup> International Panel on Climate Change, *Understanding Global Warming of 1.5°C*, Chapter 3, Executive Summary, available at <https://www.ipcc.ch/sr15/chapter/chapter-3/> (“The ocean has absorbed about 30% of the anthropogenic carbon dioxide, resulting in ocean acidification and changes to carbonate chemistry that are unprecedented for at least the last 65 million years (high confidence). Risks have been identified for the survival, calcification, growth, development and abundance of a broad range of marine taxonomic groups, ranging from algae to fish, with substantial evidence of predictable trait-based sensitivities (high confidence).”); *see also id.* at 3.4.4.5 Ocean Acidification (“Organisms with shells and skeletons made out of calcium carbonate are particularly at risk, as are the early life history stages of a large number of organisms...”).



far-away coral reefs as well as sensitive organisms, like mussels, sea urchins and crabs in the tidal pools that I regularly visit with my children and with friends.<sup>16</sup>

One of the key findings of California's most recent statewide climate assessment is that ocean acidification and other ocean impacts caused by a changing climate are "transforming and degrading California's coastal and marine ecosystems."<sup>17</sup> One

of the key findings from California's most recent statewide climate assessment is that ocean acidification and other ocean impacts caused by a changing climate are "transforming and degrading California's coastal and marine ecosystems."<sup>18</sup>

These impacts will worsen unless greenhouse gas emissions are reduced.

11. I am aware that EPA and NHTSA have issued two joint rules that, respectively, weaken the federal greenhouse gas and fuel economy standards for light-duty vehicles, and declare state greenhouse gas emission standards for vehicles and state zero-emission vehicle standards unlawful, attacking California's

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<sup>16</sup> U.S. Environmental Protection Agency, Effects of Ocean and Coastal Acidification on Marine Life, <https://www.epa.gov/ocean-acidification/effects-ocean-and-coastal-acidification-marine-life> (last updated Dec. 21, 2016).

<sup>17</sup> California's Fourth Climate Change Assessment, Statewide Summary Report, at 58 (2019), <https://www.energy.ca.gov/sites/default/files/2019-07/Statewide%20Reports-%20SUM-CCCA4-2018-013%20Statewide%20Summary%20Report.pdf>.

<sup>18</sup> California's Fourth Climate Change Assessment, Statewide Summary Report, at 58 (2019), <https://www.energy.ca.gov/sites/default/files/2019-07/Statewide%20Reports-%20SUM-CCCA4-2018-013%20Statewide%20Summary%20Report.pdf>.

well-established Clean Air Act authority to implement protective vehicle emission standards.

12. I understand that the transportation sector is the leading source of greenhouse gas emissions in the United States. Nearly 30% of the nation's greenhouse gas emissions come from the transportation sector.<sup>19</sup> Within the transportation sector, light-duty vehicles are the largest contributors to greenhouse gas emissions, accounting for almost 60% of transportation-related climate pollution.<sup>20</sup>

13. I understand that the California Air Resources Board projects that, even with its protective standards in place, light-duty vehicles will account for 23% of statewide GHG emissions in 2030.<sup>21</sup>

14. Without protective state and federal standards in place, climate-destabilizing pollution will significantly increase. This in turn will increase the negative impacts

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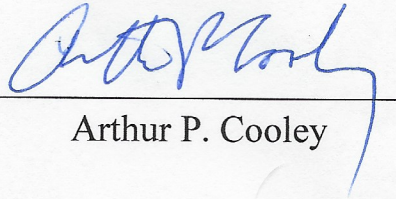
<sup>19</sup> Fast Facts on Transportation Greenhouse Gas Emissions, <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions> (last updated July 16, 2019).

<sup>20</sup> Fast Facts on Transportation Greenhouse Gas Emissions, <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions> (last updated July 16, 2019).

<sup>21</sup> California Air Resources Board, Proposed Amendments to the Low-Emission Vehicles (LEV) III Greenhouse Gas Emission Regulation, at 2 (Sept. 28, 2018), [https://ww3.arb.ca.gov/board/books/2018/092718/18-7-5pres.pdf?\\_ga=2.75791125.1650977375.1563834626-1026101495.1522858958](https://ww3.arb.ca.gov/board/books/2018/092718/18-7-5pres.pdf?_ga=2.75791125.1650977375.1563834626-1026101495.1522858958)

of climate change that are already affecting the natural resources and biological diversity that I treasure, impeding my ability to enjoy the ocean shore near my home.

I declare under penalty of perjury that the foregoing is true and correct.

  
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Arthur P. Cooley

Executed on May 23, 2020, 2020

## **DECLARATION OF GINA COPLON-NEWFIELD**

I, Gina Coplon-Newfield, declare as follows:

1. I am the Director of the Clean Transportation for All Campaign at Sierra Club, a position I've held for about three years. I was formerly the Director of the Electric Vehicle Initiative at the Sierra Club; a position that I held for more than six years.

2. In my current role, I manage and coordinate Sierra Club's policies and efforts on behalf of its members to advocate for greenhouse gas reductions and greater fuel efficiency from our nation's vehicle fleet and broader transportation system. While at Sierra Club, I have worked on numerous matters involving greenhouse gas regulations and fuel economy standards for light-duty and heavy-duty vehicles. My position requires me to be familiar with Sierra Club's purpose and mission, its activities relating to motor vehicles and to air quality (among other things), and the nature and scope of its membership.

3. Sierra Club is a national non-profit membership organization incorporated under the laws of the State of California, with its principal place of business in Oakland. Sierra Club's mission is to explore, enjoy and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the

quality of the natural and human environment; and to use all lawful means to carry out these objectives.

4. Sierra Club has 786,109 active members nationwide, according to data last updated in April 2020. These include members that live in close proximity to high volume roadways and refineries that process the oil products powering the vehicles traveling those busy roadways, and some of whom experience adverse health effects from the resulting pollution. They include members in states and counties that have been designated non-attainment for ozone and particulate matter, pollution that is caused by vehicles, among other sources. They also include members whose use and enjoyment of the natural environment is threatened and harmed by a changing climate. These members have a strong interest in protecting human health and the environment from the air pollution emitted by the transportation sector. Sierra Club works on behalf of its members, who rely upon the organization to advocate for their interests in front of state, local and federal entities, including EPA, NHTSA and the courts.

5. As part of carrying out this mission, for decades the Sierra Club has used the traditional tools of advocacy--organizing, lobbying, litigation, and public outreach—to push for policies that decrease air and climate pollution by reducing our nation's dependence on fossil fuels.

6. Sierra Club has a long history of involvement in vehicle regulations aimed at tackling pollution and lessening our dependence on oil as a transportation

fuel. Together with other organizations, Sierra Club has in the past challenged NHTSA's CAFE standards for light-duty vehicles for failure to comply with the relevant requirements under the Energy Policy and Conservation Act. *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 538 F.3d 1172 (9th Cir. 2008).

7. Sierra Club has long advocated for climate regulations for vehicles. In 2002, Sierra Club and other organizations filed a lawsuit against the Environmental Protection Agency (EPA) asking the agency to regulate greenhouse gases from motor vehicles. EPA settled that lawsuit and denied the petition in 2003, on the grounds that the agency lacked authority to do so. Sierra Club and numerous states and environmental organizations challenged that denial, ultimately leading to the Supreme Court's decision in *Massachusetts v. EPA*, which held that greenhouse gases are air pollutants subject to regulation under the Clean Air Act. 549 U.S. 497 (2007).

8. The Supreme Court's ruling resulted in EPA's issuing a finding that six greenhouse gases emitted by vehicles endanger the public health and welfare of current and future generations, which forms the basis of the agency's greenhouse gas regulations for light-duty and heavy-duty vehicles. *Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496 (Dec. 15, 2009). Sierra Club has consistently worked to strengthen and defend those federal standards.

9. In 2010, NHTSA and EPA jointly issued CAFE and greenhouse gas emission standards for light-duty vehicles. *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule*, 75 Fed. Reg. 25,324 (May 7, 2010). Sierra Club and others commented on the proposed rule and intervened in the industry’s lawsuit challenging the standards. *Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102 (D.C. Cir. 2012), *rev’d on other grounds sub nom. Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014).

10. NHTSA and EPA updated these standards in 2012 by issuing fuel efficiency and greenhouse gas standards for light-duty vehicles built from model years 2017 through 2025. Because the law allows NHTSA to issue CAFE standards only in five year increments, NHTSA’s CAFE standards for model years 2022 through 2025 were “augural.” In the regulation, EPA bound itself to review the appropriateness of the greenhouse gas standards by April 2018. *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 Fed. Reg. 62,624 (Oct. 15, 2012). During 2016, Sierra Club and others commented on EPA’s Draft Technical Assessment Report and its proposed determination as part of this mid-term evaluation and, in January 2017, EPA found that the standards remained appropriate at even lower cost than originally estimated. In April 2018, however, EPA reversed its position, determining that the current standards are not appropriate and might be too stringent. Sierra Club and its allies challenged EPA’s revised determination. *California v. EPA*, 940 F.3d 1342 (D.C. Cir. 2019). Sierra Club



and others also commented on NHTSA's and EPA's proposed rule to revise the standards for light-duty vehicles for model year 2021 and to issue new standards for model years 2022 through 2026, frozen at the stringency set for model year 2020.

11. In 2011, NHTSA and EPA adopted fuel economy and greenhouse gas standards for heavy-duty trucks, updating these standards in 2016. *Greenhouse Gas Emission Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles; Final Rule*, 76 Fed. Reg. 57,106 (Sep. 15, 2011); *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles-Phase 2*, 81 Fed. Reg. 73,478 (Oct. 25, 2016). Sierra Club and others intervened to defend those rules against industry challenges. *Truck Trailer Manufacturers Association v. EPA*, Nos. 16-1430, 16-1447 (D.C. Cir. 2017). Recently, Sierra Club and its allies also challenged EPA's final decision not to enforce its regulations of glider vehicles nationwide. *Environmental Defense Fund v. EPA*, No. 18-1190 (D.C. Cir. 2018).

12. On September 27, 2019, EPA and NHTSA issued a rulemaking in which NHTSA declared that the Energy Policy and Conservation Act preempts California's ability to set its own greenhouse gas and zero emission vehicle (ZEV) standards for passenger cars and light duty vehicles, and in which EPA revoked the waiver it had issued California under the Clean Air Act allowing the state to do so. *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program*, 84 Fed. Reg. 51,310 (Sept. 27, 2019) ("SAFE One"). This rule also declared that other states may no longer adopt California's greenhouse gas and ZEV standards for vehicles. On

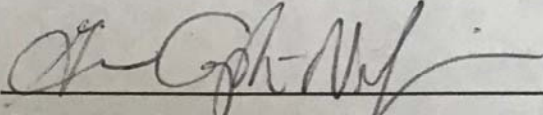


April 30, 2020, the agencies issued a second rule which considerably weakened the greenhouse gas and fuel efficiency rules applicable to the nation's passenger cars and light duty trucks. *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) ("SAFE TWO"). The result of SAFE Two will be the consumption of massive amounts of additional gasoline and diesel and the emissions of vast amounts of greenhouse gases and other harmful pollution.

13. Strong regulations that increase vehicles' fuel efficiency, reduce their emissions of greenhouse gases and other harmful air pollutants, and allow California and states adopting California's standards to set Zero Emission Vehicle (ZEV) standards are a critical part of Sierra Club's work to reduce pollution in the transportation sector. Rules that increase fuel consumption and air pollution and prohibit the adoption of ZEV standards by California and other states are directly contrary to Sierra Club's mission and work, and harm our members in numerous ways. Our members rely on Sierra Club to represent their interests in reducing harmful pollution by means of strong efficiency and emission standards and mandates for the sale of ZEV vehicles. SAFE One and SAFE Two directly affect our members' health, their ability to enjoy the environment and protect numerous species, and to purchase fuel efficient and ZEV vehicles that meet their needs. If Sierra Club's challenge to these regulations is successful, the much more stringent former national fuel efficiency and greenhouse gas regulations will be reinstated; California will regain

its right to set its own greenhouse gas standards and ZEV standards; and other states will again be able to adopt California's standards. Sierra Club members will directly benefit from the resulting reductions in climate and conventional air pollution and its many and grave harms to them and the environment.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on May 20, 2020.

  
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Gina Coplon-Newfield

**DECLARATION OF PHILIP B. COUPE  
FOR CONSERVATION LAW FOUNDATION**

I, Philip B. Coupe, hereby declare and state:

1. This declaration is based on my personal knowledge, information, and belief. I am over the age of eighteen years and suffer from no legal incapacity.

2. I have been a resident of Maine for 40 years. I live at 345 Mitchell Road in Cape Elizabeth, which is located in Cumberland County.

3. I am currently a member of CLF's Maine State Board. I have served on CLF's Maine State Board for two years and have been a CLF member for ten years. I am a member of CLF because they are one of the most effective non-governmental organizations in New England when it comes to protecting citizens' rights to clean air, clean water and a healthy, sustainable environment.

4. Among the most important current and future threats to Maine's natural and built environment is the ongoing damage due to anthropogenic climate change. I am aware of the science documenting the existence of climate change, its causes, and its potential adverse impacts on public health and welfare and the environment. I understand that human activities—including transportation—have resulted in elevated levels of carbon dioxide pollution in earth's atmosphere. Carbon dioxide and other greenhouse gases trap heat in the Earth's atmosphere and are now causing a variety of climatic and environmental changes, including, but not limited to, increased local and global temperatures, sea level rise, and increases in the frequency and intensity of extreme weather events, including increased precipitation and heavy downpours in the northern United States.

5. I understand that 2019 was the second hottest year on record for the United States and that this is part of a pattern of increased warming globally and in my region. Between 1895

and 2011, average annual temperatures in Maine, indeed in the entire Northeast U.S., increased by almost two degrees Fahrenheit, and precipitation increased by more than ten percent. I am also aware that 2019 was the wettest year to date on record for the contiguous U.S. Additionally, I understand that sea level rise is already documented in Maine and that global sea levels are projected to rise up to 6.5 feet by 2100, substantially increasing coastal flooding risks in my region.

6. I am familiar with the final rule published by the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) as *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) (Final Rule). I understand that this rule weakens federal greenhouse-gas emission and fuel-economy standards pertaining to cars and light trucks. I also understand that Competitive Enterprise Institute (CEI) has filed a petition for review of this rule and has previously argued that the agencies should further weaken these standards. I have been informed that CLF is seeking to intervene in that lawsuit.

7. The Final Rule harms me and my family. If CEI's petition is successful, the harms to me and my family will be even greater. My family enjoys spending time outdoors and participating in outdoor activities including camping, swimming, canoeing, fishing, biking, hiking, and running, as well as outdoor sports like soccer, ultimate frisbee, and lacrosse. Both of my sons (age 15), my daughter (age 17), and I suffer from episodic asthma, which can cause shortness of breath, wheezing, and coughing. Our symptoms are aggravated by ground-level ozone and ozone smog. We are, therefore, directly impacted by climate change because increased temperatures lead to more frequent bad ozone days, exacerbating our symptoms. This will make it harder for us to breathe when we attempt to exercise and recreate outdoors and will

force us to curtail these activities. If climate-related temperature rises remain unchecked, these bad ozone days will only continue to increase, and the associated adverse health impacts will be compounded. Greenhouse gas emissions will increase as a result of the Final Rule, thereby contributing to climate change and increasing the number of days our asthma symptoms are exacerbated.

8. My three children are an important reason why I am so concerned about the issue of climate change. I worry about how the changing climate will impact their health and their futures. I believe we must do everything we can to protect them from the adverse effects of climate change.

9. I am also the Co-founder and Managing Partner of a solar energy company called ReVision Energy. Our company mission is to transition northern New England from a fossil fuel-based economy to a sustainable, renewable energy-based economy. As a 100% employee-owned company and certified B Corp, we are committed to creating the better future we know is possible for ourselves and future generations by drastically reducing fossil fuel consumption and the associated emissions. We are particularly focused on helping consumers acquire solar electric systems and electric vehicle charging stations so they can meet their transportation needs with zero emissions.

10. Recognizing that more than 50% of northern New England's carbon pollution comes from vehicle tailpipe emissions, ReVision Energy has created an Electric Vehicle Charging division as part of its overall business strategy to reduce fossil fuel consumption and associated emissions. Zero-emission electric vehicles and low-emission plug-in hybrid vehicles are critically important to the regional effort to reduce carbon pollution and ReVision Energy is actively participating in the market-based business solution of installing "EVSE" (electric

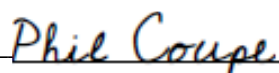
vehicle supply equipment) to encourage adoption of electric vehicles and plug-in hybrid electric vehicles. ReVision Energy has become a market leader in the installation of electric vehicle charging stations in Maine, New Hampshire and Massachusetts for homeowners, commercial businesses, nonprofits, schools and municipalities.

11. The Final Rule harms ReVision Energy's business interests. If vehicular emissions and economy rules are loosened, there will be fewer sales of electric vehicles, and there will be less consumer demand for ReVision Energy's EVSE installation services. This will materially harm ReVision's business interests by reducing revenues and profits. As the managing partner of ReVision Energy, I and other ReVision Energy employee-owners stand to lose business and money due to the Final Rule.

12. It is my opinion that the Final Rule is an illegal assault on citizens' rights to enjoy clean, healthy air and water. It is worth noting that electric vehicles are roughly 50% less expensive to operate than internal combustion engine vehicles because electric vehicles are vastly more efficient and because they require virtually zero maintenance (no oil changes, no engine work, etc). For these economic reasons, and because electric vehicles drastically reduce carbon pollution, electric cars are superior to the more expensive and polluting internal combustion engine vehicles. ReVision Energy is building the EVSE infrastructure that enables this beneficial transition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of May, 2020.

  
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Philip B. Coupe

## DECLARATION OF ELENA CRAFT

I Elena Craft, declare as follows:

1. I am a Senior Director at Environmental Defense Fund (“EDF”). I received a Ph.D. in toxicology from Duke University’s Nicholas School of the Environment – Earth and Ocean Sciences Division. I also have a Master of Science degree in toxicology from North Carolina State University.

2. As Senior Director of EDF’s Climate and Health program, I focus on implementing policies to reduce health-harming pollution from the energy and transportation sectors. I have provided expert testimony at three House Congressional hearings related to issues of air quality, and ozone specifically. I have served on various advisory committees to the EPA, including the Mobile Source Technical Review Subcommittee (“MSTRS”) under the Clean Air Act Advisory Committee (“CAAAC”); the Air, Climate, and Energy Subcommittee of the Board of Scientific Counselors; an Environmental Justice Technical Review Subcommittee; and a ports work group.

3. I am aware that the Environmental Protection Agency (“EPA”) and the National Highway Traffic Safety Administration (“NHTSA”) have issued a joint final rule that significantly weakens greenhouse gas and fuel economy standards for passenger vehicles, *The Safer Affordable Fuel-Efficient (SAFE)*

*Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) (“Final Rule”).

4. I understand that the Agencies’ own analysis found that this rollback will increase gasoline consumption and result in significant emissions of additional health-harming pollutants like oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOCs), fine particulate matter (PM<sub>2.5</sub>), and sulfur oxides (SO<sub>x</sub>), over the lifetime of the affected vehicles. I understand that the agencies’ projections likely underestimate the impact of the rule on emissions of these and other dangerous pollutants, such as benzene.<sup>1</sup>

5. This pollution will have real health consequences for Americans. Any further weakening of the standards will result in even greater health harms.

### **Health Effects from Ozone Exposure**

6. There is a broad scientific consensus that NO<sub>x</sub> and VOC emissions are precursors to ozone formation and that exposure to ozone is associated with significant public health effects. Ozone forms when VOCs and NO<sub>x</sub> react in the presence of heat and sunlight. This process becomes more pronounced in the summertime.

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<sup>1</sup> See EDF Fact Sheet, *Trump Administration Moves Ahead with Harmful Clean Cars Rollback*, [https://www.edf.org/sites/default/files/Cars\\_Final\\_Rollback\\_Factsheet.pdf](https://www.edf.org/sites/default/files/Cars_Final_Rollback_Factsheet.pdf); Comments of Environmental Defense Fund, Appendix A at 46–54, Docket No. NHTSA-2018-0067-12108 (Oct. 26, 2018).



7. The American Lung Association estimates that there are more than 137 million people in the United States living in 205 counties with unhealthy levels of ozone pollution.<sup>2</sup>

8. A longstanding body of scientific research, including numerous EPA assessments, demonstrates that exposure to ground-level ozone harms human health and can cause heart disease, permanent lung damage, aggravation of asthma, and premature death from respiratory causes.<sup>3</sup>

9. In its 2013 Integrated Scientific Assessment for Ozone, EPA concluded that “a very large amount of evidence spanning several decades supports a relationship between exposure to [ozone] and a broad range of respiratory effects.”<sup>4</sup> These effects range from decreases in lung function and increases in respiratory-related hospital admissions and emergency room visits, to premature death.<sup>5</sup>

10. EPA concluded that there is a causal relationship or likely causal

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<sup>2</sup> Am. Lung Ass’n, *State of the Air 2020*, at 10 (2020), <http://www.stateoftheair.org/assets/SOTA-2020.pdf>.

<sup>3</sup> See EPA, *Health Effects of Ozone Pollution*, <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution> (last visited June 1, 2020).

<sup>4</sup> EPA, *Integrated Science Assessment of Ozone and Related Photochemical Oxidants*, at 1-6, EPA/600/R-10/076F (Feb. 2013) (“ISA”), <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=247492>; see also EPA, *Integrated Science Assessment for Ozone and Related Photochemical Oxidants*, at IS-1, EPA/600/R-20/012 (Apr. 2020), <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=348522>.

