October 16, 2023

Ann Carlson
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