<sup>5</sup> ISA at 6-130 to 6-158, 6-162 to 6-163.

relationship between both short- and long-term ozone exposure and a broad range of harmful respiratory and cardiovascular effects in humans.<sup>6</sup> Short-term exposure is defined as hours, days, or weeks, and long-term exposure is measured in months to years.<sup>7</sup>

11. Short-term exposure to ozone can have critical health implications. For instance, there is strong evidence of an association between out-of-hospital cardiac arrests and short-term exposure to ozone.<sup>8</sup> Time scales of exposure up to three hours in duration and also at the daily level on the day of the event were significant. This evidence augments the long-standing body of literature demonstrating the serious impacts from short-term exposure to ozone pollution, including the increased risk of premature death.<sup>9</sup> EPA has recognized that “[o]zone is associated with public health effects, including . . . premature mortality.”<sup>10</sup>

12. Long-term exposure likewise has critical health implications. EPA has concluded that there is “likely to be a causal relationship between long-term exposure to [ozone] and respiratory effects.”<sup>11</sup> Similarly, EPA notes that, “recent

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<sup>6</sup> *Id.* at 1-5 to 1-8, Table 1-1.

<sup>7</sup> *Id.* at 1-4.

<sup>8</sup> Katherine B. Ensor et al., *A Case-Crossover Analysis of Out-of-Hospital Cardiac Arrest and Air Pollution*, 127 *Circulation* 1192 (2013), <https://www.ncbi.nlm.nih.gov/pubmed/23406673>.

<sup>9</sup> ISA at 1-14 (concluding that there is “likely to be a causal relationship between short-term exposures to [ozone] and total mortality”).

<sup>10</sup> 81 Fed. Reg. at 59,281; *see* ISA 6-220 to 6-221.

<sup>11</sup> ISA at 1-7.

evidence is suggestive of a causal relationship between long-term [ozone] exposures and total mortality.”<sup>12</sup> Some longitudinal studies have further demonstrated that “long-term [ozone] exposure influences the risk of asthma development in children.”<sup>13</sup>

13. Ozone pollution is particularly harmful for vulnerable populations, such as children, people with respiratory diseases or asthma, older adults, and people who are active outdoors, especially outdoor workers.<sup>14</sup> Children with asthma also face heightened risks from ozone exposure. Many studies have demonstrated that children with asthma experience decrements in lung function and increases in respiratory symptoms when exposed to ozone pollution.<sup>15</sup>

14. A study of almost 61 million Medicare patients conducted nationwide indicates a significant association between ozone exposure and all-cause mortality, with effects strongest in minorities and those of low socioeconomic status. These effects were seen at ozone concentrations well below EPA’s current health-based standard.<sup>16</sup>

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<sup>12</sup> *Id.* at 1-15.

<sup>13</sup> *Id.* at 7-2.

<sup>14</sup> *Id.* at 1-8.

<sup>15</sup> *E.g.*, K. Mortimer et al., *The Effect of Air Pollution on Inner-City Children with Asthma*, 19 *Eur. Respiratory J.* 699 (2002), <https://www.ncbi.nlm.nih.gov/pubmed/11999000>; ISA at 6-120 to -121, 6-160.

<sup>16</sup> Di et al., *Air Pollution and Mortality in the Medicare Population*, 376 *New Eng. J. Med.* 2513 (2017), <https://www.nejm.org/doi/full/10.1056/NEJMoa1702747>.

15. Ozone exposure is also associated with health effects other than cardiovascular or respiratory effects. A recent study suggested that ozone exposure may be linked to approximately 8,000 stillbirths per year.<sup>17</sup> Prolonged exposure to ozone may also accelerate cognitive decline in the early stages of dementia.<sup>18</sup>

16. In 2015, EPA strengthened the national health-based standard for ground-level ozone, lowering the standard from 75 parts per billion (“ppb”) to 70 ppb.<sup>19</sup> The record for that rulemaking, however, along with subsequent scientific studies, demonstrates that health effects can occur at much lower levels, especially in sensitive populations. For that reason, EPA’s independent scientific advisors recommended that the agency establish the standard in the range of 60–70 ppb. Many health and medical associations suggested that lower standards may be appropriate.<sup>20</sup>

17. In addition, particular areas of the country are not in attainment with the current 70 ppb standard, and therefore frequently experience even healthier

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<sup>17</sup> Mendola et al., *Chronic and Acute Ozone Exposure in the Week Prior to Delivery is Associated with the Risk of Stillbirth*, 14 Int’l J. Env’tl. Res. & Pub. Health 731 (2017), <https://www.ncbi.nlm.nih.gov/pubmed/28684711>.

<sup>18</sup> Cleary et al., *Association of Low-Level Ozone with Cognitive Decline in Older Adults*, 61 J. Alzheimer’s Disease 67 (2018), <https://www.ncbi.nlm.nih.gov/pubmed/29103040>.

<sup>19</sup> EPA, *National Ambient Air Quality Standards for Ozone*, 80 Fed. Reg. 65,292 (Oct. 26, 2015).

<sup>20</sup> *Id.* at 65,321–23, 65,355.

levels of air quality. These additionally unhealthy levels of ozone air quality can result in acute respiratory illness and other damaging health outcomes.

### **Health Effects of Fine Particulate Matter Exposure**

18. Particulate pollution, often called “soot”, is a mixture of directly emitted particles, and tiny “secondary” particles formed in the atmosphere from SO<sub>2</sub>, NO<sub>x</sub>, and ammonia. The smallest particles are considered the most dangerous (particularly those less than 2.5 microns in diameter), as they are easily inhaled and reach deep into the lungs where they can trigger an inflammatory response. People with heart or lung disease, the elderly and children are at highest risk from exposure to particulate pollution.<sup>21</sup>

19. EPA has determined that PM<sub>2.5</sub> is harmful to human health above 12 micrograms per cubic meter (µg/m<sup>3</sup>) on an annual basis,<sup>22</sup> and the latest scientific evidence suggests far more protective standards are needed.<sup>23</sup> Currently, nearly one in six people (16.3 percent) in the United States—more than 53.3 million—live in an area with too many days with unhealthful levels of particle pollution, and more

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<sup>21</sup> See Am. Lung Ass’n, *Particle Pollution*, <https://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/particle-pollution.html>.

<sup>22</sup> 78 Fed. Reg. at 3086 (Jan. 15, 2013).

<sup>23</sup> EPA, *Policy Assessment for the Review of the National Ambient Air Quality Standards for Particulate Matter*, EPA-452/R-20-002, 3-45 to 3-72 (Jan. 2020).

than 21.2 million people (6.5 percent) suffer from unhealthy year-round levels of particle pollution.<sup>24</sup>

20. While these numbers are staggering, they likely do not capture the full breadth of communities suffering from unhealthy air because the nation's limited network of fixed-site air pollution monitors do not detect all areas with elevated pollution levels. In 2018, a study compared satellite-derived data on fine particulate matter concentrations to data from the nation's monitors and found that more than twice as many people in the U.S.—an additional 24 million people—are living in areas with unhealthy levels of PM<sub>2.5</sub> that had been misclassified as healthy.<sup>25</sup>

21. Fine particulate matter, PM<sub>2.5</sub>, is associated with a host of adverse health effects, including decreased lung function, allergic responses, chronic obstructive pulmonary disease, lung cancer, and both acute and chronic cardiovascular effects.<sup>26</sup> Current ambient concentrations of particulate matter are

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<sup>24</sup> See Am. Lung Ass'n, *State of the Air 2020*, at 11 (2020), <http://www.stateoftheair.org/assets/SOTA-2020.pdf>.

<sup>25</sup> Daniel M. Sullivan & Alan Krupnick, Resources for the Future, *Using Satellite Data to Fill the Gaps in the US Air Pollution Monitoring Network*, (2018).

<sup>26</sup> E. Alfaro-Moreno et al., *Particulate Matter in the Environment: Pulmonary and Cardiovascular Effects*, 13 *Curr. Opin. Pulm. Med.* 98 (2007); Annette Peters, Stephanie von Klot & Margit Heier, *Exposure to Traffic and the Onset of Myocardial Infarction*, 351 *N. Engl. J. Med.* 1721 (2004); Annette Peters et al., *Increased Particulate Air Pollution and the Triggering of Myocardial Infarction*, 103 *Circulation* 2810 (2001).

considered a health risk in many locations throughout the country.<sup>27</sup> PM toxicity may be attributed to the particle's physical presence in biological tissues, the particle's shape, its chemical constituents, included chemicals adsorbed on the particle, or a combination of these factors.<sup>28</sup>

22. According to a study by the National Academy of Sciences, fine particulate matter air pollution exposure is the largest environmental health risk factor in the United States, causing more than 100,000 premature deaths per year.<sup>29</sup>

23. A recent study, using a sample three times larger than all previous research combined, provides comprehensive evidence of the relationship between PM<sub>2.5</sub> and cardiac arrests. The study concluded that there is an increased risk of out-of-hospital cardiac arrest (OHCA) even from short-term exposure to low concentrations of PM<sub>2.5</sub>.<sup>30</sup>

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<sup>27</sup> EPA, *Area Designations for 2006 Fine Particle (PM<sub>2.5</sub>) Standards*, <http://www.epa.gov/pmdesignations/2006standards/index.htm>.

<sup>28</sup> Richard Schlesinger et al., *The Health Relevance of Ambient Particulate Matter Characteristics: Coherence of Toxicological and Epidemiological Inferences*, 18 *Inhalation Toxicology* 95 (2006).

<sup>29</sup> Andrew L. Goodkind, Christopher W. Tessum, Jay S. Coggins, Jason D. Hill & Julian D. Marshall, *Fine-scale damage estimates of particulate matter air pollution reveal opportunities for location-specific mitigation of emissions*, 116 *Proc. Nat'l Acad. Sci.* 8775 (2019), <https://doi.org/10.1073/pnas.1816102116>.

<sup>30</sup> Bing Zhao, Fay H. Johnston, Farhad Salimi, Masahiko Kurabayashi & Kazuaki Negishi, *Short-term exposure to ambient fine particulate matter and out-of-hospital cardiac arrest: a nationwide case-crossover study in Japan*, 4 *Lancet* at e15 (2020), [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(19\)30262-1/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(19)30262-1/fulltext).

24. According to EPA’s Regulatory Impact Analysis, released in 2012 in parallel with the proposed revisions to the PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS), the accumulation of published studies serves to strengthen the case for an association between PM exposure and respiratory inflammation and infection leading to premature mortality in children under five years of age.<sup>31</sup> In this document, EPA cites the findings of the Science Advisory Board – Health Effects Subcommittee (SAB-HES),<sup>32</sup> which in turn references numerous corroborating studies linking PM exposure to many adverse health outcomes. The Regulatory Impact Analysis also cites a study by Woodruff *et al.* that finds associations between PM<sub>2.5</sub> and infant mortality.<sup>33</sup>

25. With the publication of numerous studies involving the collection of data over an extended period of time, including Laden and colleagues,<sup>34</sup>

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<sup>31</sup> EPA, *Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter*, EPA-452/R-12-005 (2012), <https://www3.epa.gov/ttnecas1/regdata/RIAs/finalria.pdf>.

<sup>32</sup> EPA Science Advisory Board Health Effects Subcommittee, *Advisory on Plans for Health Effects Analysis in the Analytical Plan for EPA’s Second Prospective Analysis – Benefits and Costs of the Clean Air Act, 1990-2020*, EPA-SAB-COUNCIL\_ADV\_04-002 (2004).

<sup>33</sup> T.J. Woodruff, J.D. Parker & K.C. Schoendorf, *Fine Particulate Matter (PM<sub>2.5</sub>) Air Pollution and Selected Causes of Post-Neonatal Infant Mortality in California*, 114 *Envtl. Health Persp.* 786 (2006).

<sup>34</sup> F. Laden et al., *Reduction in Fine Particulate Air Pollution and Mortality Extended Follow-up of the Harvard Six Cities Study*, 173 *Am. J. Respiratory & Critical Care Med.* 667 (2006).



Gauderman and colleagues,<sup>35</sup> Brauer and colleagues,<sup>36</sup> and Krewski and colleagues,<sup>37</sup> the evidence linking particulate matter with premature mortality, significant lung damage, and other significant adverse health effects is strong. The extended observational period of these studies, combined with more sophisticated exposure assessments, continues to strengthen the evidence that particulate matter poses a significant health threat at current levels of exposure. A study released in 2012 reaffirmed decades' worth of analyses on the association of particulate pollution exposure to increased risk of premature mortality. The study found that every increase of 10 micrograms per cubic meter in fine particulate pollution was associated with a 14 percent increased risk of "all-cause" mortality, a 26 percent increase in cardiovascular death, and a 37 percent increase in lung cancer death.<sup>38</sup>

26. The consistency of the data on PM<sub>2.5</sub> makes it possible to quantify the health benefits of reducing this type of pollution for a suite of health indicators, including: premature mortality, bronchitis, hospital admissions for both respiratory

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<sup>35</sup> W.J. Gauderman et al., *Effect of Exposure to Traffic on Lung Development from 10 to 18 Years of Age: a Cohort Study*, 369 *Lancet*, 571 (2007).

<sup>36</sup> M. Brauer et al., *Air Pollution and Development of Asthma, Allergy and Infections in a Birth Cohort*, 29 *Eur. Respiratory J.* 879 (2007).

<sup>37</sup> Krewski et. al., *Extended Follow-Up and Spatial Analysis of the American Cancer Society Study Linking Particulate Air Pollution and Mortality*, Health Effects Inst. Research Report 140 (2009).

<sup>38</sup> Lepeule, J. et al., *Chronic Exposure to Fine Particles and Mortality: An Extended Follow-up of the Harvard Six Cities Study from 1974 to 2009*, 120 *Envtl. Health Persp.* 965 (2012).

and cardiovascular events, emergency room visits for asthma, nonfatal heart attacks, lower and upper respiratory illness, minor restricted-activity days, work loss days, asthma exacerbations, respiratory symptoms (asthmatic population), and infant mortality.<sup>39</sup> Conversely, there will be a quantitative increase in health harms if the Trump Administration increases criteria emissions from upstream sources of refining additional fuel.

### **Health Impacts from Exposure to Sulfur Oxides (SO<sub>x</sub>)**

27. Sulfur oxides (SO<sub>x</sub>) are a group of ambient air pollutants emitted during the burning or combustion of fossil fuels and other industrial processes. Among the group of SO<sub>x</sub>, sulfur dioxide (SO<sub>2</sub>) is the pollutant that causes the greatest concern for public health.

28. EPA has established health-based standards for SO<sub>2</sub>, using the pollutant as an indicator for the full group of SO<sub>x</sub>. EPA determined in 2010 that a 1-hour daily maximum standard at a level of 75 ppb was necessary to protect human health.<sup>40</sup>

29. Short-term exposure to SO<sub>2</sub> is linked to adverse respiratory effects, especially for at-risk populations such as those with asthma or other respiratory

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<sup>39</sup> *Id.*

<sup>40</sup> EPA, *Primary National Ambient Air Quality Standard for Sulfur Dioxide*, 75 Fed. Reg. 35,542 (June 22, 2010).

conditions.<sup>41</sup> Epidemiological studies link short-term SO<sub>2</sub> exposure to asthma-related hospital admissions, especially for children.<sup>42</sup>

30. SO<sub>2</sub> emissions also react with other components in the air to form harmful PM.<sup>43</sup>

### **Health Impacts from Exposure to Hazardous Air Pollutants**

31. EPA defines hazardous air pollutants (HAPs), also known as air toxics, as those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects.<sup>44</sup>

32. There is no safe level of human exposure to HAPs such as benzene.<sup>45</sup> Even brief exposure to such pollutants can increase the risk of adverse health effects.<sup>46</sup>

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<sup>41</sup> EPA, *Integrated Science Assessment (ISA) for Sulfur Oxides – Health Criteria*, EPA/600/R-17/451 (2017), <https://www.epa.gov/isa/integrated-science-assessment-isa-sulfur-oxides-health-criteria>.

<sup>42</sup> *Id.* at xlix..

<sup>43</sup> EPA, *Sulfur Dioxide (SO<sub>2</sub>) Pollution*, <https://www.epa.gov/so2-pollution/sulfur-dioxide-basics> (last visited June 1, 2020).

<sup>44</sup> EPA, *What are Hazardous Air Pollutants?*, <https://www.epa.gov/haps/what-are-hazardous-air-pollutants> (last visited June 1, 2020).

<sup>45</sup> Bruce Lanphear, *Low-level toxicity of chemicals: No acceptable levels?* 15 PLOS Biol. e2003066 (2017), <http://doi.org/10.1371/journal.pbio.2003066>.

<sup>46</sup> See, e.g., EPA, *Benzene* (Jan. 2012), <https://www.epa.gov/sites/production/files/2016-09/documents/benzene.pdf> (noting short-term exposure can cause “drowsiness, dizziness, headaches, as well as eye, skin, and respiratory tract irritation”); Matthew J. Strickland et al., *Short-Term Associations Between Ambient Air Pollutants and Pediatric Asthma*

33. Exposure to HAPs can cause cancer and seriously impair the human neurological system. For example, EPA has found that benzene is a “known human carcinogen (causing leukemia) by all routes of exposure, and . . . that its exposure is associated with additional health effects, including genetic changes in both humans and animals.”<sup>47</sup> A “number of adverse noncancer health effects including blood disorders, such as preleukemia and aplastic anemia, have also been associated with long-term exposure to benzene.”<sup>48</sup>

34. HAPs have atmospheric lifetimes ranging from several hours to over a week. Even acute (short term) exposure to HAPs can cause a variety of negative health impacts.<sup>49</sup>

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*Emergency Department Visits* 182 *Am. J. Respiratory & Critical Care Med.* 307 (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2921597/>.

<sup>47</sup> EPA, *Regulatory Impact Analysis to the Final Emission Guidelines for Existing Sources and the New Source Performance Standards in the Municipal Solid Waste Landfills Sector* (“2016 RIA”) at 4-36, EPA-HQ-OAR-2014-0451-0225 (July 2016), <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0451-0225>.

<sup>48</sup> *Id.*

<sup>49</sup> *See, e.g.*, EPA, *Vinyl Chloride* (Jan. 2000), <https://www.epa.gov/sites/production/files/2016-09/documents/vinyl-chloride.pdf> (noting short-term exposure to vinyl chloride has resulted in “central nervous system effects”); EPA, *Toluene* (July 2012), <https://www.epa.gov/sites/production/files/2016-09/documents/toluene.pdf> (noting short-term exposure to toluene negatively impacts the central nervous system).

**Dangerous Air Pollution from Vehicles and Petroleum Processes Will  
Increase As a Result of the Final Rule**

35. I am aware that the Trump Administration's rollback of the clean car standards will allow new passenger vehicles to be less efficient, thereby consuming more fuel per mile traveled.

36. I also understand that an increase in demand for fuel (primarily gasoline) will result in an increase in demand for petroleum and the processes needed to turn petroleum into gasoline that can be used in passenger vehicles.

37. Every step of the process – including crude oil extraction, crude oil transportation to a refinery, refining, and distribution to fuel stations – results in additional upstream criteria and air toxics emissions, including ozone-forming NO<sub>x</sub>, carbon monoxide, and VOCs; health harming PM<sub>2.5</sub> and SO<sub>x</sub>, and HAPs like benzene.

38. I understand that the majority of upstream emissions of NO<sub>x</sub> and PM<sub>2.5</sub> occur during the process of refining crude oil into gasoline and diesel fuel. And the majority of upstream VOC emissions come from the heavy-duty diesel trucks that transport the refined fuel to fueling stations. Upstream SO<sub>x</sub> emissions result both from refining and gasoline distribution via diesel trucks.

## **Refinery Pollution**

39. Petroleum refineries are a significant source of health-harming air pollution, including PM<sub>2.5</sub>, NO<sub>x</sub>, and SO<sub>x</sub>. According to EPA's most recent National Emissions Inventory, in 2017 petroleum refineries emitted nearly 68,000 tons of smog-forming NO<sub>x</sub>, more than 16,500 tons of health-harming PM<sub>2.5</sub>, and more than 60,000 tons of SO<sub>2</sub>.<sup>50</sup>

40. Refineries also emit benzene and other HAPs. HAPs from refineries put millions of Americans at risk of elevated health harm every year. In 2014, as part of the rulemaking for NSPS for petroleum refineries, EPA determined that, "emissions from petroleum refineries expose approximately 5,000,000 people to a cancer risk at or above 1-in-1 million."<sup>51</sup> In 2017, petroleum refineries emitted more than 650,000 pounds of benzene.<sup>52</sup>

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<sup>50</sup> EPA, *2017 National Emissions Inventory (NEI) Data, Data Queries*. Data query conducted May 29, 2020 using query terms "National", "Nitrogen Oxides, PM2.5 Primary, Sulfur Dioxide, Benzene," and "Petroleum Refineries."

See <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

<sup>51</sup> EPA, *Proposed Rule, Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards*, 79 Fed. Reg. 36,880, 36,955 (June 30, 2014).

<sup>52</sup> EPA, *2017 National Emissions Inventory (NEI) Data, Data Queries*. Data query conducted May 29, 2020 using query terms "National", "Nitrogen Oxides, PM2.5 Primary, Sulfur Dioxide, Benzene," and "Petroleum Refineries."

See <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

41. EPA air quality modeling has shown that an area within three miles from an industrial facility like a refinery is likely to have the highest ambient levels of air pollution from the source, and EPA has acknowledged the potential for dispersion beyond three miles.”<sup>53</sup> Indeed, EPA has assessed elevated health risks to persons within a much larger exposure radius of 50 kilometers around a refinery or other facility.<sup>54</sup> Studies have identified pollution plumes and associated elevated risks of health effects at 15 miles<sup>55</sup> and 44 miles<sup>56</sup> from a facility.

42. Many Americans live in close proximity to refineries, including individual members of EDF. An increase in refinery pollution as a result of the Final Rule will lead to an increased risk of adverse health impacts to these

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<sup>53</sup> EPA, *Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards*, 7-36, EPA-452/R-11-011 (Dec. 2011).

<sup>54</sup> EPA, *National Emission Standards for Hazardous Air Pollutants*, 54 Fed. Reg. 38,044, 38,045 (Sept. 14, 1989); 79 Fed. Reg. 36,880, 36,955 (June 30, 2014) (noting that minority and low-income groups “living within 50 km of the 142 petroleum refineries . . . stand to benefit the most from the emission reductions achieved by this proposed rulemaking”); EPA, *Final Residual Risk Assessment for Petroleum Refining Source Sector* (Sept. 2015) <https://www.regulations.gov/document?D=EPA-HQ-OAR-2010-0682-0800>.

<sup>55</sup> M.A. D'Andrea & G.K. Reddy, *Health Effects of Benzene Exposure Among Children Following a Flaring Incident at the British Petroleum Refinery in Texas City*, 31 *Pediatric Hematology & Oncology* 1, 3 fig.1 (2014); M.A. D'Andrea & G.K. Reddy, *Benzene Exposure from the BP Refinery Flaring Incident Alters Hematological and Hepatic Functions Among Smoking Subjects*, 30 *Int'l J. Occupational Med. & Envtl. Health* 849, 851 fig.1 (2017).

<sup>56</sup> J. Chakraborty et. al., *Disproportionate Proximity to Environmental Health Hazards: Methods, Models, and Measurement*, 101 *Am. J. Pub. Health* S27 (2011).

individuals from elevated levels of ozone, particulate pollution, and HAPs from refineries.

### **Near-Roadway Pollution**

43. It is well documented that the harmful pollutants emitted by highway vehicles, including heavy-duty trucks, contribute significantly to air pollution around roads.<sup>57</sup> Major roadways and surrounding areas typically have elevated concentrations of many pollutants from diesel and gasoline exhaust, including VOCs, carbon monoxide, NO<sub>x</sub>, PM, and benzene.<sup>58</sup> Studies have shown that transportation sector air pollution contributes a substantial fraction of the overall pollution-related mortality burden in the U.S.<sup>59</sup>

44. The risks associated with roadside exposure to these pollutants are a serious public health concern. Diesel particulate matter has been classified as a known carcinogen by the State of California and the World Health Organization.<sup>60</sup>

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<sup>57</sup> See, e.g., Am. Lung Ass'n, *Living Near Highways and Air Pollution*, <https://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/highways.html>; EPA, *Near Roadway Air Pollution and Health: Frequently Asked Questions*, EPA-420-F-14-044 (Aug. 2014), <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100NFFD.PDF?Dockey=P100NFFD.PDF>.

<sup>58</sup> 78 Fed. Reg. at 29,837.

<sup>59</sup> Davidson, et. al., *The recent and future health burden of the U.S. mobile sector apportioned by source*, *Environ. Res. Lett.* (2020), <https://iopscience.iop.org/article/10.1088/1748-9326/ab83a8>.

<sup>60</sup> ARB website, *Summary: Diesel Particulate Matter Health Impacts*. See <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts>; WHO website, *Public Health Roundup: Diesel Exhaust Carcinogenic*. See <http://www.who.int/bulletin/volumes/90/7/12-010712/en/>



45. In 2010, the Health Effects Institute published a major review of evidence of health risks near roadways.<sup>61</sup> A panel of expert scientists looked at more than 700 studies from around the world, examining the health effects of traffic pollution. The panel concluded that traffic pollution causes asthma attacks in children and may cause a wide range of other effects including: the onset of childhood asthma, impaired lung function, premature death, and death from cardiovascular diseases and cardiovascular morbidity. They concluded that the area most impacted is within 300 to 500 meters of the highway.<sup>62</sup> And the number of people living "next to a busy road" may include 30 to 45 percent of the urban population in North America.<sup>63</sup> The risks are particularly high for minorities and persons of lower socioeconomic status because of the fact that they constitute a higher percentage of the population near major roadways.<sup>64</sup>

46. Children who live or go to school near major roadways are at considerable additional risk for substantial deficits in lung function, even in areas

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<sup>61</sup> Health Effects Institute Panel on the Health Effects of Traffic-Related Air Pollution, *Traffic-Related Air Pollution: A Critical Review of the Literature on Emissions, Exposure, and Health Effects* (2010).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Gregory M. Rowangould, *A census of the US near-roadway population: Public health and environmental justice considerations*, 25 *Transp. Res. Part D: Transport & Env't* 59 (2013), <https://www.sciencedirect.com/science/article/pii/S1361920913001107>.

with low regional pollution.<sup>65</sup> While children are among the most vulnerable, adults are also at risk from near roadway pollution. Cardiovascular disease accounts for about a third of all U.S. deaths, and studies show that living near major roadways increases the risk of the disease.<sup>66</sup> Long-term exposure to traffic air pollution may also increase the risk of developing chronic obstructive pulmonary disease (COPD).<sup>67</sup> Studies have also found increased risk of premature death from living near a major highway or an urban road,<sup>68</sup> increased risk of heart

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<sup>65</sup> EPA & NIH, *NIEHS/EPA Children's Environmental Health and Disease Prevention Research Centers Impact Report* (2017), [https://www.epa.gov/sites/production/files/2017-10/documents/niehs\\_epa\\_childrens\\_centers\\_impact\\_report\\_2017\\_0.pdf](https://www.epa.gov/sites/production/files/2017-10/documents/niehs_epa_childrens_centers_impact_report_2017_0.pdf).

<sup>66</sup> C. Ward-Caviness et al., *Associations Between Residential Proximity to Traffic and Vascular Disease in a Cardiac Catheterization Cohort*, 38 *Arteriosclerosis, Thrombosis, & Vascular Biology* 275 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5972827/>.

<sup>67</sup> Z.J. Andersen et al., *Chronic Obstructive Pulmonary Disease and Long-Term Exposure to Traffic-related Air Pollution: A Cohort Study*, 183 *Am. J. Respiratory & Critical Care Med.* 455 (2011), <https://www.atsjournals.org/doi/full/10.1164/rccm.201006-0937OC>.

<sup>68</sup> Requía J. Weeberb et al., *The health impacts of weekday traffic: A health risk assessment of PM2.5 emissions during congested periods*, 111 *Env't Int'l* 164 (2018), <https://doi.org/10.1016/j.envint.2017.11.025>; M.M. et al., *Traffic Air Pollution and Mortality Rate Advancement Periods*, 160 *Am. J. Epidemiology* 173 (2004), [https://www.researchgate.net/publication/8473852\\_Traffic\\_Air\\_Pollution\\_and\\_Mortality\\_Rate\\_Advancement\\_Periods](https://www.researchgate.net/publication/8473852_Traffic_Air_Pollution_and_Mortality_Rate_Advancement_Periods); G. Hoek G et al., *Associations between mortality and indicators of traffic-related air pollution in the Netherlands: a cohort study*, 360 *Lancet* 1203 (2002).

attacks from being in traffic, whether driving or taking public transportation,<sup>69</sup> and decreased lung function in women associated with traffic-related pollution.<sup>70</sup>

47. I understand that the clean cars rollback will result in the need for additional petroleum, and that additional heavy-duty trucks will be needed to transport refined fuels to gas stations around the country. These additional truck trips will result in increased harmful air pollution near roadways.

### **Lower Income and Minority Communities Face Greater Health Risks from Transportation and Refinery Emissions**

48. Traffic-related air pollution and the health impacts associated with such pollution have a disproportionate impact on lower-income and minority communities.<sup>71</sup> Households that are located near large transportation facilities,

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<sup>69</sup> A. Peters et al., *Exposure to Traffic and the Onset of Myocardial Infarction*, 351 N. Engl. J. Med. 1721 (2004), <https://www.nejm.org/doi/full/10.1056/NEJMoa040203>.

<sup>70</sup> S.F. Suglia et al., *Association between Traffic-Related Black Carbon Exposure and Lung Function among Urban Women*, 116 *Envtl. Health Persp.* 1333 (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569091/>.

<sup>71</sup> See, e.g., Nancy Tian, Jianping Xue, & Timothy M. Barzyk, *Evaluating Socioeconomic and Racial Differences in Traffic-Related Metrics in the United States Using a GIS Approach*, 23 *J. Exposure Sci. & Envtl. Epidem.* 213 (2012); Jayajit Chakraborty, *Automobiles, Air Toxics, and Adverse Health Risks: Environmental Inequities in Tampa Bay, Florida*, 99 *Annals Ass'n Am. Geog.* 674 (2009); R. Morello-Frosch & B.M. Jesdale, *Separate and Unequal: Residential Segregation and Estimated Cancer Risks Associated with Ambient Air Toxics in U.S. Metropolitan Areas*, 114 *Envtl. Health Persp.* 386 (2006); Houston et al., *Proximity of Licensed Child Care Facilities to Near-Roadway Vehicle Pollution*, 96 *Am. J. Pub. Health* 1611 (2006), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2005.077727> (“An

including major roadways, are more likely to be occupied by minorities, to have lower incomes, and to have lower educational attainment.<sup>72</sup> Schools located near large roadways also have higher numbers of minority students and students who are eligible for free or reduced-price lunches.<sup>73</sup> Studies have found that people who live in such chronically stressed areas may be more susceptible to the harmful health effects associated with air pollution, and that these are disproportionately people of color and low-income communities.<sup>74</sup>

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increase of 10% in the number of Black residents living in nearby areas was associated with an odds ratio of approximately 1.10 of a child care center being located in a medium- or high-traffic area. Higher percentages of Latino/Hispanic residents living nearby increased the likelihood of a facility being located in a medium- or high-traffic area by a slightly lower magnitude. A 10% increase in the number of foreign-born residents living nearby was associated with approximate odds ratios of 1.20 and 1.30 of facilities being located in medium- and high-traffic areas, respectively.”).

<sup>72</sup> 78 Fed. Reg. at 29,850

<sup>73</sup> *Id.*

<sup>74</sup> See e.g. T. Islam et al., *Parental Stress Increases the Detrimental Effect of Traffic Exposure on Children’s Lung Function*, 184 Am. J. Respiratory & Critical Care Med. 822 (2011); Edith Chen et al., *Chronic Traffic-Related Air Pollution and Stress Interact to Predict Biologic and Clinical Outcomes in Asthma*, 116 *Envtl. Health Persp.* 970 (2008); J. Chakraborty & P.A. Zandbergen, *Children at Risk: Measuring Racial/Ethnic Disparities in Potential Exposure to Air Pollution at School and Home*, 61 *J. Epidemiology & Cmty. Health*, 61(12):1074-9 (2007); O. Laurent et al., *Effect of Socioeconomic Status on the Relationship between Atmospheric Pollution and Mortality*, 61 *J. Epidemiol. Community Health*, 665 (2007).

49. Petroleum refinery emissions likewise disproportionately impact low-income communities and people of color.<sup>75</sup> EPA has recognized in past rulemakings that, “the population living within 50 km of the 142 petroleum refineries has a higher percentage of minority, lower income and lower education persons when compared to the nationwide percentages of those groups. These groups stand to benefit the most from the emission reductions...”<sup>76</sup>

50. The Trump administration’s action to significantly roll back the Clean Car Standards will result in an increase in air pollution that is harmful to human health. I am concerned that if the Competitive Enterprise Institute succeeds in its petition, there will be even higher levels of harmful air pollution.

I declare under penalty of perjury that the foregoing is true and correct.



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Elena Craft

Executed on June 1, 2020

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<sup>75</sup> Clean Air Task Force, *Fumes Across the Fence-Line* (Nov. 2017), [http://www.catf.us/wp-content/uploads/2017/11/CATF\\_Pub\\_FumesAcrossTheFenceLine.pdf](http://www.catf.us/wp-content/uploads/2017/11/CATF_Pub_FumesAcrossTheFenceLine.pdf).

<sup>76</sup> EPA, *Proposed Rule, Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards* 79 Fed. Reg. 36,955 (June 30, 2014).

## DECLARATION OF SARA CROSBY

I, Sara Crosby, state and declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts and, if called as a witness, I would testify competently to them. As to those matters that reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. Currently, I live in Columbus, Ohio, but I grew up in Grand Isle, Louisiana. Grand Isle is a narrow barrier island in the Gulf of Mexico. I lived in Grand Isle and in Cut Off, a small town a few miles up the bayou from the island, from the time that I was born until I went away for college when I was 17 years old. My parents still own and live in the house that I grew up in. That property has been in my family for about 200 years. My parents also own two rental properties in Grand Isle. My sister and I will inherit the properties from my parents after they pass away. I would like to move back to Grand Isle and live in the house that was my childhood home and has been in my family for generations.

3. During the past several years, Grand Isle has experienced intensified storms and flooding. The storms and flooding have negatively impacted, and continue to negatively impact, the existence and value of the property that my family owns in Grand Isle.

4. For example, when Hurricane Katrina hit in 2005, my parents were forced to evacuate. It was a couple of months before anyone was allowed back on the island. The storm surge generated by Hurricane Katrina caused my parents' house to flood with about six feet of water. Both rental properties also flooded. My parents lost almost everything that they owned, including some items that could not be replaced. For example, my great-grandmother was a photographer and many of her old photographs were destroyed. The salt water caused significant

damage to property. The house where my parents live is made out of cypress, which is able to maintain itself pretty well, but the entire house had to be gutted. Insurance helped cover some of the repair costs, but my family was still required to incur significant out-of-pocket costs to repair the damage.

5. Now, even a relatively small amount of rain causes flooding in areas of the island that previously didn't flood, for example, areas in the middle of the island that are not right next to the water. My parents have also noticed flooding on their property that previously would not have occurred with a similar amount of rain. There is also increased flooding on Louisiana Highway 1 (LA 1), which is the only land access to or from Grand Isle.

6. Many properties are for sale in Grand Isle, but hardly anyone is buying them. My family feels like it doesn't have any good options when it comes to the properties. We don't want to sell them, but we feel like we should. However, even if we decided to sell the properties, we'd have to sell at a very low price because so many properties are for sale and no one is buying because they know that the island is threatened.

7. The price of flood insurance has also significantly increased in the past several years. My understanding is that my parents are currently paying about \$5,000 per year for flood insurance.

8. I have been a member of Environment America since about 2016. I became a member of Environment America because I have a young daughter, and I am very frightened and concerned about the world that I'm leaving for her. I am also concerned that global warming and the rising sea level threatens the value and existence of my family's property in Grand Isle, and I might not be able to pass that property on to my daughter as I would like.

9. I know that strong standards for greenhouse gas emissions and fuel economy for cars were put in place during the Obama administration and that the Trump administration wants to reverse course and roll back these strong standards. I know that California and other states want to be able to keep stronger emissions standards. I support Environment America's efforts to oppose the Trump administration's plans and keep the stronger standards in place.

I declare under penalty of perjury that the foregoing is true and correct.



Sara Crosby  
Columbus, Ohio

5/28/20

Date



## **DECLARATION OF TRISHA DELLO IACONO**

I, Trisha Dello Iacono, declare as follows:

1. I am currently a member of the Environmental Defense Fund (“EDF”) and have been since 2012. I also work as the National Field Manager with Moms Clean Air Force, a special project of EDF where I manage the field staff and volunteers from across the country to develop and deploy strategic plans to increase grassroots advocacy on key public health and environmental issues at the local, state, and federal level. I have worked with Moms Clean Air Force since 2013.
2. I support EDF’s mission and Moms Clean Air Force’s mission to protect the health and future of our children from climate change and dangerous air pollution because as a parent to four young children, I want them to have a safe and healthy world to grow up in.
3. I currently live in Mullica Hill in Gloucester County, New Jersey with my three young sons, ages fourteen, ten, and three, and newborn baby girl. We have lived at our current location for about a year, and lived in Haddon Heights in Camden County, New Jersey for two years prior to that.
4. From my work with Moms Clean Air Force I understand that in 2012, EPA established gradually strengthening national greenhouse gas emission standards for

passenger cars and trucks for Model Years 2017-2025 and the National Highway Traffic Safety Administration established gradually strengthening fuel efficiency standards for Model Years 2017-2021. I understand that New Jersey has adopted the Advanced Clean Cars program, as have 13 other states, which includes protective greenhouse gas emission standards and “Zero Emission Vehicle” or “ZEV” standards.

5. I am also aware that the current administration recently finalized rules that dramatically weaken the federal clean car standards for upcoming years and declare state greenhouse gas and ZEV standards unlawful, seeking to end states’ authority to enforce more protective ZEV and greenhouse gas emission standards.

6. I am aware that Gloucester County, New Jersey, where my family resides, is in nonattainment with the 2015 national health-based standard for ground-level ozone.

7. I understand that there is well-established scientific research linking ozone pollution with serious health problems such as respiratory disease, asthma attacks, and impaired lung function. I know that being outside during high ozone days can be dangerous for children and adults. But, in particular, I’m aware that ozone pollution poses more serious danger to children because their lungs are still developing and they spend more time outdoors than adults.

8. My children enjoy riding their bikes, playing soccer, and being outside or in our backyard with their friends. However, on days when ozone pollution is unsafe to breathe, I limit my children's outdoor activities, so they are not exposed to this harmful pollution.

9. I am also aware that carbon dioxide and other greenhouse gas pollutants are rapidly changing our climate.

10. I grew up in Southern New Jersey, where my parents farm over 5,000 acres of land. My children and I live about a five-minute drive away and will visit this farm several times each month. I have personally watched the impacts of climate change affect my parents' vegetable farming business. Increased heavy downpours lead to smaller crop yields and cause greater fungal growth, necessitating increased fungicide use. Higher temperatures entail increased water use and result in a reduced crop yield when daytime temperatures exceed 90 degrees for even short periods of time. Warmer temperatures and higher carbon dioxide concentration also contribute to an increase in crop disease, necessitating higher concentrations and more frequent spraying of toxic chemical pesticides. Not only does this increased pesticide use raise operating costs for the farm, it also creates greater health risks for my parents and the farmworkers who apply the pesticides, and for my children who want to enjoy eating the produce directly from the fields, as I once did as a

child. Now they have to check with my dad first to find out when he last sprayed, and cannot eat the produce if he sprayed too recently.

11. I hope that my children will be able to continue enjoying and, in the future, help operate our family farm. I am concerned that the impacts of climate change will negatively affect our family business and decrease the chances that my family and children can continue operating our farm in the future.

12. I am also aware from my work that climate change contributes to higher levels of ground-level ozone. I am concerned that the impacts of climate change will worsen Gloucester County's ozone levels and increase the frequency and severity of high ozone days when I must either keep my children indoors or expose their developing lungs to harmfully high ozone levels.

13. I am concerned that the administration's action weakening federal clean car standards and efforts to eliminate state authority for protective greenhouse gas and ZEV standards will lead to increased GHG and criteria pollution that will adversely impact my health and the health of my family. I am further concerned that my children and I will be less able to engage in the recreational activities that we enjoy because I must keep them inside more frequently to avoid harmfully high ozone levels exacerbated by the additional climate pollution and criteria pollution caused

by this rule. I am also concerned that the action will contribute to climate change that harms the operations and long-term future of my family's farm.

14. In addition, I am concerned that the administration's new rules will undermine my ability to buy the kind of car I want and need for my growing family.

15. Having experienced the way in which environmental pollution can fundamentally diminish the health and well-being of a family, it is deeply important to me that my family minimize its own contribution to dangerous air and climate pollution, for the sake of my own family and others.

16. This desire is particularly acute with respect to pollution from cars and trucks.

17. My family uses our two cars a lot. Because part of our family lives in New Hampshire, my husband and our children drive every other week from New Jersey to New Hampshire. We also use our cars regularly for day-to-day errands, work, and school events.

18. In December 2018, my husband and I determined that we needed to replace one of our two vehicles with a minivan to accommodate our growing family. We initially preferred the Toyota Sienna, but specifically decided to buy a Chrysler Pacifica because the Pacifica is the only minivan with an electric or plug-in hybrid model available. I want to own a zero-emission vehicle—*i.e.*, electric or plug-in

hybrid—both to reduce my contribution to air and climate pollution, and to save money on gas expenses. Consequently, my husband and I drove to New Hampshire from our New Jersey home to purchase a Chrysler Pacifica electric minivan after learning that a New Hampshire car dealership had one for sale.

19. The dealership informed us upon our arrival that the electric minivan was out of stock and repeatedly redirected our requests for an electric model, refusing to help us find one and instead pointing us towards the standard combustion Pacifica.

20. Needing a minivan as soon as possible, we ultimately were convinced by the dealership to purchase a standard combustion Pacifica. We are already dissatisfied with this car, largely because of its pollution impact, and have voiced this dissatisfaction to the dealership. We would like to replace this vehicle with a zero-emission car that fits our whole family at some point in the future, when it is financially viable given our outstanding loan on the car.

21. We also own a second family vehicle that does not fit our entire family. Because it cannot fit all of us at once, we anticipate needing to replace this vehicle in the next five years or even sooner. Ideally, we would also like to replace this car with a zero-emission minivan.

22. I understand that the recently finalized rule that declares state greenhouse gas and ZEV standards unlawful claims to block New Jersey's ability to implement and

enforce its ZEV standards, which would otherwise provide gradually strengthening incentives for the sale of zero-emission vehicles in-state. I am concerned that this rule, as well as the weakening of the federal standards, will reduce incentives for automakers and dealers to provide and sell low-emission vehicles, and specifically that fewer zero-emission vehicles—and fewer models of zero-emission vehicles—will be available for my family to purchase in the future. I am concerned that these rules will reduce dealerships' interest in helping my family buy a zero-emission vehicle.

I declare the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Trisha Dello Iacono", written over a horizontal line.

Trisha Dello Iacono

Dated: May 28, 2020

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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COMPETITIVE ENTERPRISE	)	
INSTITUTE, <i>et al.</i> ,	)	
	)	
<i>Petitioners,</i>	)	
	)	
v.	)	No. 20-1145
	)	
NATIONAL HIGHWAY TRAFFIC	)	
SAFETY ADMINISTRATION, <i>et al.</i> ,	)	
	)	
<i>Respondents.</i>	)	
	)	

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**DECLARATION OF CHRISTOPHER FLEMING**

1. My name is Christopher Fleming. I am a member of Public Citizen, Inc.
  
2. I am a member of Public Citizen because I support its efforts to advocate for consumer interests, including interests in products that protect people and the environment and save consumers money.
  
3. My wife and I currently have a 2011 model car that we expect to give to our son, who is now 15, when he is old enough to drive on his own. As a result, we expect to replace that car with a new vehicle sometime in the fall of 2021 or in the next few years after that.



4. When buying a new car, it is important to my family that we choose one that is environmentally friendly and that has lower emissions of greenhouse gases that contribute to global warming. It is also important to us to have a car that gets good gas mileage so that we have to refill it less often and spend less at the pump. When we purchase our next vehicle, we would like a broad range of choices of cars with low emissions and good gas mileage.

5. I believe that government rules that require auto companies to sell lower-emission, higher-mileage vehicles protect my interest in having a wide range of choices of those vehicles when the time comes to buy our new car. For the same reason, changes to those rules that allow higher emissions and less fuel economy harm me by limiting my choice of low-emitting, high mile-per-gallon cars.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2020.

*Chris Fleming*

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Christopher Fleming

## **DECLARATION OF KIM FLOYD**

I, Kim Floyd, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could testify competently to them. As to those matters which reflect an opinion, they reflect my personal experience, opinion and judgment on the matter.

2. I live in Palm Desert, California, in Riverside County.

3. I am a member of the Sierra Club and have been for 30 years. I joined the Sierra Club to protect the environment, plant and animal species. I am currently the Conservation Chair for the San Geronio Chapter which covers Riverside and San Bernardino counties, and have served in that position for eight years. As Conservation Chair, I address a myriad of issues, including these two counties' bad air quality and environmental issues in the Salton Sea. I am also part of the Sierra Club Desert Committee which focuses on protecting desert areas in Southern California. Air quality is a significant issue for our chapter.

4. I am concerned about climate change for many reasons. Climate change is altering the living environment for humans and species that I am working to protect here in the desert. The species I watch in particular include the desert tortoise, the horned toad lizard, the Joshua tree and many other plant species, some not yet even catalogued, and I have observed and studied them for many years. I frequently go hiking to visit, observe and enjoy these species in Joshua Tree National Park, the Chocolate Mountains and the Mojave Preserve, all in the vicinity of where I live. These activities give me great aesthetic enjoyment, and I have firm plans to continue my visits, observations and studies throughout this year and hopefully for many years to come. The science is clear that these and other species are being directly and negatively affected

by climate change. The Joshua tree itself is projected to become extinct in the Joshua Tree National Park within the next 30 to 40 years through extreme weather conditions unless greenhouse gas emissions are reduced. The impact of climate change on this natural environment and its many species makes me anxious, and I fear that I will soon be unable to enjoy observing and studying them.

5. Climate change is also exacerbating the poor air quality where I live. Greenhouse gases help form ground-level ozone, brings increased temperatures and is now causing very cyclical and atypical rain events. The patterns for rain in the desert have changed significantly over recent years; we now have heavy rainfall all at once, instead of small amounts of rain multiple times during the year. These large rain events cause dangerous floods in our area once or twice a year. Though some flooding is normal in desert, the heavy rainfall we now experience causes much more damage and can severely erode the land and harm plant species.

6. The poor air quality in our area is in large part the result of emissions from the heavy traffic on our roads. Fossil fuel-driven vehicles emit large and fine particulate matter, nitrous oxides and sulfur dioxides, along with greenhouse gases; they foul the air and are terrible for the health of our communities, especially those with asthma.

7. I am particularly concerned about the role of the transportation sector in causing climate change and unhealthful air. In California, we already have significant air quality problems, including where I live and in adjacent areas, much of it caused by vehicle emissions. The pollution from vehicles has gotten worse over time and is exacerbating air quality issues, including ozone and particulate matter pollution. Riverside County is listed as a nonattainment area for these pollutants under the National Ambient Air Quality Standards, meaning that ozone and particulate matter levels here are unhealthy.

8. The poor air quality in Riverside County impairs my enjoyment of outdoor recreational activities. I have been hang gliding twice a week between the months of May and November since 1992 and have firm plans to continue to do so for as many years as possible. The poor air quality is obvious from high in the air. While hang gliding, I can see the darkness from the large amounts of pollution in the air, and it obscures the views. This haze is visible up to about 5,000 feet above sea level. The aesthetics of hang gliding are significantly affected by air pollution, and I am very concerned and troubled that things will only get worse if pollution from vehicles isn't significantly controlled, and that I may have to stop this activity in the future because the air quality will not improve or get even worse.

9. I also feel a tightness in my lungs while breathing in the afternoons and evenings near the City of San Bernardino. When I can see and feel that the air quality is bad here in the desert, I stay indoors in order to avoid triggering tightness in my lungs, but I cannot always prevent this from happening. I am also concerned about my grandchildren, and future generations broadly, because they have been living with poor air quality their whole lives. I worry that they will continue having to live with poor air quality and poor health outcomes unless we make drastic changes to reduce emissions from the transportation sector by cleaning up emissions from automobiles and light trucks.

10. I am very interested in making electric vehicles more widely and readily available for purchase so that both greenhouse gas and other harmful pollution from vehicles will be reduced and eventually stopped. I know that California has set a mandate for automakers to sell a certain percentage of zero emission vehicles (ZEV) per year, and I was very pleased that California has done so. Growing sales of EVs will begin to displace fossil fuels and lead to much better air quality as long as the program remains in place.

11. I am aware that the National Highway Traffic and Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) have issued a rule declaring that California is preempted from setting ZEV mandates and its own greenhouse gas standards, and that has also revoked California's Clean Air Act waiver which permitted these regulations. The rule also prohibits other states from adopting California's standards for themselves. I am extremely concerned about this. California has always led the nation on air quality matters, and other states have been able to follow California's example and bring the same measures to their own states. But NHTSA's and EPA's rule also prevent other states from taking those actions. Undoing California's and other states' ability to set ZEV mandates and greenhouse gas standards will increase greenhouse gas emissions, levels of ozone, particulate matter, and other harmful pollutants, which will only make my area's air quality worse than it otherwise would be. In turn, that will interfere with my enjoyment of hang gliding and continue or create even greater reductions in visibility because of vehicle pollution, and it may make me quit altogether. The roadside pollution will affect the species I care for and study as well. I am additionally concerned that stopping California's ZEV mandate and greenhouse gas standards will result in fewer electric vehicles coming to market. If that happens, I worry that the air quality where I live will get worse.

12. I am also aware that recently, NHTSA and EPA have revoked current fuel efficiency and greenhouse gas standards for the entire nation's passenger cars and light trucks, and have supplanted them with very weak standards that allow an enormous amount of additional fuel consumption and the harmful pollution that comes from it. This will exacerbate the poor air quality that causes me tightness in my lungs and interfere with my enjoyment of the desert and its species and my hang gliding activities. The environmental degradation and all the

effect it has on my health and my environment will become that much worse. Such weak standards also provide no incentives for the development of more and better EVs, which will become even less available than they are now.

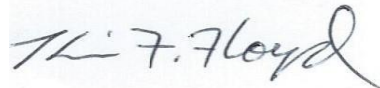
13. I understand that NHTSA did not prepare an environmental impact assessment for the rule prohibiting California's ZEV mandate and greenhouse gases, and that the impact statement for the weakened rule for national standards failed to consider and evaluate any alternatives that would actually lessen the environmental burdens caused by fossil fuel vehicles. These failures deprived me and others of important information about how to reduce the harms vehicle pollution causes me, as I have described, and prevented Sierra Club and others from commenting on them.

14. I support Sierra Club's lawsuit to overturn the rule declaring that California may not set ZEV or greenhouse gas standards and that its waiver to do so is revoked, and that other states may no longer follow California's rules. I also support the lawsuit seeking to overturn the new, much weaker fuel efficiency and greenhouse gas rule for the entire national vehicle fleet. If the court overturns either of these rules, I would directly benefit from improved air quality because reduced vehicle pollution would allow me to continue and enjoy hang gliding, and would improve my enjoyment of the aesthetics of what I can see from high in the air and slow the dangers facing the desert species I care for and enjoy. I also believe that the tightness I feel in my lungs would begin to lessen. Striking down the rule preventing California's ZEV mandate and separate vehicle greenhouse gas standards would assist the continued proliferation of electric vehicles and would have a significant positive impact on air quality and greenhouse gas emissions where I live, in California and elsewhere; it would help us mitigate the terrible climate disaster we are all facing. An order by the court striking down either of these rulemakings and

requiring NHTSA to prepare proper environmental assessments would give me the information I need and am entitled to. And restoration of California's ability to issue ZEV mandates and its own greenhouse gas standards would increase the availability of electric vehicles where I live and reduce emissions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 18, 2020, at Palm Desert, California.

A handwritten signature in black ink that reads "Kim F. Floyd". The signature is written in a cursive style with a large loop at the end of the last name.

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Kim Floyd

## DECLARATION OF DENISE FORT

I, Denise Fort, declare as follows:

1. I have been a member of Environmental Defense Fund (EDF) since 2008. I reside in Santa Fe County, New Mexico. I have resided in New Mexico for more than 25 years and am a tenured faculty member at the University of New Mexico School of Law, with the title of Research Professor and Emerita Professor of Law. My area of expertise is environmental and natural resources law.

2. As a law school professor specializing in the environmental field, I closely follow regulatory developments concerning the Clean Air Act, climate change, and greenhouse gas emissions, including through communications that I receive as an EDF member. With this expertise, I have taught classes on environmental law, climate change, and natural resources law.

3. Because of my concerns about air pollution and climate change, I am also engaged in advocating for environmental protection and renewable energy. I do this work with EDF as well as other environmental organizations. I give speeches at various venues and publish opinion pieces in the media regarding the need for well-funded, functional, and effective state and federal environmental agencies. I participated in discussions regarding the need to strengthen New Mexico's renewable portfolio standard and bring more renewable energy into the State's energy mix.



Additionally, I was successful in urging my county and city elected officials to pursue capital funding for solar installations on public buildings. I am currently looking at environmental issues associated with the state's oil and gas industry.

4. I understand that the transportation sector is the leading source of greenhouse gas emissions in the United States and that the majority of greenhouse gas emissions from the transportation sector are from passenger cars and light-duty trucks.<sup>1</sup> I am aware that between 2010 and 2018, vehicle miles traveled on New Mexico's roads and highways increased by 20%.<sup>2</sup> I am also aware that carbon dioxide (CO<sub>2</sub>) emissions from New Mexico's transportation sector increased from 13.7 million metric tons in 2013<sup>3</sup> to 14.2 million metric tons in 2016.<sup>4</sup>

5. As an environmental law professor, I am aware that the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) have issued a joint final rule weakening the existing MY 2021-2025 greenhouse gas standards for light-duty vehicles and establishing weak MY 2026

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<sup>1</sup> EPA, Fast Facts on Transportation Greenhouse Gas Emissions, *available at* <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions> (last visited May 24, 2020).

<sup>2</sup> TRIP, New Mexico Transportation by the Numbers-Meeting the State's Need for Safe and Efficient Mobility, 6 (Jan. 2020), *available at* [https://tripnet.org/wp-content/uploads/2020/01/TRIP\\_New\\_Mexico\\_BTN\\_Report\\_January\\_2020.pdf](https://tripnet.org/wp-content/uploads/2020/01/TRIP_New_Mexico_BTN_Report_January_2020.pdf).

<sup>3</sup> U.S. Energy Information Administration, Transportation Emissions by State (1980-2016), *available at* <https://www.eia.gov/environment/emissions/state/> (last accessed July 8, 2019).

<sup>4</sup> U.S. Energy Information Administration, State Carbon Dioxide Emissions Data, 2016 State analysis, Table 4 – 2016 State energy-related carbon dioxide emissions by sector (Oct 31, 2018), <https://www.eia.gov/environment/emissions/state/analysis/>.

standards; and taking a similar approach for fuel-economy standards. I understand that by EPA's own analysis, the final rule will increase oil consumption and greenhouse gas emissions, ramping up pollution and threatening public health.

6. Because of my work as an environmental advocate, I am familiar with, and deeply concerned about, the impacts of climate change due to greenhouse gas emissions. I am aware of the latest scientific evidence, which concludes that warming of the climate is unequivocal, that it is extremely likely that human influences have been the dominant cause of this warming since the mid-20th century, and that continued emissions of greenhouse gases will cause further warming.

7. This evidence demonstrates that climate change is posing a significant threat to the wellbeing of humans, wildlife, and the natural environment. For instance, I am aware of scientific evidence that certain types of extreme weather events—including heat waves, heavy downpours, and, in some areas, floods and droughts—have become more frequent and/or intense. Studies also confirm that warming is causing sea levels to rise, oceans to become more acidic, and snowpack to decline.

8. The evidence also shows that these and other changes threaten human health. For example, more intense heatwaves lead to more heat-related disease and deaths. Increased drought conditions contribute to water supply shortages and exacerbate wildfires, which can cause personal injury, damage infrastructure, and

contribute to worsening air pollution. Extreme precipitation events can lead to flooding that can cause injuries and increase the risk of contracting waterborne diseases. And rising sea levels threaten public safety through an increased risk of coastal flooding and storm surges. These are just some of the numerous public health and safety harms associated with climate change.

9. I see many of these impacts occurring in New Mexico, where my family and I live. For instance, New Mexicans are experiencing elevated temperatures, reduced snowfall in the mountains, and an increase in both the occurrence and severity of extreme weather events like droughts and heat waves. Summertime temperatures for the southwest region due to climate change are higher than the rest of country, making New Mexicans like myself particularly vulnerable to heat-related diseases and deaths.

10. In 2018, New Mexico went through a severe drought that depleted water reserves and set records for the driest winter.<sup>5</sup> New Mexico also experienced an extreme 2018 monsoon season, which flooded arroyos,<sup>6</sup> caused traffic injuries and fatalities, and damaged property.<sup>7</sup> In recent years, New Mexico has received below

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<sup>5</sup> Scott Turner, *War over Old Water*, Albuquerque Journal (June 17, 2019), <https://www.abqjournal.com/1329273/war-over-old-water-ex-legal-battle-about-use-of-aquifer-stretches-back-12-years.html>.

<sup>6</sup> *Arroyo*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/arroyo> (defined as “a watercourse (such as a creek) in an arid region”).

<sup>7</sup> Eric Mack, *I Live Where Temperatures were most Above Normal Last Year; Here’s What it was Like*, Forbes (January 4, 2019),

average precipitation, undergone more severe and longer drought conditions, and faced more severe flash floods.<sup>8</sup> The arroyo in my yard is cutting deeper and deeper with these floods, causing erosion of its banks. I am concerned that this pattern of extreme drought and extreme precipitation will continue to damage property and put human lives at risk.

11. I am aware that climate change has caused an increased risk of forest fires—New Mexico has already experienced an increase in the frequency and severity of wildfires in recent years. Currently, 70% of the state’s population lives in an area that is at elevated risk of wildfire.<sup>9</sup> In 2018, New Mexico was experiencing dangerous wildfires as early as March even though the state’s wildfire season doesn’t typically begin until May or June.<sup>10</sup> The state has also experienced negative health impacts associated with the 2019 wildfire season. For example, in June of 2019 the Woodbury wildfire in Arizona blew smoke across large swaths of New Mexico,

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<https://www.forbes.com/sites/ericmack/2019/01/04/i-live-where-temperatures-were-most-above-normal-last-year-heres-what-it-was-like/#4f349c7c5319>; Logan Rader, Monsoon Season Underway in New Mexico, KRQE, July 11, 2018, <https://www.krqe.com/news/mornings/monsoon-season-underway-in-new-mexico/>; Elise Kaplan, *Woman Drowns after Rain Turns Arroyos into Raging Rivers*, Albuquerque Journal (May 21, 2018), <https://www.abqjournal.com/1174909/strong-thunderstorms-heavy-rain-moving-through-abq.html>

<sup>8</sup> National Oceanic and Atmospheric Administration, 2018 Annual Weather Highlights ABQ Temperature/Precipitation (2018), <https://www.weather.gov/abq/climonhigh2018annual-tempprecipabq>.

<sup>9</sup> States at Risk, New Mexico Wildfires, <https://statesatrisk.org/new-mexico/wildfires>.

<sup>10</sup> Laura Paskus, *New Mexico’s Fire Season Roars to an Early Start*, New Mexico Political Report, March 16, 2018, <https://nmpoliticalreport.com/2018/03/16/fire-season-roars-to-an-early-start-en/>

putting the health of New Mexicans at risk.<sup>11</sup> These impacts highlight the grim reality that the region's wildfire season is starting earlier, with more frequent fires that burn more land.

12. Personally, I have in the past and intend to continue enjoying the outdoors on my own property. My home in Santa Fe is in a pinon-juniper forest, which is affected by a bark beetle that spreads during conditions that are more prevalent in warmer climates.<sup>12</sup> The bark beetle kills pinons. The resulting dead trees make ready fuel for increasingly intense and frequent wildfires.<sup>13</sup> Because of this risk, I have removed lower branches from trees in my yard and removed dead vegetation close to the house. The destruction of the landscape around my home and possibly my home itself due to forest fires has an obvious negative effect on my life and on my property value.

13. I enjoy hiking, skiing, engaging in river sports, and bird watching in many areas across New Mexico. I have visited the Bisti Badlands and traveled

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<sup>11</sup> KRQE Media, *Red Flag Warning Issued: Arizona Wildfires Cause Smokey Skies over New Mexico*, KRQE, June 20, 2019, <https://www.krqe.com/news/latest-news/arizona-wildfires-cause-smokey-skies-over-new-mexico/>.

<sup>12</sup> U.S. Forest Service, Research & Development, Bark Beetles, <https://www.fs.fed.us/research/invasive-species/insects/bark-beetle/> (last updated July 12, 2019).

<sup>13</sup> Hicke et al., Effects of bark beetle-caused tree mortality on wildfire, 271 *Forest Ecology and Management* 81-90, at 88 (2012), [https://www.fs.fed.us/pnw/pubs/journals/pnw\\_2012\\_hicke001.pdf](https://www.fs.fed.us/pnw/pubs/journals/pnw_2012_hicke001.pdf) (“Published studies suggest that bark beetle outbreaks can indeed affect fuels and fire behavior.”)

around the Four Corners area of New Mexico. Often accompanied by my daughter and friends, every week I hike in the nearby Santa Fe and Carson National Forests, as well as in natural areas surrounding Albuquerque, in Bernalillo County. We kayak on the Rio Grande and Chama rivers. On these excursions, I derive great pleasure from viewing trees, other natural vegetation, and wildlife.

14. A warming climate, in which there is decreased snowfall and increased drought, will reduce our recreational opportunities. The Fourth National Climate Assessment released in late 2018 found that “[s]ubstantial reductions in western U.S. winter and spring snowpack are projected as the climate warms”<sup>14</sup> and that “[p]rojected declines in snow-pack in the western United states...are expected to adversely impact the winter recreation industry.”<sup>15</sup> The Sangre de Cristos and mountains where I ski experienced record low snowpack in 2017-2018.<sup>16</sup> Such decreases in western snowpack will limit my ability to ski during the winter months.

15. Increased drought will also limit my ability to recreate year-round. In 2018 drought hit the Four Corners region particularly hard and the area experienced

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<sup>14</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment*, at 159 (2018),

[https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf)

<sup>15</sup> *See id.* at 52.

<sup>16</sup> Rebekah Ditchfield, *We’re hoping for an epic Colorado winter to break our drought*, 9News (Nov. 1, 2018), <https://www.9news.com/article/weather/weather-colorado/were-hoping-for-an-epic-colorado-winter-to-break-our-drought/73-610479599> (“The 2017-2018 water season saw record low volume of snowpack in higher elevations, especially in the San Juans, Sangre de Cristos and parts of the Gunnison Basin.”).

extreme drought throughout most of the year with drought conditions continuing into early 2019.<sup>17</sup> This same drought year was so extreme that parts of the Rio Grande were at risk of running dry.<sup>18</sup> Recent climate analysis suggests that increased incidence of drought will continue along the Rio Grande,<sup>19</sup> limiting my family's enjoyment when hiking and backpacking along the river. Such severe drought conditions also restrict my ability to access the national forests near where I live. In the summer of 2018, Santa Fe National Forest closed for over a month due to severe

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<sup>17</sup> Rebecca Lindsey, *Intense drought in the U.S. Southwest persisted throughout 2018, lingers into the new year* National Oceanic and Atmospheric Administration (Feb. 2019), <https://www.climate.gov/USdrought2018>

<sup>18</sup> Rebecca Lindsey, *Intense drought in the U.S. Southwest persisted throughout 2018, lingers into the new year* National Oceanic and Atmospheric Administration (Feb. 2019), <https://www.climate.gov/USdrought2018>; *see also* Henry Fountain, *In a Warming West, the Rio Grande is Drying Up*, NY Times (May 24, 2018), <https://www.nytimes.com/interactive/2018/05/24/climate/dry-rio-grande.html>

<sup>19</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment*, at 999 (2018),

[https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf) (“Increasing regional temperatures, consistent with global trends, will enhance the severity of drought impacts [along the Rio Grande] via the acceleration of surface water loss driven by evaporation...”) (internal citations omitted); *see id.* (“Changes in regional precipitation patterns, including observed increases in extreme rainfall events as part of a regional di-pole dry-wet-dry-again pattern, will affect both drought and flood occurrence and intensity along the Rio Grande channel.”); Justin Horwath, Report: Climate change threatens northern NM surface water sources, Las Cruces Sun News (Nov. 25, 2016), <https://www.lcsun-news.com/story/news/local/new-mexico/2016/11/25/report-climate-change-threatens-northern-nm-surface-water-sources/94444262/>.

wildfire risk.<sup>20</sup> During this same period, Carson National Forest was also closed due to wildfire conditions,<sup>21</sup> limiting my ability to hike during the summer months.

16. Furthermore, numerous prehistoric sites throughout New Mexico are at risk due to climate change. For example, Bandelier National Monument, which preserves the heritage of the Ancestral Puebloans—some of the earliest inhabitants in North America—is threatened by a changing climate and resulting droughts that make the monument susceptible to soil erosion, wildfires, and severe flooding.<sup>22</sup> I have visited Bandelier National Monument and plan to again in the future. I am concerned that climate impacts will diminish this important cultural site.

17. I am also concerned about the health risks posed by greenhouse gas emissions from light-duty vehicles. I understand that these pollutants cause warming,

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<sup>20</sup> Megan Bennett, *Fire danger shuts Santa Fe National Forest*, Albuquerque Journal (May 30, 2018), <https://www.abqjournal.com/1178388/breaking-santa-fe-national-forest-close-friday-amid-severe-fire-conditions.html>; see also Matthew Reisen, *Santa Fe National Forest set to re-open Monday*, Albuquerque Journal (Updated July 8, 2018), <https://www.abqjournal.com/1193900/official-aim-to-reopen-santa-fe-national-forest-monday.html>

<sup>21</sup> Eric Mack, *A Big Chunk Of The Rocky Mountains Is Off Limits For Now*, Forbes (June 26, 2018), <https://www.forbes.com/sites/ericmack/2018/06/26/the-wildfire-rocky-mountains-carson-national-forest-to-close-south-of-colorado-border/#379ae1993fc7>; Cody Hooks, *Monday wildfire update: Carson NF to reopen Tuesday*, Taos News (July 9, 2018), <https://www.taosnews.com/stories/monday-wildfire-update-monday-wildfire-update,50298>

<sup>22</sup> U.S. National Park Service, *Fire, Soil, and Preserving History at Bandelier* (Last updated Dec. 8, 2018), <https://www.nps.gov/articles/bandfire.htm>; Richard Moe, *Cultural sites at risk from climate change*, Santa Fe New Mexican (Dec. 15, 2018), [https://www.santafenewmexican.com/opinion/my\\_view/cultural-sites-at-risk-from-climate-change/article\\_5b22291b-573c-59d8-9841-2a672f5a8892.html](https://www.santafenewmexican.com/opinion/my_view/cultural-sites-at-risk-from-climate-change/article_5b22291b-573c-59d8-9841-2a672f5a8892.html); Debra Holtz et al., *National Landmarks at Risk*, Union of Concerned Scientist, at 39-40 (2014).



which in turn can increase ground-level ozone formation. I further understand that exposure to ozone can lead to and exacerbate a variety of respiratory and cardiovascular problems. I travel to Albuquerque with my daughter on a monthly basis and am concerned about the recent elevated ozone levels there.<sup>23</sup> I am exposed to this dangerous air pollution where I live and recreate.

18. Protective vehicle standards are necessary to mitigate the effects of climate change and reduce harmful air pollution in New Mexico. EPA's weakening of the standards presents an imminent and concrete injury to my health and well-being and that of my family, as well as to the survival, health, and natural beauty of the ecosystems where I live and recreate.

I declare under penalty of perjury that the foregoing is true and correct.



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Denise Fort

Executed on May 28, 2020

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<sup>23</sup> Theresa Davis, *City issues alert for high ozone levels*, Albuquerque Journal (July 30, 2019), <https://www.abqjournal.com/1346882/albuquerque-issues-alert-for-high-ozone-levels.html>

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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COMPETITIVE ENTERPRISE INSTITUTE, <i>et al.</i> ,	)	
	)	
<i>Petitioners,</i>	)	
	)	
v.	)	No. 20-1145
	)	
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, <i>et al.</i> ,	)	
	)	
<i>Respondents.</i>	)	
	)	

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**DECLARATION OF MEL HALL-CRAWFORD**

1. My name is Mel Hall-Crawford. I am the Director for Energy Programs at Consumer Federation of America (“CFA”). In that capacity, I am responsible for CFA’s work advocating for energy efficiency standards that benefit consumers.

2. CFA is an association of more than 250 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. Many of our member organizations are themselves membership organizations whose members are individual consumers. Our research, advocacy and education efforts seek to advance the interests of those consumers.

3. We have long supported energy efficiency standards for products of many kinds, including motor vehicles. CFA has participated in dozens, if not hundreds, of efficiency rulemakings, regulatory negotiations, and legislative hearings involving large and small energy using durables, ranging from automobiles to heavy-duty trucks, air conditioners, furnaces, water heaters, computers, and light bulbs. With respect to motor vehicles, we have been involved in advocating stringent fuel-economy standards for over a dozen years, and have submitted filings to and testified before both federal and state agencies including the Environmental Protection Agency (EPA), the National Highway Traffic Safety Administration (NHTSA), and the California Air Resources Board. In particular, CFA submitted comments in the joint EPA-NHTSA rulemaking that led to the standards at issue in this case.

4. Consumers, including individual members of CFA's constituent organizations, benefit financially from fuel-economy standards, which result in savings in fuel expenditures over the lifetime of a vehicle that substantially exceed any resulting increases in vehicle prices. Increases in the stringency of fuel-economy standards benefit consumers by increasing the availability and range of choices of high fuel-

efficiency vehicles in the market. Less stringent standards harm consumers, including members of CFA member organizations, who have an interest in purchasing fuel-efficient vehicles by limiting the range of choices of such vehicles available in the market.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2020.

  
Mel Hall-Crawford

**DECLARATION OF DANIEL W. HILDRETH  
FOR CONSERVATION LAW FOUNDATION**

I, Daniel W. Hildreth, hereby declare and state:

1. This declaration is based on my personal knowledge, information, and belief. I am over the age of eighteen years and suffer from no legal incapacity.
2. I live at 55 Thornhurst Rd, Falmouth, Maine 04105. I have been living at this address since approximately 1995. I rented the property initially and purchased it in 2003.
3. I am a member of Conservation Law Foundation (CLF). I have been a member since 1994. I joined the Maine State Board of CLF in January 2018. I continue to be a member of CLF because of their promotion of policies to implement a transition to a clean energy economy and away from reliance on fossil fuels. This is important to me because I believe that climate change poses a catastrophic threat to our economy and to our society.
4. The property where I live is on a cove in Casco Bay. I own approximately 460 feet of coastal waterfront land. At high tide, the high-water mark comes, in my approximation, to about 50 feet from the nearest corner of my house and reaches an area of steep banking. The banking is about 25 to 30 feet high and is composed of ledge at the base. Most of the rest of the banking is made of clay and is vegetated, except where the erosion is worst. At low tide, there are roughly 300 yards of mudflat between the seawater and the base of the banking. My house sits above, on clay soil atop ledge, about 50 feet from the edge of the banking.
5. In storms, the water comes higher up the banking than it does at other times. In some storms, the higher water levels have caused erosion at the base. The water has begun to undercut the banking, and there are a few places where the edge is sagging as a result.
6. I am aware that climate change poses a threat to coastal property and buildings such as my own. My understanding is that climate change is driving sea level rise because of the

melting of glaciers and ice caps. The warming atmosphere is also driving sea level rise because as ocean water temperatures warm, the ocean expands. The rate of glacial melt seems to be increasing. It is my understanding, based on the U.S. Fourth National Climate Assessment and other resources, that the problems associated with climate change will only continue to build. I also understand from the report that sea level rise in New England is projected to exceed the global average on a yearly basis. I have looked at maps of certain areas of coastal Maine depicting projections of sea level rise and I know that it will have an increasing impact on my community and my home.

7. I am aware from the U.S. Fourth National Climate Assessment that sea level rise has contributed to higher storm surges that extend further inland, and that climate change is expected to lead to extreme hurricanes that are stronger and more frequent. I have read that there are two dynamics at play – the atmosphere is warmer, and there is more moisture in it. Climate change results in systemic impacts on the formation of storms and makes them more intense. As a coastal homeowner, this is particularly concerning for both economic and safety reasons. The report forecasts that future impacts from intense storms and sea level rise will lead to increased coastal erosion, necessitating ongoing efforts to protect (or adapt) existing manmade structures. Sea level rise caused by climate change threatens the banking protecting my home from the ocean, while storm surge levels and increasing intensity of storms could exacerbate the erosion. My personal experiences with storms on my property over the last 20 plus years gives me the impression that storms have increased in intensity. Based on my own observations, the storm surges also appear to be higher than they used to be. The best means I have of judging the tide levels is a rock in the middle of the cove. Though the top is always above water, in my perception, the highest tides are covering more of it than they used to.

8. It is very present in my mind that my house and property are under threat from these impacts of climate change. Because of climate change and impacts on the eroding shoreline, I expect that it will become impossible to live there at some point in the future.

9. The U.S. Fourth National Climate Assessment's projections of more and stronger storms also concerns me because of a tree on the ocean-side of the house, about 38 feet from the building. Our house has previously experienced storms with sustained winds of 60 mph. I have been cutting the tree back dramatically because I am worried that increasing wind gusts due to more extreme storms could cause the tree to snap mid-trunk. The tree could cause damage to my house if it were to break in a storm.

10. My enjoyment of my home is dependent upon stable sea levels and weather. Worsening impacts of climate change threaten my property, my economic investment in my home, and my enjoyment of my house and land.

11. I understand that the National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency (EPA) have published *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) (Final Rule). It is my understanding that the Final Rule weakens federal standards pertaining to fuel efficiency and vehicular emissions, including of greenhouse gases. I also understand that Competitive Enterprise Institute (CEI) has filed a petition for review challenging this rule, and that CLF seeks to intervene in that lawsuit.

12. The federal government's action finalizing this rule harms me because it will increase greenhouse gas emissions from cars and trucks by millions of tons annually, contributing to climate change. I understand that if CEI prevails on its petition, the harms will be greater. Actions that contribute to climate change harm me by increasing the risk of sea

level rise and storm intensity, which increases the risk that my property will be harmed in a storm. This adversely impacts my economic and social well-being.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29<sup>th</sup> day of May, 2020.



---

Daniel W. Hildreth



## DECLARATION OF ELIZABETH KOENIG

I, Elizabeth Koenig, state and declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts and, if called as a witness, I would testify competently to them. As to those matters that reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I live in Redmond, Washington, and I have lived here since 1994. I have lived in the Seattle area since 1984. I am retired. Before retiring, I worked as a registered nurse.

3. I have been a member of Environment America since 2004. I became a member of Environment America because the health of our planet is in decline and we need to do something about it. There is power in numbers, and individual citizens can have more of an impact if they join together in a group.

4. I have a respiratory condition called chronic allergic asthmatic bronchitis, which is affected by both pollens in the air and also air quality. Through the years, my condition has steadily gotten worse. What used to be only a springtime irritant now lasts through most of the year. Previously, I was diagnosed with acute asthmatic bronchitis because it only affected me during the spring. On September 6, 2019, I was diagnosed with chronic allergic asthmatic bronchitis because the condition now affects me all year long. My primary care physician has told me that my condition is caused by allergies and air pollution.

5. My condition requires the daily use of a medically-prescribed inhaler to stop the chronic bronchospasms and cough. I use a cortisone inhaler to keep the inflammation down. I don't like having to take medication. I take an antihistamine for allergies, and I also drink lots of water to keep my bronchial tubes from becoming too dry.

6. The increasing air pollution in what used to be an area with rather clean air has definitely impacted my quality of life. I love to sing, but now I have a hard time singing because of my condition. I have a hard time breathing if I haven't had enough water. I love to exercise and walk in the woods, but I can't do it too much now without experiencing difficulty breathing and endangering my blood pressure. My blood pressure is affected because my condition causes my lungs to take in less oxygen so my circulatory system has to work harder. I also enjoy gardening but I am unable to garden as much as I would like to because of the increased severity of my condition.

7. In addition, I have been negatively affected by the smoke and ash from wildfires. The smoke negatively affects my condition and makes it more difficult for me to breath. Both the smoke and ash act as bronchial and pulmonary irritants, which cause inflammation in the bronchial tubes making breathing difficult. There were several days during last year's wildfire season when the smoke was so thick that it obliterated the sun. Also, there were several days last year when ash was falling from the sky, and our air quality was deemed "poor." Outdoor events were cancelled or held indoors. Team practices, my granddaughter's outdoor marching band camp was delayed, and people, especially those with respiratory conditions, were advised to stay indoors. The poor air quality was an issue for weeks.

8. I know that air pollution from cars is damaging our environment. I drive a hybrid vehicle to reduce the amount of emissions from my vehicle. I know that the Obama administration put in place good clean car standards and that the Trump administration is trying to rollback those standards, which, if implemented, will increase the amount of air pollution from cars. I support Environment America's efforts to keep strong clean car standards in place.

I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:  
*Elizabeth Koenig*  
5760EF7C308F436...

5/31/2020

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Elizabeth Koenig  
Redmond, Washington

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Date

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Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

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## DECLARATION OF ADAM LEE

I, Adam Lee, declare as follows:

1. I am the chairman of Lee Auto Malls in Maine. My family has been in the car business for over 80 years. My partners and I manage 19 dealerships in eight cities across the state. We are the largest volume car dealer – and the largest hybrid dealer – in Maine, selling 10,000 cars and trucks in 2019.

2. At my dealerships, we sell vehicles manufactured by General Motors, Fiat Chrysler, Toyota, Honda, and Nissan.

3. I understand that the state of Maine adopted state clean car standards in 2005, and that beginning in 2009, automakers' fleets in Maine have been required to satisfy the same greenhouse gas and other air pollution standards that have been enacted in California. Maine updated its rules in December 2012 to reflect California's adoption of the Advanced Clean Cars program for Model Year 2017-2025 vehicles, including the Zero Emission Vehicle (ZEV) program. For these years, automakers are required to include Maine among the states where they sell ZEVs to satisfy requirements under the program.

4. Manufacturers develop and carry out campaigns to boost sales of a particular model vehicle, working with and relying on dealers like myself to help promote certain vehicles. While marketing plans are developed far in advance, they

can be modified on a quarterly, and at times even a monthly basis. Dealers receive daily communications from manufacturers about marketing plans and the vehicles that the manufacturer would like dealers to promote during a given month. Dealers place orders for vehicles with manufacturers on a monthly basis, and receive vehicles every week, as they become available.

5. Changes in the laws regulating emissions and fuel economy can have a dramatic impact on a manufacturer's desired product mix. When such changes occur, manufacturers and dealers respond with changes to their marketing and sales efforts.

6. Manufacturers incentivize the sale of certain vehicles in a variety of ways including through advertising; setting quotas for dealers for selling a certain number of vehicles and offering bonus payments to dealers who meet a quota; and utilizing dynamic pricing by offering rebates, discounts, reduced finance rates, and other special pricing and lease programs for consumers.

7. I am aware that the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) have issued a regulation that purports to invalidate state clean car standards including Maine's ZEV program, and purports to revoke California's authority (and thus Maine's authority as well) to adopt and enforce state greenhouse gas and ZEV regulations.

8. While many factors influence the number and variety of ZEVs available to consumers in Maine, the state's adoption of ZEV standards has increased ZEV availability. Since model year 2009, manufacturers have made ZEVs available to

dealers like myself in Maine at higher volume, and they have made a greater effort to market their ZEVs. This in turn enables dealers to sell ZEVs to a wider range of consumers. I expect this trend to continue in Maine in the coming years if the ZEV program is upheld.

9. At my dealerships, we have sold zero emission vehicles, including the Chrysler Pacifica Hybrid, the Nissan Leaf, and the Prius Prime. I do not believe these vehicles would be available in Maine if the state had not adopted the ZEV program.

10. With ZEV standards in effect, states like Maine also adopt associated policies to support implementation of the standards and encourage greater penetration of electric vehicles, such as tax incentives and charging infrastructure. I am concerned that EPA and NHTSA's new rule will handicap these broader efforts by eliminating the key driver: the ZEV standards.

11. National greenhouse gas and fuel economy standards likewise incentivize manufacturers to make cleaner and more fuel efficient vehicles available to consumers. I am aware that NHTSA and EPA recently issued another rule, which dramatically weakens the nation's greenhouse gas and fuel economy standards for passenger cars and trucks.

12. There is significant consumer interest in low and zero emission vehicles, but the range of available hybrid and ZEV options is still limited. For example, I was only able to get a small number of model year 2019 Nissan Leafs despite consumer demand for more. Additionally, many consumers want larger vehicles like

crossovers, minivans, SUVs, and trucks, but the hybrid offerings for these types of vehicles are still limited, and the ZEV offerings for these types of vehicles are just beginning to emerge.

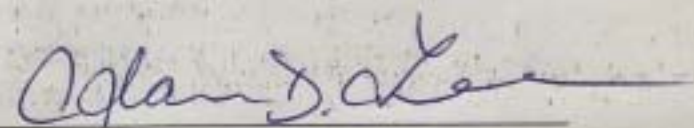
13. EPA and NHTSA's recent actions will only make it more difficult for dealers like myself to meet consumer demand for low and zero emission vehicles.

14. Regulations like the ZEV program as well as state and national greenhouse gas and fuel economy standards are crucial drivers not only in the development of new technologies that improve consumer choice, but in manufacturers' use of the marketing tools I described above to promote and make more widely available the cleaner, more fuel-efficient cars that already make up part of their fleets. Without strong state and national standards, manufacturers will allocate fewer resources toward selling low and zero emission vehicles in Maine and elsewhere, favoring their more profitable, higher-emitting vehicles and limiting the variety and quantity of lower-emission options available to dealers like myself and to our customers this year and going forward.

15. NHTSA and EPA's recent actions will severely limit the choices that Maine consumers have and reduce my sales, hurting my employees. For example, I anticipate that Nissan will reduce the availability of model year (MY) 2021 and 2022 Leafs without ZEV standards in place and under weakened federal standards for those years.

16. Emission standards like Maine's ZEV program and strong greenhouse gas and fuel economy standards have helped push automakers to produce and sell cleaner, more fuel-efficient cars. I am concerned that EPA and NHTSA's recent actions will hurt my ability to meet customer demand and offer a variety of low and zero emission model cars for sale at my dealerships.

I declare under penalty of perjury that the foregoing is true and correct.



Adam Lee

Executed on June 1, 2020



3. I personally expect to purchase a car in the time-frame covered by the 2021 through 2026 model years. My current vehicle has over 140,000 miles on it and will need to be replaced during that period. When I search for a car to purchase, its fuel efficiency is a major issue for me. Over the past 40 years I have been frustrated by the limited availability of high gas-mileage vehicles and have struggled to find mid-size vehicles whose mileage exceeds around 30 miles per gallon. I am interested in having a broad selection of fuel-efficient vehicles from which to select. Government standards that will reduce or limit the required fuel-efficiency of vehicles during the 2021 to 2026 model years will hurt me as a consumer by limiting the range of choices of high fuel-efficiency vehicles available to me in the marketplace during that time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 29, 2020.



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Irene E. Leech

**DECLARATION OF SEAN MAHONEY  
FOR CONSERVATION LAW FOUNDATION**

I, Sean Mahoney, hereby declare and state:

1. This declaration is based on my personal knowledge, information, and belief. I am over the age of eighteen years and suffer from no legal incapacity.

2. I am the Executive Vice President of Conservation Law Foundation (CLF), a membership-supported nonprofit corporation organized and existing under the laws of the Commonwealth of Massachusetts. I have held this position since 2013. I also serve as the Director of CLF's Maine Advocacy Center, a position I have held since 2007.

3. In my capacity as Executive Vice President, I am familiar with CLF's mission: to protect New England's environment for the benefit of all people. CLF uses the law, science and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy.

4. Given my role as Executive Vice President, I also understand the nature and scope of CLF's organizational structure. Founded in 1966, CLF has its principal office at 62 Summer Street, Boston, MA. CLF also has offices in Maine, New Hampshire, Rhode Island and Vermont, and its members reside throughout New England and other states. CLF has more than 5,000 members.

5. CLF works on behalf of its members toward comprehensive long-term solutions to environmental challenges. Our members rely upon CLF to



advocate for and safeguard the health, quality of life, and economic prosperity of our communities for generations to come, with a priority of meeting the challenge of climate change. CLF engages in federal and state regulatory and legislative advocacy as well as policy development and litigation to work toward a healthy climate and resilient communities across New England.

6. One of CLF's areas of focus is reducing emissions from the transportation sector to avert the worst impacts of climate change and protect public health. Across the country, the transportation sector is the greatest source of greenhouse gas emissions. In New England, the transportation sector contributes an even higher percentage of overall greenhouse gas emissions. CLF's mission entails working to reduce vehicular emissions.

7. CLF's work aimed at reducing emissions from the transportation sector includes, for instance: writing to former U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt opposing the roll back of environmental safeguards under the Clean Air Act that reduce pollution from motor vehicles and engines; commenting to urge the Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA) to conduct a comprehensive analysis of environmental consequences of revisions to fuel standards; writing to DOT to oppose weakening rules regarding fuel efficiency and fuel consumption; and filing a Petition for Review, along with other plaintiffs, challenging the EPA

issuance of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles.

8. At the state level, CLF's advocacy aimed at reducing vehicular emissions includes, for instance: promoting zero emission vehicle legislative policies, including by submitting oral and written comments; serving on the Massachusetts Zero Emission Vehicle Commission to recommend policies increasing access to electric vehicle infrastructure; intervening in utility rate cases and other utility proceedings before state public utilities commissions to advocate for investments and rate structures promoting beneficial electrification of the transportation sector; developing regional transportation policy white papers; and submitting comments on state transportation plans. CLF regularly submits comments on rulemakings and challenges regulations by petition for reconsideration to the agency or by seeking judicial review in court.

9. I am familiar with *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) (Final Rule). CLF joined other groups to petition for review of the Final Rule on May 27, 2020. *See* Cases No. 20-1168, 1169. I understand that Competitive Enterprise Institute filed a separate Petition for Review of the Final Rule on April 30, 2020, and that CLF is moving to intervene in that case.

10. The Final Rule harms CLF and its members. If CEI is successful on its petition, CLF and its members will be further harmed. The Final Rule will increase vehicular emissions of both greenhouse gases and harmful air pollution caused by pollutants such as oxides of nitrogen, volatile organic compounds, fine particulate matter, and sulfur oxides, as well as hazardous air pollutants. CLF's members' injuries include economic and recreational harms from property damage caused by climate change. CLF's members' enjoyment of and investment in their homes and coastal property is threatened by the amplified storm surges and higher sea levels that are a result of climate change. Climate change directly threatens CLF's members' coastal property and homes.

11. The Final Rule also harms CLF's members that work in or own businesses in the electric vehicle or electric vehicle service equipment industries. The Final Rule will inflict economic harm on these members by depressing demand for their services.

12. Additionally, the Final Rule harms CLF's members by negatively impacting air quality in New England states, both by increasing air pollution levels and by contributing to climate change, which increases the number and severity of bad ozone days. This exacerbates symptoms of respiratory illnesses suffered by CLF's members, such as asthma.

13. The Final Rule harms CLF because it frustrates the organization's mission to protect New England's environment for the benefit of all people, which

entails reducing vehicular emissions. The Final Rule will prompt CLF to expend resources to counteract its harms. The Final Rule will necessitate additional federal and state rulemakings and other actions to achieve New England states' decarbonization targets and other climate change objectives. CLF will be forced to devote time and resources to petitioning for and participating in those rulemakings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of May, 2020.

A handwritten signature in blue ink that reads "Sean Mahoney". The signature is written in a cursive style with a large initial "S".

---

Sean Mahoney

## **DECLARATION OF GERALD MALCZEWSKI**

I, Gerald Malczewski, declare as follows:

1. My name is Gerald Malczewski. I am over eighteen years of age, of sound mind, and fully competent to make this declaration. I also have personal knowledge of the factual statements contained herein.

2. I have been a member of the Union of Concerned Scientists since January 2017. I have participated in climate change awareness and policy initiatives through state and local working groups, such as the One Region Forward Initiative, which develops climate mitigation and infrastructure resiliency in the Buffalo Niagara region. I have also been an active participant in the Transportation and Climate Initiative (a multistate northeast corridor effort focused on reducing transportation related carbon emissions), participating in webcasts and a local workshop.

3. I am a veteran, and served in the United States Naval Reserve from 1963 to 1969, including active sea duty from 1965 to 1967.

4. I received a Bachelor's degree in Mathematics from State University College at Buffalo in 1971 and a Master's degree in Mathematics from Indiana University Bloomington in 1973. I was employed as an information technology professional for over 30 years, primarily at M&T Bank and HSBC Bank, as a

systems analyst and project manager. I also was an adjunct mathematics instructor for 14 years, teaching at Erie Community College and Medaille College.

5. I have been an avid alpine skier for 35 years, and have skied both at local ski areas and in New England, Utah, and Wyoming. I enjoy skiing for the continuous challenges it presents (even to experienced skiers), its proximity to beautiful outdoor scenery, its social dimension, and its lessons for balancing physical risks against their rewards.

6. I was a ski instructor in Kissing Bridge Ski Resort in Glenwood, New York, for 28 years, and I estimate that I have instructed thousands of skiers. It was immensely rewarding to watch my students grow more comfortable in their skills and physical capabilities.

7. I am a volunteer mentor for a physics course offered by Coursera, an online learning platform. I have some familiarity with climate change models and the factors that drive global warming.

8. I have serious concerns about the impact of climate change on future generations. I worry about my generation's failure to safeguard natural resources for future generations, particularly my grandchildren. Unless this country's government—and particularly the federal government—accelerate efforts to combat climate change, I fear my grandchildren will conclude that we failed, through lack of will and willful ignorance, and in spite of overwhelming scientific evidence, to take the difficult but necessary action to save the planet.

9. I am particularly concerned about the effects of climate change on the ski and snow sports industries. In my three decades as a ski instructor, I witnessed the ski season shorten and winter weather destabilize, with fewer periods of prolonged snow cover. Ski resorts have closed or invested in expensive snowmaking upgrades to mitigate the loss of customers. As ski seasons contract (or disappear completely), I will be further deprived of one of my most beloved hobbies.

10. I live in Lancaster, New York, about seventeen miles east of Buffalo. The region lacks well-developed rail networks and bus lines.

11. Driving a car is therefore my normal means of transportation. Collectively, my wife and I drive roughly 13,000 miles per year, primarily for medical and dental appointments, shopping, recreation, volunteering, miscellaneous errands, vacations, and periodic road trips to see family.

12. My wife and I lease two vehicles: a 2017 Toyota RAV4 and a 2019 Honda Insight (a gas/electric hybrid vehicle). We drive both vehicles regularly for each of the above purposes.

13. We would like to replace the RAV4 with a comparable but cleaner lease if the option was available and affordable. Eventually we would like to drive fully electric vehicles, but the lack of charging infrastructure in our area and the cost of electric vehicles makes ownership in the near term difficult.

14. If cleaner, more affordable options to lease or buy were available, we would replace one or both cars as soon as possible.

15. When we look to replace the RAV4, our priorities will be to minimize our carbon footprint, reduce emissions of other pollutants, and find an automobile that is safe, reliable, and relatively inexpensive.

16. My choice of clean cars and my skiing depends in part on the federal government's vigorous regulation of fuel economy and greenhouse gas ("GHG") standards for passenger vehicles, which collectively force the development of cleaner cars and drastically drive down global greenhouse gas emissions. The emissions reductions, in turn, slow global climate change and help preserve the ski season.

17. Conversely, loosening fuel economy and greenhouse standards will reduce the pressure on the automobile industry to ramp up production of hybrids, electric vehicles, and more efficient conventional vehicles, and will exacerbate climate change and its effects on local ski resorts.

18. I am aware that, in 2013, EPA provided California with waivers under the Clean Air Act, which allowed California to set its own GHG standards for light duty vehicles and to create a program to incentivize the purchase of "Zero Emission Vehicles," or "ZEVs." I am also aware that, under the Clean Air Act, other states could and did adopt California's programs. One of these states is New York.



19. Because of the widespread adoption of these programs, availability of low or zero emission vehicles—and related infrastructure—has increased nationwide, and particularly in states that have adopted California’s standards.

20. If the standards remain effective, I will have greater access to such vehicles, since the trends related to California’s standards will continue or accelerate. Likewise, New York’s maintenance of California’s standards will trim GHG emissions and thereby help to protect downhill skiing and other winter sports.

21. I am aware that EPA has finalized an unprecedented decision to revoke California’s waiver and to prohibit other states from enforcing the California standards they have relied on for the better part of a decade. I am also aware that the Department of Transportation has suddenly decided that its regulatory authority prevents EPA from issuing these waivers in the first instance, thereby barring EPA from enforcing any waivers it has granted and not withdrawn.

22. If the federal government consummates these actions—or lowers federal GHG or fuel economy standards—it will meaningfully undo and foreclose nationwide progress towards a wider availability of low or zero emissions vehicles. In so doing, it will curtail my access to the types of vehicles I most want to

purchase when replacing the cars I currently drive. Lower state and federal standards would also accelerate the regional effects of climate change, including the adverse effects in snow sports.

I declare under penalty of perjury that the forgoing is true and correct.

Executed in Lancaster, New York on MAY 27, 2020.

  
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Gerald Malczewski

## **DECLARATION OF VICENTE PEREZ MARTINEZ**

I, Vicente Perez Martinez, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could testify competently to them. As to those matters which reflect an opinion, they reflect my personal experience, opinion and judgment on the matter.

2. I live in Los Angeles, California, and have lived there since 2013. I am a film editor. I edit commercials, trailers for movies, and movies.

3. I am a member of the Sierra Club and have been for almost three years. I joined the Sierra Club because I became very concerned about environmental protection after the 2016 presidential election. I am a film editor, so I thought the best way to get involved was to become a member of a non-profit that knows how to do this work, rather than attempting to do the work myself. As a member of the local Angeles Chapter, I have attended some rallies and keep abreast of environmental issues.

4. I am aware that Los Angeles County is in nonattainment for ozone and particulate matter under the National Ambient Air Quality Standards, and I am worried about the poor quality of the air all around my home. I live about 500 feet from La Brea Avenue and less than a mile from La Cienega Boulevard, both of which are major traffic arteries and carry very heavy traffic. During the prolonged rush hours, cars sit bumper to bumper for extended periods of time, releasing harmful emissions. Our backyard is so close to La Brea Avenue that the soot and grime from vehicle traffic gets all over the backyard: a nasty, gray dust lies on top of everything. We no longer use the backyard more than a few days a month, restricting my use and enjoyment

of my property, and we have to clean the surfaces of furniture and other objects thoroughly before we do.

5. I track the air quality index daily through an app on my iPhone. I like to run outside every day, but, when the air quality is poor, I have to forgo that pleasure and run at my gym instead. I also monitor how much time my five-year old daughter spends outside during poor air quality days because I don't want her to breathe the unhealthy air and develop respiratory problems.

6. I am also very concerned about climate change. I try to follow climate science closely and I am aware that we are approaching a tipping point in which we have a narrow timeframe to turn things around if we truly want to tackle the climate problem. We are running out of time to take serious action to mitigate the impacts of climate change, but unfortunately, we are doing the opposite and exacerbate the current and coming damage by producing more greenhouse gases. I am particularly concerned about the role of the transportation sector in causing climate change, as I am aware that the transportation sector is the biggest emitter of greenhouse gases in the U.S. and is a major cause of climate change. I also know that greenhouse gases lead to the ground-level ozone that causes terrible health effects.

7. When my wife and I had a baby, my perspective on things changed. My daughter will live to see the 22nd century, and I often think about how my decisions will affect her and the world. As a parent, it is very important for me to do my part to leave behind a world that gives my daughter and other people of future generations a healthy environment and a chance to thrive. My desire to breathe cleaner air, to stop vehicle emissions of particulate matter, other dangerous pollutants and greenhouse gases, and to protect my and family's health are among the reasons

why I own electric vehicles, since I must have a car as it is very difficult to live and get to work without one in my neighborhood.

8. My wife and I currently own two used electric vehicles, a 2014 BMWI3 and a Tesla Model S. We drive them because they do not emit any tailpipe pollutants at all. We plan to replace at least one of them soon with another electric vehicle, when there are hopefully more options to choose from that are cheaper and have a larger array of features than currently available models. We will most likely replace our BMW, as it only has 65-70 miles of range. We use our BMW for shorter trips around downtown LA, but we are counting on further technology development and deployment so we can get a new electric vehicle with a better range. The electric vehicle options that are currently available are limited, have short ranges, and are sold at relatively high prices. For example, the used Tesla Model S is the cheapest model available that has at least close to 200 miles of range.

9. I believe that there are more electric vehicles available in California compared to most other states because of California's zero emissions vehicle (ZEV) mandate, which requires that car makers sell a certain number of new electric vehicles every year. I am aware that the National Highway Transportation and Safety Administration (NHTSA) and the EPA have issued a rule declaring that California's ZEV mandate is preempted by federal law, and that California may no longer set greenhouse gas standards for vehicles. I also know that the federal EPA has revoked a waiver California possessed which permitted California's ZEV mandate and the setting of greenhouse gas standards, and that many prior waivers have allowed California to set vehicle emissions standards that are more stringent than federal law. Other states that have adopted California's measures are now also precluded from doing so, and these actions therefore have effects on the entire national vehicle market.

10. I am very concerned that these actions will result in fewer electric vehicle options and fewer electric vehicles for sale here in California and elsewhere. That will drive prices up for whatever EVs may still be available, making it much harder to buy them. And it will stop or delay the technical innovation we need to get improved EVs on the market. The cancellation of the ZEV mandate directly affects me and my ability to buy another electric vehicle at better prices, better range, and to have other consumer choices in buying these vehicles.

11. Additionally, I invested a lot of money in a charger and solar panels in order to set up my home for electric vehicles. Because the ZEV mandate has been preempted and the waiver revoked, I am afraid that my investments in EV charging infrastructure will also be affected and that the expansion of available charging stations will considerably slow down or even stop. So, not only will I have fewer choices to replace my electric vehicle, but it will also become more difficult to operate my current ones due to limited infrastructure. Slowing down the drive for more electric vehicles will also decrease the value of the charging infrastructure in my home.

12. I am extremely concerned that declaring the ZEV mandate and California's ability to set greenhouse gas standards at levels more stringent than federal law, or at all, and the revocation of the waivers that allowed California to take these actions, will increase greenhouse gas emissions and levels of ozone and particulate matter, which will make my area's air quality even worse than it will be with these protections in place and negatively affect my outdoor activities. If that happens, I fear that I will need to further limit running outdoors and using my backyard. I also believe that these rollbacks will result in fewer electric vehicles on the market and impair my ability to purchase new electric vehicles and operate the ones I have.

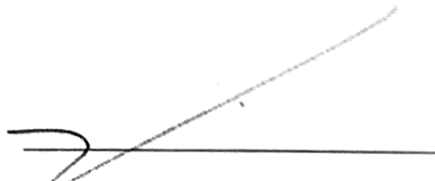
13. I have learned that NHTSA and EPA also issued another final rule that makes greenhouse gas and fuel efficiency standards much weaker for all of the vehicles in the United

States. If that rule stays in place, a vast amounts of additional oil will be combusted and greenhouse gases emitted, all making the air quality much worse and climate change damage ever more devastating. Weakened national standards will also affect the availability of EVs, as automakers will have much less incentive to build them. That, again, will affect my ability to purchase the EV I want and diminish the value of my EV infrastructure investments.

14. I support Sierra Club's lawsuit challenging both of these rules. If the court overturns either of them, I would directly and personally benefit in many ways: I would be able to breathe cleaner air, be able to expand my outdoor physical activities, and use my backyard more often. I would also know that the air quality where I live will improve. I would know that greenhouse gas emissions are being reduced and the damage of climate change abated. Additionally, I would have more choices for a new electric vehicle and I could operate my used electric vehicles with the support of more infrastructure, and not lose the value of my investments in EV infrastructure at my house. All of these effects would improve my quality of life because I live in a really congested and polluted area. Finally, I will sleep better at night knowing that we are creating a more healthy future for my daughter.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: May 20, 2020.

  
Vicente Perez Martinez

**DECLARATION OF JEREMY PROVILLE**  
**Submitted In Support of Environmental Defense Fund**

I, Jeremy Proville, declare as follows:

1. I am a Director in the Office of the Chief Economist at the Environmental Defense Fund (EDF). I have worked as an economist for EDF for over 9 years.
2. My duties include performing demographic and spatial analyses, including assessing how EDF's membership is affected by environmental policy. My work requires me to be familiar with EDF's policy positions, analytical methods, and membership database.
3. EDF is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.
4. EDF relies on science, economics, and law to protect and restore the quality of our air, water, and other natural resources. EDF employs more than 150 scientists, economists, engineers, business school graduates, and lawyers to help solve environmental problems in a scientifically sound and cost-effective way.
5. It is my understanding that EPA and NHTSA's recently-finalized *Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026*



*Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020) (“Final Rule”) significantly weakens the agencies’ prior greenhouse-gas emission and fuel economy standards for these vehicles, and will reduce improvements in fleet average greenhouse-gas emissions and fuel economy from approximately 5% per year under the previous standards to approximately 1.5% per year.

6. I understand that the increased pollution expected to result from the Final Rule will result in more premature deaths, respiratory illnesses, lost workdays, and healthcare expenses as compared with the prior standards.
7. EDF has a strong organizational interest, and a strong interest that is based in its members’ recreational, aesthetic, professional, educational, public, health, environmental, and economic interests, in reducing harmful air pollution from the transportation sector, including sources affected by the Final Rule.
8. Through its programs aimed at protecting human health, EDF has long pursued initiatives at the state and national levels designed to reduce emissions of health-harming and climate-altering air pollutants from all major sources, including vehicles and refineries. This work has addressed emissions of carbon dioxide and other greenhouse gases, oxides of nitrogen

(NO<sub>x</sub>), fine particulate matter (PM<sub>2.5</sub>), volatile organic compounds (VOCs), sulfur oxides (SO<sub>x</sub>), benzene, and other harmful pollutants.

9. I understand from our membership department that when an individual becomes a member of EDF, their current residential address is recorded in our membership database. The database entry reflecting the member's residential address is verified or updated as needed. The database is maintained in the regular course of business, and each entry reflecting a member's residential address and membership status is promptly updated to reflect changes. I obtained the information about our membership discussed below from our membership database.
10. EDF currently has approximately 379,000 members in the United States, and we have members in all 50 states and the District of Columbia. These members likewise have a strong interest in protecting human health and the environment from air pollution. Many live in and near areas affected by air pollution.
11. I understand that regulatory analyses and scientific studies have indicated elevated human health risks for individuals who live, work, or recreate as far as 44 miles from facilities such as petroleum refineries, which emit ozone-forming NO<sub>x</sub> and VOCs, health-harming fine particulate matter, benzene, and other hazardous pollution. I understand that analyses and studies have

confirmed that the most acute impacts may be experienced within three miles from a facility. I am aware that these elevated risks include impacts such as cancer, asthma exacerbation, pre-hypertension in children, and other serious health effects.

12. I further understand that EPA and NHTSA acknowledge that both the Final Rule and freezing the standards at MY 2020 levels will substantially increase refinery emissions.<sup>1</sup>
13. We have performed analyses using geographic information systems (GIS) and EDF membership data to compare the geographic coordinates of members' addresses to those of the petroleum refineries that produce gasoline. For this, we extracted location data for the 87 petroleum refineries across the United States that produce alkylates<sup>2</sup> from the data analytics company, Enverus, and for the Suncor refinery in Denver, Colorado, which produces about a third of the gasoline consumed in Colorado.<sup>3</sup>

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<sup>1</sup> See 85 Fed. Reg. at 24,852, 25,039, 25,173, 25,259, 25,262.

<sup>2</sup> Production of alkylates is used as a proxy for gasoline production because alkylation is a refining process specific to gasoline production. Data on the products that a facility produces, such as gasoline, is less accessible.

<sup>3</sup> Our use of Enverus alkylate production data as a basis for establishing that a petroleum refinery produces gasoline provides a conservative estimate of the U.S. petroleum refineries that are relevant to our analysis. The Suncor refinery in Denver is an example of a refinery that does not produce alkylates according to Enverus, but that nevertheless does produce gasoline. Energy Analysts International, Denver Metro/North Front Range Fuel Supply Impacts and

14. Our analysis determined that EDF has about 2,400 members who live within three miles of such a refinery,<sup>4</sup> and over 35,000 members who live within 10 miles of such a refinery.
15. We have also performed analyses using geographic information systems (GIS) and EDF membership data to compare the geographic coordinates of members' addresses to areas that are in nonattainment with EPA's health-based standards for PM<sub>2.5</sub>, ozone, and SO<sub>2</sub>. For this analysis we used data that EPA has made publicly available on the geographic boundaries of these nonattainment areas.<sup>5</sup>
16. More than 17,000 EDF members live in PM<sub>2.5</sub> nonattainment areas where refineries operate and contribute to the area's air quality. More than 81,000 EDF members live in ozone nonattainment areas where refineries are operating, and more than 300 EDF members live in areas in SO<sub>2</sub> nonattainment where refineries are operating. In total, more than 99,000 EDF members live in areas that are in nonattainment with one or more of

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Compliance Costs for Refiners and Consumers, REF-2 (Mar. 27, 2019), *available at* <https://raqc.egnyte.com/dl/pWU64a2taj/>.

<sup>4</sup> About seven of these members live within a very close proximity – half of a mile – from a refinery.

<sup>5</sup> EPA, Green Book Data Download, <https://www.epa.gov/green-book/green-book-data-download> (last visited June 1, 2020).

EPA's health-based standards and where pollution from a refinery contributes to that unhealthy air.

17. The Los Angeles-South Coast Air Basin (PM<sub>2.5</sub> and ozone), Delaware County, PA (PM<sub>2.5</sub>), Houston-Galveston-Brazoria, TX, (ozone), the San Francisco Bay Area (ozone), and Detroit, MI (SO<sub>2</sub>) are the areas with the highest concentration of refineries that impact the largest numbers of EDF members. For example, there are five refineries operating in the Los Angeles-South Coast Air Basin, impacting over 16,000 EDF members who breathe air with unhealthy levels of PM<sub>2.5</sub> and ozone. In the San Francisco Bay area, there are eight refineries contributing to unhealthy ozone levels and impacting over 20,000 EDF members. There are eight refineries in the Houston-Galveston-Brazoria ozone nonattainment area, impacting over 2,500 EDF members.
18. If the agencies' weakening of the standards is upheld, EDF's members will be harmed by continued emissions of health-harming air pollutants from vehicles, including the upstream sources of pollution that produce their fuel. If the Competitive Enterprise Institute's petition, which seeks even further weakening of the standards, is successful, EDF's members will be harmed by even higher levels of this pollution.

I declare that the foregoing is true and correct.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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Jeremy Proville

Executed on June 1, 2020

## **DECLARATION OF SHANA REIDY**

I, Shana Reidy, under penalties of perjury, declare as follows:

1. I have been a member of the Environmental Defense Fund (EDF) since April 2018.
2. I currently reside in Seattle, Washington's Ballard neighborhood with my husband and two sons, who are aged seven and nine. We have lived in our current location since 2009.
3. My younger son suffers from Cornelia de Lange Syndrome, a genetic disorder that can cause a broad range of potential physical, cognitive, and medical challenges. According to the Cornelia de Lange Syndrome Foundation, the syndrome "typically affects: growth, with smaller body and head size; skeletal system, with smaller hands and feet or missing forearms and fingers; development, with delayed development, intellectual disability or learning disabilities; behavior, with ADHD, anxiety or autistic features; and internal body organs including the GI, cardiac, genitourinary and neurologic body systems."
4. In my son's case, he has been formally diagnosed with chronic lung disease, which makes him acutely sensitive to congestion and respiratory infections.
5. In addition, he suffers from severe sleep apnea because his airway is not properly developed.

6. He is entirely tube-fed because he has extreme oral aversion and hypotonia (reduced muscle strength), which means his chewing and swallowing are not well coordinated and he is at heightened risk of aspirating his food.

### **Sensitivity to Air Pollution**

7. Because of my younger son's compromised medical condition, any respiratory infection has the potential to be life threatening. Every time he gets sick, even with a simple cold or fever, I fear he is going to die.

8. My younger son is prone to serious respiratory infections, experiencing them as many as three to five times per year. When he was younger, these respiratory infections would typically result in a stay in the hospital. Over the years we have learned how to manage his treatment better, such that now when he gets a respiratory infection, we typically keep him at home. We essentially replicate hospital care in our own home, maintaining a hospital-like setting with medical prescriptions and intensive care. This treatment comes at great disruption to our lives. Either my husband or I will stay up all night with my son managing his care, which can be a great disturbance as we both work.

9. Because these respiratory infections are potentially life-threatening and at minimum very disruptive to our family's day-to-day life, my family and I work very hard to reduce my younger son's exposure to factors that increase his likelihood of respiratory infections.



10.I have been told by my son’s doctor that exposure to air pollution is one factor that will exacerbate his underlying health conditions, including his risk of developing a respiratory infection.

11.Many people may be less aware of the day-to-day air quality conditions where they live, but air quality and air pollution have an immediate impact on every aspect of my family’s life. My family and I change our lifestyle and take a wide range of measures to reduce my younger son’s exposure to air pollution and protect him from harm.

### **Wildfire Smoke**

12.I understand from the Fourth National Climate Assessment that wildfires are expected to increase in the Northwest as a result of climate change.

13.I have noticed an increase in wildfire smoke impacting the Seattle-area over the past two to three years. Over these years, wildfire smoke reaching the Seattle area has been a regular occurrence in the summer months.

14.Wildfires cause serious air pollution issues that threaten my younger son’s health, even when the site of the fire is far away from our home. For example, even when the wildfires are miles away in Canada, the smoke can reach the Seattle area.

15.As mentioned above, exposure to this smoke heightens my younger son’s risk of a dangerous respiratory infection.

16. When wildfire smoke impacts the Seattle region, my family takes a wide range of efforts to protect my younger son's health by minimizing his exposure to the smoke. These efforts disrupt and harm my family's day-to-day and overall well-being.

17. When Seattle is afflicted with wildfire smoke, people who are respiratory-compromised, like my younger son, must stay inside. To keep my son safe, we never open our windows during these periods and we keep our house sealed up; it is stuffy and miserable.

18. In the summer of 2018, the wildfire smoke was so pervasive that my family installed an air filtration system in our home that we run constantly to help protect my son. When wildfire smoke reaches Seattle, we also continuously check our home's air ducts and make sure they are clean to maintain our indoor air quality.

19. We always keep my younger son indoors during these episodes when Seattle is impacted by wildfire smoke. This means that someone needs to stay home with him at all times; either my entire family must stay at home or we must split up for activities that involve going outside.

20. We avoid going to the park, or to the beach, to name a few of the activities we have to forego. My older son, in particular, often wants to engage in these activities. Either he must abstain, or my husband and I are forced to split up. For example, if my older son has a sports game, one of us will go with him and one of

us will stay at home with my younger son. As a result, we are less able to spend time engaging in the activities we would otherwise enjoy and less able to spend time together as a family.

21. My husband and I own a cabin more than two hours east of Seattle, east of the Cascades. We purchased this home in large part because the area typically has better air quality as compared to where we live in Seattle, such that the air is safer for our younger son to breathe. When we are at our cabin, because of the (usually) better air quality, we are able to relax and spend more time outdoors doing activities as a family, without constantly having to worry about keeping my younger son protected from air pollution.

22. We typically visit our cabin every weekend in the summer and whenever the weather is nice during the rest of the year. We intend to continue doing so in the future.

23. Whenever our cabin's air is impacted by wildfire smoke—as has become increasingly frequent in the last two to three years—we forego any visits to the cabin and miss out on this opportunity to relax and spend time together as a family. We instead stay in Seattle where we can keep our younger son inside with our home's air filtration system, which better protects him from poor air quality.

24. In the summer of 2018, we planned to vacation together as a family for five days at a lake in the mountains east of Seattle. Unfortunately, wildfire smoke

began impacting the area during our vacation. Due to the hazard that this smoke posed for my younger son's health, we ended up cutting our vacation short and returning two days early to Seattle.

25. Even for the generally healthy members of my family, all activity can be impacted during fire season because of the poor air quality. When wildfire smoke is particularly severe, I stop jogging, an activity that I enjoy, and my older son's sports practices are often cancelled. This can limit our whole family's activities during Seattle's summer, which otherwise is typically the nicest season of the year.

### **Worsening Air Quality**

26. I understand from the Fourth National Climate Assessment that climate change will also worsen existing air pollution levels, in particular because increasing temperatures will lead to an increase in ground-level ozone or "smog" formation.

27. I also understand that heavy-duty diesel freight trucks transport gasoline and that diesel exhaust includes ozone-forming volatile organic compounds (VOCs).

28. Elevated smog levels also increase the risk that my son will develop a respiratory infection.

29. Because smoggy air increases his risk of a respiratory infection, my family and I similarly take extensive measures to minimize and protect him when Seattle smog levels rise.

30.As with our efforts to protect my younger son from the impacts of wildfire-induced poor air quality, these efforts are disruptive and affect our whole family.

31.When air quality is poor, we keep my younger son inside as much as possible, with the windows and doors shut.

32.As described above, we all forego outdoor activities, or are forced to split up as a family.

33.When we are on the road, we can get stuck in traffic either next to or behind a freight truck. Sometimes my younger son will be in the car as we are in close proximity to or trapped behind a heavy-duty truck with particularly high diesel exhaust emissions. I can smell this exhaust as it permeates our car. At times like these I am terrified for his health. I take immediate steps to get out of the traffic as quickly as possible, move away from the truck, get off the road, and get fresh air into the car.

### **Healthcare Disruption**

34.Poor air quality from wildfire smoke and smog has impacts beyond just increasing my son's risk of a dangerous respiratory infection and disrupting my family's activities.

35.My younger son's condition requires serious healthcare interventions on an occasional but regular basis. For example, in the next year he needs to have major

surgery to address his worsening sleep apnea by improving his airway. This surgery is vital because his apnea leads him to experience long pauses in his breathing that cause his oxygen saturation levels to drop, which affects his ability to concentrate and his sleepiness during the day. Moreover, I am aware from scientific literature that over the long term these impacts are linked to pulmonary hypertension and symptoms of Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder.

36. Due to my son's heightened risk of respiratory complications, his surgery must be scheduled during the summer, when cold and flu season is over. And because of complex nature of his surgery and his condition generally, the surgery will need to be scheduled at least two months in advance. My husband and I will have to make plans to miss work to ensure that we can care for him for several days afterwards, when his health will be particularly precarious.

37. I am deeply concerned that whenever this upcoming surgery is scheduled, it may ultimately be scuttled if Seattle experiences poor air quality due to wildfire smoke or elevated smog levels. It will be too risky for my son's health to go ahead with major surgery if Seattle's air quality is too poor, even with all the steps we take to minimize our son's exposure to poor air quality. If his surgery is cancelled, it will likely mean that this important and needed surgery is delayed for a full year

until the following summer because of the need to schedule his surgery during the summer and months in advance.

38. It is likely that my son will need to have further surgeries in the future to manage his condition and that they will similarly need to be scheduled during the summer. I am deeply concerned that worsening impacts of climate change will increase the likelihood of summertime wildfire smoke and/or smog, further complicating and disrupting our ability to manage and carry out any future surgeries.

39. More generally, I worry about my son's healthcare as my husband and I age. As described above, my husband and I together implement an extensive range of measures to protect our son and minimize his exposure to air pollution. These measures will be harder to implement as we get older, especially if we ultimately need to place our son in a care facility. I am deeply concerned that climate change will worsen Seattle's air quality in the future, when my husband and I may be less able to protect our son from poor air quality.

### **Heat**

40. Heat is another factor that can significantly affect my younger son's health.

41. I understand from the Fourth National Climate Assessment that average temperatures in the Northwest are predicted to increase with climate change and, in

addition, heat waves are expected to become longer, more frequent, and more severe.

42. When temperatures are elevated in Seattle, my family takes additional precautions to protect my younger son's health. We pay careful attention to his hydration levels on hot days and have to make sure to calibrate his tube-feeding regime, since that is his only source of fluids.

43. When the heat is accompanied by dryness—which is typical in Seattle—the weather exacerbates his eczema and we have to take careful measures and apply specific lotions to help combat this condition.

44. Typically, we will keep my younger son inside when it is particularly hot out, and my husband or I will take our older son to do activities outside while the other will stay inside with our younger son, again splitting our family up. When we do take our younger son outside, we have to take extra precautions to make sure that we keep him shaded and he does not get overheated.

## **Conclusion**

45. I understand that the National Highway Traffic Safety Administration and Environmental Protection Agency recently finalized rules that dramatically weaken federal clean car standards and that declare state greenhouse gas standards for vehicles and state zero-emission vehicle standards unlawful. I am deeply concerned that these new rules will lead to increased greenhouse gas emissions

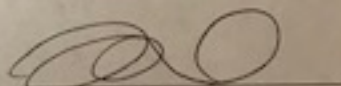


from passenger cars and trucks, and increased diesel exhaust emissions from the freight trucks that carry gasoline.

46. Increased greenhouse gas emissions will lead to increased likelihood of wildfires, increased temperatures and likelihood of heatwaves, and poorer air quality. Increased diesel exhaust emissions also contribute to poorer air quality. As a direct result, my younger son's fragile health will be put at risk, and my family and I will have to take even more steps to protect him from poor air quality and heat.

I declare that the foregoing is true and correct.

Executed on: May 25, 2020

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Shana Reidy

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

COMPETITIVE ENTERPRISE  
INSTITUTE, *et al.*,

Petitioners,

v.

NATIONAL HIGHWAY TRAFFIC  
SAFETY ADMINISTRATION, *et al.*,

Respondents.

No. 20-1145

**DECLARATION OF RONALD ROTHSCHILD**

I, Ronald Rothschild, state and declare as follows:

1. I am a member of the Natural Resources Defense Council (NRDC). I joined the organization as a member in October 2016 to support its work protecting the environment and public health and reducing our dependence on fossil fuels.

2. I live in Greenwich, Connecticut, in Fairfield County in the southwestern corner of the state. Air quality is poor and violates federal ozone standards throughout Connecticut, but the southwestern portion of the state where I live suffers from an even more severe ozone problem. The American Lung Association rates Fairfield County an “F” for ozone pollution, and the county is within the New York City metropolitan area, which the Association regularly ranks as one of the most ozone-polluted regions in the country. Ozone can create and exacerbate respiratory problems.

3. Because cars and other motor vehicles emit ozone precursors, they are a major contributor to ground level ozone formation. Their emissions contain other harmful pollutants as well, such as greenhouse gases that are a major contributor to climate change. Climate change causes many harmful human health impacts, including making dangerous ozone smog conditions worse, because ground level ozone forms more easily when air temperatures are higher.

4. My home is about a quarter mile from the Merritt Parkway, a heavily travelled state highway. Tens of thousands of vehicles travel this stretch each day. I have lived in my house for the past seven years. I am close enough to the Merritt Parkway to hear the traffic if I am outside my house.

5. About three years ago, I was diagnosed with throat cancer. I had a golf-ball sized tumor removed from my tonsil and went through months of radiation therapy afterwards. It was a very difficult treatment process, physically and emotionally. Although I survived the throat cancer, I still suffer from the physical effects of radiation treatment. I have scarring and muscle stiffness in my neck, xerostomia (lack of saliva), and I find it harder to enjoy the food and drinks I love, like red wine and chocolate.

6. The experience has made me think more about the potential health risks of living close to a busy highway. I have become wary of the health risks from exposure to air pollution caused by fuel combustion in automobiles.

7. I have also long been concerned with the dangers posed by climate change, which I view as the number one issue facing society. Further, I recently became a new grandfather and am increasingly worried about the harmful effects that climate change will visit upon me and my family.

8. Even before my illness, I was passionate about clean cars and cleaning up our country's driving habits. I strongly support government policies—such as emission standards, fuel economy standards, and mandates to

sell electric vehicles—that encourage automakers to implement technology that reduces the combustion of fuel and associated emissions of dangerous air pollutants. These standards incentivize automakers to innovate and develop cleaner cars and trucks, as well as to try to sell cleaner cars to consumers.

9. I purchased my first Honda Civic hybrid in 2003. In 2006, I upgraded to another Honda Civic hybrid, and I purchased a third Honda Civic hybrid for my daughter in 2011.

10. My 2006 hybrid was one the best cars I've ever owned. It now has 187,000 miles on it, and still runs like a top. When I drive, I can get around 40 miles to the gallon.

11. Although I liked my hybrid Civics, I promised myself that I would never buy another fuel-combustion vehicle (or internal combustion engine of any type) for as long as I breathe. And so, at the beginning of this year, I purchased a Tesla Model 3 electric car.

12. The Tesla was one of the few full battery-electric vehicles available on the market with a “rated” travel range of at least 250 miles. I ultimately chose the Tesla from among the limited options because of its size, range, and U.S.-based manufacturing, but I had to forego characteristics and features commonly available to choose from in the combustion-powered vehicle market. Things as simple as a hatchback with decent cargo space (for

letting my two large dogs in and out of the car) are hard to come by in the battery electric vehicle market.

13. It is important to me, personally, that government policies continue to promote the development and marketing of improved electric vehicles. An expanded electric vehicle market will also help broaden electric car offerings (more hatchbacks, for example) and bring down their purchase price. I would personally benefit from such policies and developments. I intend to replace my wife's current vehicle with a long-range electric vehicle with a useful hatchback as soon as an affordable and acceptable model becomes available. And when it is time to replace my current vehicle, I intend to again purchase an electric vehicle and it is important to have a wider range of options to choose from.

14. I understand that the EPA sets federal emission standards for new vehicles and that the National Highway Transportation Safety Administration also sets federal fuel economy (CAFE) standards for new vehicles. Until recently, these agencies' standards required automakers to make meaningful improvements to the average greenhouse gas emissions and fuel economy of the new vehicles they bring to market each year. I further understand that California has set stronger state standards, and that other states, like my home state of Connecticut, have adopted California's standards. I understand, for example, that many of these states require automakers to offer for sale a

minimum number of zero emission vehicles, like battery-electric vehicles, each year. I strongly support all these standards.

15. It is apparent to me that stronger emission and fuel economy standards logically will lead automakers to develop and sell cleaner cars and trucks than they otherwise would. In turn, those cleaner vehicles emit less of the harmful air pollution that leads to health problems, ozone formation and climate change.

16. I also understand that automakers who fail to meet EPA and NHTSA standards can buy credits from other automakers who exceed those standards, and that credits become more valuable when standards are tougher, which helps incentivize the introduction of new electric vehicles into the market. Electric vehicle manufacturers have said that they rely on strong standards and credit sales as part of their business plans for developing and introducing new electric vehicles.

17. I understand that EPA and NHTSA have recently issued rules that would roll back and weaken preexisting federal greenhouse gas emission standards and fuel economy standards for new vehicles. I also understand that these agencies have issued rules that seek to block California from maintaining stronger standards, including requirements for zero emission vehicle availability, which would in turn prevent Connecticut and other states from following suit. I strongly oppose all of these efforts. The agencies are bizarrely out of sync

with scientific data and public opinion on our environmental crisis and our desires for innovative and ecological vehicles.

18. Unless and until the agencies' actions are reversed, they will result in increased emissions of air pollutants from the vehicles that travel the highway near my home. They will also result in increased emissions of greenhouse gases from vehicles across the country that all contribute to climate change. And, by reducing the incentives for automakers to invest in fuel-efficient technology and introduce new electric vehicles, they will reduce my options when I and my family search for electric vehicles to purchase in the coming years.

19. By contrast, if the stronger federal standards are reinstated, and/or if California and Connecticut are able to set stronger standards, automakers will once again have greater incentive to invest in fuel-efficient technology and introduce new electric vehicles onto the U.S. market.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on May 27, 2020, in Greenwich, Connecticut.



Ronald Rothschild



## **Declaration of Douglas Snower**

I, Douglas Snower, state and declare as follows:

1. This declaration is based on my personal knowledge, information, and belief. I am over the age of eighteen years and suffer from no legal incapacity. Statements in this declaration expressing an opinion reflect my personal opinion and judgment on the matter.

2. I am a resident of Chicago, Illinois.

3. I am currently a member of the Environmental Law and Policy Center (“ELPC”). I first became an ELPC member in 2011.

4. I am the President and Founder of Green Wheels Inc. (“Green Wheels”), which is located in Chicago and incorporated in Illinois. Green Wheels is licensed as an auto dealer by the state of Illinois. I founded Green Wheels in 2011.

5. Green Wheels is an environmentally conscious auto dealership and service business located near downtown Chicago. Green Wheels specializes in selling, servicing, repairing, and renting electric, hybrid, and environmentally friendly vehicles. Green Wheels also installs and operates electric vehicle charging stations in and around Chicago. Green Wheels’ customers include individuals, businesses, schools, religious institutions, and governmental entities. All of Green Wheels’ services and products are geared toward the goal of promoting clean and efficient transportation.

6. The success of Green Wheels’ business has been premised on the increasing availability of, and demand for, electric and hybrid vehicles, as well as the steady improvement in clean car technology and products. I believe that these improvements have been driven in substantial part by federal fuel economy and vehicle emissions standards requiring reduction of vehicle greenhouse gas (“GHG”) emissions and increasing fuel efficiency. Manufacturers have an

incentive to meet these standards to avoid penalties, and an incentive to exceed the standards so that they can generate compliance credits that can be sold to other manufacturers whose vehicle fleets do not meet the standards. Because compliance with the standards is determined on a fleetwide basis, manufacturers are also able to offset their sales of large, higher-emitting cars with sales of low-emitting, fuel-efficient cars. These standards therefore push manufacturers to develop better and cheaper low-emitting and zero-emission vehicles (“ZEVs”), which can include battery electric, plug-in hybrid, and hydrogen fuel cell vehicles. The existence of federal standards that increase in stringency with each model year has thus expanded and improved the national market for the types of vehicles Green Wheels sells, rents, and services in Illinois and has bolstered Green Wheels’ business.

7. I am familiar with the Trump administration’s SAFE Vehicles Rule (“SAFE Rule”), which the Environmental Protection Agency (“EPA”) and the National Highway Traffic Safety Administration (“NHTSA”) recently finalized in two parts. I understand that among other things, Part One of the SAFE Rule states that NHTSA is declaring the California’s vehicle standards that are stricter than the federal standards to be preempted by federal law. Part One of the SAFE Rule also purports to block other states from following California’s regulations. Part Two finalizes new and amended federal GHG and Corporate Average Fuel Economy (“CAFE”) standards for cars and light duty trucks that are far weaker than current standards, requiring only a 1.5% reduction in fuel use and emissions year-over-year for model years 2021 through 2026, rather than the average year-over-year reduction of nearly 5% that was required before Part Two was issued.

8. Part Two of the SAFE Rule promises to have a direct and detrimental effect on Green Wheels’ business. With weaker federal fuel efficiency and vehicle emissions standards,

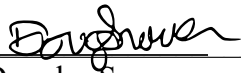
automakers can be expected to manufacture far fewer and less varied types of electric, hybrid, and environmentally friendly vehicles, which would slow the technological progress that has made them increasingly attractive to consumers. Automakers will also have less incentive to market and educate customers about electric, hybrid, and environmentally friendly vehicles, which would disincentivize them from working with Green Wheels to promote ZEV sales.

9. As a result of these changes that will naturally flow from Part Two of the SAFE Rule, Green Wheels will have fewer and less varied types of vehicles to offer customers and fewer customers will seek to buy or rent vehicles from us, which would depress the company's sales and rental business. This would, in turn, depress Green Wheels' service and repair business. It would also reduce the demand for new charging stations and reduce the revenue Green Wheels can earn from existing charging stations.

10. As the owner of Green Wheels, I stand to lose money if, as I expect, my company loses business due to Part Two of the SAFE Rule. The threat to Green Wheels' business, and to my financial stake in the company, would be averted if Part Two of the SAFE Rule is declared invalid so that the stricter fuel efficiency and vehicle emissions standards will go back into effect, which will continue to expand and improve the national market for the types of vehicles Green Wheels sells, rents, and services.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on May 26, 2020

  
\_\_\_\_\_  
Douglas Snower

## Declaration of Laurence B. Stanton

I, Laurence B. Stanton, state and declare as follows:

1. This declaration is based on my personal knowledge, information, and belief. I suffer from no legal incapacity. Statements in this declaration expressing an opinion reflect my personal opinion and judgment on the matter.

2. I am a member of the Environmental Law and Policy Center, and have been a member since 2008.

3. I live at 515 Myrtle in Beverly Shores, Indiana. I live approximately one block away from the Lake Michigan beach. Beverly Shores is surrounded by Indiana Dunes National Park, which contains a variety of different ecosystems and extensive plant and animal biodiversity. My wife lives with me. We are both 66 years old. We have lived in Beverly Shores for 30 years.

4. I have a consulting business and work out of my home.

5. I spend a lot of time outdoors. Among other things, I garden, run, visit the beach a block from my house, sail on Lake Michigan, kayak, and cross-country ski.

6. I am concerned about the impacts that climate change is having and will have on the area in Northwest Indiana where I live and recreate. I try to keep up on news and science related to climate change. I've read the Environmental Law and Policy Center's report, *An Assessment of the Impacts of Climate Change on the Great Lakes*, which discusses climate change's impact on regional precipitation, invasive species, and extreme weather, among other things. What I've read about climate change confirms my worries that climate change is already negatively affecting the area in which I live and that if climate change increases, there will be even more harms to the environment in my area.

7. Climate change leads to warmer winters, which means that there are fewer big snows that create good conditions for cross-country skiing. It seems to me that recently there are a lot fewer good days each winter to cross-country ski in Indiana Dunes than there once were.

8. I am the immediate past president of the Beverly Shores Environmental Restoration Group. I've been on the board for 5 years. One focus of the Environmental Restoration Group is to remove invasive species and encourage people to plant native species. The Environmental Restoration Group recently published an updated edition of a book, *A Beginner's Guide to the Plants of the Indiana Dunes*, which educates people on the native and invasive species of the region in an effort to encourage them to plant native species. This recent edition was an update to the 2008 edition of the book. We've also recently produced a Dune Plants app that provides information on both native and invasive plants found in the Indiana Dunes.

9. The Environmental Restoration Group has removed numerous invasive species over the years, including Oriental Bittersweet and Burning Bush. The Group spends approximately \$3,000 dollars each year removing the invasive Tree of Heaven.

10. The Environmental Restoration Group recently found invasive kudzu growing on private property in Beverly Shores, and paid to have it removed. Kudzu has overrun parts of the southern United States, devastating local plant communities, and the restoration group and local environmental experts we talked to were stunned that we found kudzu growing here.

11. Climate change increases the spread of invasive species and makes native species more vulnerable to being crowded out by invasives. When invasive species become a monoculture, they kill the native species. I am worried that as climate change increases, new invasive species will spread into Northwest Indiana, and existing invasive species will gain a stronger foothold,

harming the native biodiversity of the unique Indiana Dunes area. If this happens, the Environmental Restoration Group will need to spend even more money fighting invasive species.

12. Many of the invasive species in the area are also “deer candy,” and contribute to the spread of deer in the area, which is a major concern. The Environmental Restoration Group used to perform a deer cull, which the National Park now performs. Before these deer were effectively managed, the understory of the woods was essentially all gone because it was eaten by the excessive deer population.

13. The Shirley Heinze Land Trust recently installed kayak launches on the east branch of the Little Calumet River. These launches were unusable for much of summer 2019 and early spring 2020 because the Little Calumet River has been so high. I’m aware of the high water levels because I follow the Northwest Indiana Paddling Association’s Facebook page, which has been documenting the high water levels and the problems for paddlers on the Little Calumet, and because I often drive by the Little Calumet and have seen the high water levels myself.

14. I own a kayak, and looked forward to using it on the Little Calumet in summer 2020. High water levels, however, prevented me from doing so many days last summer and this spring that I intended to go kayaking.

15. Climate change is causing increased heavy precipitation in the Midwest. I believe that the recent high river levels in Northwest Indiana are partially attributable to increased precipitation caused by climate change. I am concerned that climate change will increase threats to water quality in the area because warmer water temperatures and increased run off from more frequent heavy storms caused by climate change will degrade water quality.

16. Lake Michigan water levels have increased to record levels. A section of Lake Front Drive, which runs along Lake Michigan shoreline in Beverly Shores, has been closed because it

is literally falling into the lake and the town of Beverly Shores just completed a \$5 million bond sale to fund erosion protection. The beaches in Beverly Shores are gone. My property taxes will increase for the next 20 years as a result of the bond issue and the value of my home could decline because of loss of the beach.

17. I sail on Lake Michigan and the high water levels are also limiting sailing opportunities. The harbor in South Haven is closed for summer 2020 and docks at other harbors are underwater, making it impossible to use them.

18. As climate change accelerates, high water levels and impaired water quality will diminish my opportunities for recreation on the rivers and lakes in Northwest Indiana.

19. The Beverly Shores area's biodiversity and its proximity to the beach and to outdoor recreation opportunities area is why we live here. If climate change increases the spread of invasive species, decreases water quality, decreases biodiversity, and diminishes the recreational opportunities in the area, the value of my property will decrease because the area will no longer be such a desirable place to live.

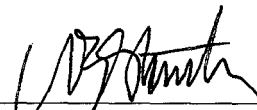
20. I am concerned that the regulatory actions recently taken by the National Highway Transportation Safety Administration (NHTSA) and the Environmental Protection Agency (EPA), which purport to prevent states from setting vehicle greenhouse gas emissions standards and imposing zero-emission vehicle mandates (Part One of the "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule"), will contribute to increased greenhouse gas emissions and increased climate change. I am also concerned that regulatory actions weakening the federal vehicle fuel efficiency standards and greenhouse gas emissions standards (Part Two of the SAFE Rule) will similarly contribute to climate change.

21. Because of our concerns about climate change and the environment, my wife and I have decided that in the future we will buy only electric or hybrid cars. We plan to buy our next car in 2020, to replace our current car, and anticipate buying another car in 2023.

22. I am concerned that the NHTSA and EPA actions in the Part One and Part Two SAFE Rules weakening federal emissions standards and purporting to revoke state authority to set stricter emissions standards or mandate zero emissions vehicles will lead to decreased availability of electric and low-emission cars and increase prices for such cars that are still available. This would hurt me as a consumer by decreasing the range of cars my wife and I will have to choose from and by increasing the price we will have to pay for a car.

23. I support the Environmental Law and Policy Center's efforts to ensure that the federal government does not improperly revoke states' ability to set greenhouse gas emission standards and zero-emissions vehicle mandates and does not weaken the federal vehicle emissions and fuel efficiency standards.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Executed in Beverly Shores, Indiana on May 21, 2020.

  
Laurence B. Stanton



## DECLARATION OF IGOR TREGUB

I, Igor Tregub, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could testify competently to them.

As to those matters which reflect an opinion they reflect my personal experience, opinion and judgment on the matter.

2. I live in Berkeley, California, in Alameda County, and have lived here since 2003.

3. I have been a member of the Sierra Club since 2008. Getting involved in Sierra Club has been an excellent vehicle for advocacy and success on good policies on the issues of transportation and air quality, among other things. I am very involved in the Sierra Club San Francisco Bay Chapter and am part of its Transportation and Compact Growth Committee. I am also a member of the East Bay Chapter of the League of Conservation Voters, Indivisible Berkeley and its Science and Environment Team, California Young Democrats and its Environmental Caucus, and the California Democratic Party Environmental Caucus. I am currently an elected Commissioner on the City of Berkeley Rent Stabilization Board.

4. I am very concerned about the poor air quality in the Bay Area. West Berkeley and West Oakland tend to have some of the worst air quality of the nine counties in the Bay Area region, with high readings for particulate matter and ground-level ozone. My housing complex is in an air pollution and climate hotspot here in the Bay Area. I live about a half mile from the I-80 freeway, which – pre-COVID-19 – carried extremely heavy vehicle traffic, and around 7 miles away from the Richmond Chevron refinery, which refines gas and diesel that these vehicles burn. Both of those activities cause air pollution where I live, including particulate matter, ground-

level ozone and other noxious gases. I have seen firsthand how this has affected air quality in my area and the health of my constituents.

5. Because the area where I live is so close to the sources of harmful air pollution from tailpipes and oil refining, I know that my own life span will likely be shortened. This knowledge makes me anxious, but I am most upset about and fear for my neighbors, some of whom suffer respiratory conditions. I represent nearly 120,000 residents on the Berkeley Rent Stabilization Board, and I worry about how poor air quality affects them. I see firsthand how air pollution impacts the behavior of folks who have sensitive health receptors and how this can completely disable them for hours or even days. I run several times a week and I try to hike as often as I can on a loop parallel to I-80, and I intend to continue to do so as long as the air quality is improving. But I do not exercise outside on bad air quality advisory days and instead remain indoors. On bad air quality days I also try to minimize the use of my vehicle, but I currently work 40 miles away from home, which makes this difficult (the Bay Area's current shelter-in-place order notwithstanding). I hate it when I have to drive, especially on bad air quality days, because I do not want to contribute to the problem. These concerns are the reasons why I am trying to invest in an electric vehicle as it emits no tailpipe pollutants.

6. I am currently in the market for an electric vehicle and am fully committed to get out of my gasoline-powered vehicle in about three months. I will likely get a plug-in hybrid if I can get charging infrastructure in my multifamily housing complex. I think a lot about the harmful pollutants my conventional car emits that make people sick, and also about my carbon footprint and the fact that we have ten years to make dramatic changes to prevent the worst effects of climate change. I know that any changes I make at a micro level will not have the great impact that a broad policy change would, but I feel that I need to lead by example. My biggest

effort has been to craft a model local policy for electric vehicle sharing agreements with landlords that would result in the installation of charging infrastructure in multifamily housing, which will make it easier for me and others to buy and charge electric vehicles.

7. I know that California has led the nation for decades in setting more stringent emission standards for vehicle pollution, and also that California has had zero emission vehicles mandates and its own greenhouse gas emission standards for some time. California's regulations have caused electric vehicle sales to go up, helping to make the air cleaner. Other states have adopted California's standards, which has helped push the development of EVs and the necessary infrastructure nationwide.

8. I am aware that the National Highway Traffic and Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) have issued a rule in which NHTSA finds that federal law preempts California's zero emission mandate and greenhouse gas emission standards, and they are no longer in effect. EPA has cancelled a waiver under which California, until now, could set ZEV standards and its own greenhouse gas emission standards. I am also aware that other states have been able to follow California's example, but that EPA's and NHTSA's rule have cancelled the right of these other states to do what California does.

9. Because California's ZEV mandate no longer exists, automakers no longer have to sell ZEV vehicles. This means that the number of EVs available for sale and on the streets will diminish, and harmful pollution where I live will increase. It also means that more fossil fuel cars will be built and sold, which means they will consume more fuel and harmful emissions from the Richmond refinery are likely to increase as well, harming air pollution from both traffic and refining activities.

10. I am aware that NHTSA and EPA also have issued a rule that will significantly lower the stringency of the federal fuel efficiency and greenhouse gas standards for the light duty vehicle fleet, causing the combustion of huge amounts of additional fuel and increased emissions of ozone-forming greenhouse gases, particulate matter and other noxious air pollution. I am extremely concerned because taking away California's ability to issue these regulations will have an effect on automakers' incentive to build and sell zero emissions vehicles, which in turn will increase ozone and other pollution and make the Bay Area's air quality worse. I am additionally concerned that these rollbacks will result in more barriers to purchasing electric vehicles due to a lack of rebates and lack of investment in electric vehicle infrastructure. I worry that losing the ZEV mandate and the much more stringent federal fuel efficiency and greenhouse standards will make it more difficult for myself and others to purchase electric vehicles and will jeopardize incentives for consumers to do so, such as rebates. I fear that there will be fewer such vehicles to purchase, that they will be more expensive, and that I will have much less choice in which electric vehicle to buy.

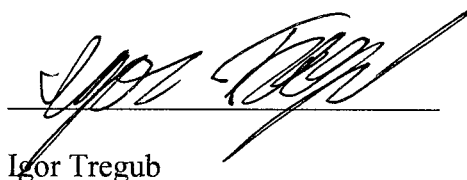
11. I am also very concerned about climate change. Climate change obviously affects everything that we do, especially since I am a millennial and will likely have to deal with climate change for the rest of my life. I am extremely concerned that that science tells us that we only have about ten years to make dramatic shifts, and it is disheartening that we have the technology to do it, but lack the necessary will. The transportation sector plays an outsized role in causing climate change, as it is the biggest emitter of greenhouse gases in the U.S., and rolling back regulations that reduce the sector's emissions sets us back when we cannot afford to lose time.

12. I support Sierra Club's lawsuit challenging NHTSA's and EPA's rule stating that federal law preempts California's right to set zero emission vehicle sales mandates and its own

greenhouse gas vehicle standards, that EPA's waiver for California has been withdrawn, and that other states can no longer follow California's example. I also support the lawsuit trying to reverse the rollback of federal fuel efficiency and greenhouse gas standards for the national light duty vehicle fleet. If the court reverses either of these rollbacks, I would personally and directly benefit from cleaner air and fewer climate-disrupting and ground-level ozone causing greenhouse gas emissions. I will be able to pursue my outdoor physical recreational activities more often because there will be fewer bad air days because harmful pollution from vehicles and refining activities will be reduced. Additionally, I will have more choices for a new electric vehicle within my budget range. Keeping the ZEV mandate in place will also drive my ability as a policymaker to get more electric vehicle infrastructure for folks who are renters like I am. The lack of electric vehicle infrastructure is a significant barrier, and success in this litigation will provide more incentive for the government and the private sector to invest in this infrastructure, so that I and others can charge our electric vehicles at home.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: May 20, 2020.



Igor Tregub

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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COMPETITIVE ENTERPRISE )  
INSTITUTE, *et al.*, )

*Petitioners,* )

v. )

No. 20-1145 )

NATIONAL HIGHWAY TRAFFIC )  
SAFETY ADMINISTRATION, *et al.*, )

*Respondents.* )

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**DECLARATION OF ROBERT WEISSMAN**

1. My name is Robert Weissman. I am President of Public Citizen, Inc.

2. Public Citizen is a non-profit consumer advocacy group that represents the interests of its members on a wide range of issues before administrative agencies, courts and legislatures. Public Citizen has long been involved in regulatory issues involving the automobile industry, including issues related to emissions standards regulated by the Environmental Protection Agency (EPA), as well as matters falling within the regulatory authority of the National Highway Traffic Safety Administration (NHTSA), such as fuel economy and motor vehicle safety.

Public Citizen's organizational mission includes advocating for the interests of its members in the availability of clean, safe, and economical motor vehicles.

3. Public Citizen has tens of thousands of members nationwide, and a great many of them purchase new automobiles in any given year.

4. Until recently, EPA emissions standards required substantial year-over-year decreases in greenhouse gas emissions for automobiles produced in model years 2021 to 2025 and thus would require automakers to provide a wider range of lower-emission vehicles than they would without those standards in place. Those standards protected the interests of consumers, including thousands of Public Citizen members, in the availability of a broad selection of low-emission vehicles during those model years. Such vehicles are important to consumers, including Public Citizen members, who believe in choosing vehicles that will contribute less to global warming than higher-emission vehicles. Such low-emission vehicles are also beneficial to consumers because they often achieve emissions reductions in part through increased fuel efficiency, and they are therefore less expensive to operate.

5. For its part, NHTSA had promulgated relatively stringent fuel-economy standards through model year 2021 and had issued a set of “augural” standards it expected to issue for model years 2022 through 2025 that would require substantial year-over-year increases in fuel economy during those years.

5. EPA’s issuance of a new set of greenhouse gas emissions standards for model years 2021 through 2026, and NHTSA’s promulgation of fuel efficiency standards covering those years, which call for (respectively) substantially smaller year-over-year decreases in greenhouse gas emissions and substantially smaller year-over-year increases in fuel economy than did EPA’s prior standards and NHTSA’s former 2021 fuel economy standard and its “augural” 2022 through 2025 standards, threaten the protection of consumer interests, including the interests of Public Citizen’s members, provided by the former standards. EPA’s and NHTSA’s actions allow automakers to produce a mix of vehicles including more higher-emission and lower-fuel-economy vehicles, and correspondingly fewer lower-emission and higher-fuel-economy vehicles. That directly affects interests of Public Citizen members and other consumers, and causes them injury, by reducing their



ability to choose from among a broad range of low-emission and high-fuel-economy vehicles when purchasing a new car.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2020.



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Robert Weissman

## DECLARATION OF KATE ZALZAL

I, Kate Zalzal, declare as follows:

1. I am a member of the Environmental Defense Fund (EDF) and have been a member since 2012.
2. I reside in the town of Lyons, Colorado, with my husband and three children.
3. We recently welcomed our youngest child to the family in January 2018, and as a mother of three, I need a car that will fit myself, my husband, and all of our children. I also use my vehicle for a variety of purposes that often require me to transport multiple passengers. One of my children has attended dance classes, another plays on a soccer team and goes to practices, and in the summer both of my older children often participate in summer camps. I drive our kids to these activities and often participate in carpools with other families who likewise have children in these activities.
4. My family also travels around the Colorado mountains in the summertime and wintertime for camping trips and other activities. We regularly visit my parents, who live in the mountains between Lyons and Estes Park. Driving to these places makes four-wheel drive, all-wheel drive, or other similar features valuable during both the summer and winter.

5. Within the last two years, we replaced our four-wheel drive vehicle, which had broken down, with a vehicle with similar capabilities that is lower polluting and more fuel efficient. We use this vehicle for family trips to the mountains in the summer and the winter. Our family also has a second vehicle, purchased before we had children, that no longer fits our whole family and so we are planning to replace it within the next five years.

6. One of my highest priorities in shopping for a new car is high fuel efficiency. Because I often have to drive to surrounding towns, it is important for me to save on fuel costs by driving a car that gets better mileage than my current vehicle.

7. I am also very concerned about the climate pollution emitted by passenger vehicles, and it is important to me to own a car that releases fewer of these harmful emissions.

8. When we replace our smaller vehicle, we intend to purchase an electric vehicle that will fit our family and that we will use primarily for transportation around town and for the frequent trips we take to surrounding communities. Accordingly, I am planning to purchase an electric minivan, SUV or similar vehicle. I intend to purchase an electric vehicle because it has zero tailpipe emissions, it is substantially less costly to operate than a gasoline powered vehicle and likewise has fewer maintenance and other associated costs. Colorado has also

recently extended its state tax incentives for electric vehicles purchases through 2025, which, coupled with federal incentives, makes the financial savings associated with purchasing an electric vehicle even more attractive for me and my family.

9. Since I started shopping for a new car, I have realized that there are currently not many options for electric minivans or SUVs. For instance, there is only one plug-in hybrid minivan currently available on the market—the Chrysler Pacifica—and there are currently no, similar all-electric vehicles available for purchase. In addition, I am aware that the electric vehicle offerings for sale in other states are not always available in Colorado, further limiting electric vehicle options for me and other Colorado consumers.

10. At the same time, I am aware that a substantially greater number of electric vehicles will be available for purchase over the course of the next 5 years, when we intend to purchase a new car. These include some all electric minivans, like the VW ID Buzz and other all electric vehicles that would fit my family and meet our needs.

11. I understand that this rapid expansion of electric vehicle model availability is being driven by changing market dynamics and reduced battery prices in combination with policies, most notably the state of California's standards for zero emission vehicles ("State Zev Standards"), which are part of the

California Advanced Clean Car Program (“State Clean Car Standards”). These State ZEV Standards require automakers to generate a certain number of credits, driven by their sales of electric vehicles in California and other states that have adopted the State ZEV Standards.

12. I am also aware that Colorado has recently adopted the State ZEV Standards and that automakers would have to begin complying with those requirements for model year 2023 vehicles. When it adopted the State ZEV Standards, Colorado found that these Standards would require that automakers make additional electric vehicles available for sale in Colorado, beyond those that would be available absent the Standards. I understand that automakers supported adoption of State ZEV Standards in Colorado and indicated their view that the Standards would result in accelerated EV model availability in the state.

13. I am aware that the Environmental Protection Agency and the National Highway Traffic Safety Administration previously adopted Clean Car Standards, which require automakers to reduce greenhouse gas emissions and improve the fuel efficiency of new vehicles sold in the United States. I understand that these standards are based on a vehicle’s “footprint,” meaning that for each class of vehicles—including those we are considering purchasing—the standards require emission reductions and improvements in fuel economy over time.

14. I am aware that in a recent joint rulemaking, NHTSA finalized a regulation stating that California is preempted from exercising its unique authority under the Clean Air Act to set more-protective vehicle emission standards through a waiver issued by EPA.<sup>1</sup> Furthermore, I am aware that in the same joint rulemaking, EPA withdrew the Clean Air Act waiver granted to California that allows the state to set protective vehicle emission standards. I understand that the combined effect of these EPA and NHTSA actions would be to invalidate the State Clean Cars Program, including the State ZEV Standards. This, in turn would prevent Colorado from implementing these standards that are distinct from and more protective than the federal rule.

15. I am also familiar with the recent joint EPA and NHTSA rule that dramatically weakens the federal greenhouse and fuel economy standards for passenger cars.<sup>2</sup>

16. As a Colorado resident who intends to purchase a new electric vehicle in the next 5 years, I am concerned that these actions will harm me by limiting the availability of electric vehicles that meet my and my family's needs. Specifically, I am concerned that eliminating these standards will limit my ability to purchase an EV by removing important drivers supporting increased EV model availability in

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<sup>1</sup> 84 Fed. Reg. 51,310 (Sept. 27, 2019).

<sup>2</sup> 85 Fed. Reg. 24,174 (April 30, 2020).

the coming years. Also, by blocking Colorado's ability to implement State ZEV Standards, the NHTSA and EPA actions will likely return the state to a place where Colorado consumers do not have access to EVs that might otherwise be available in different states across the country.

17. I declare that the foregoing is true and correct.

Executed May 28, 2020

  
Kate Zalzal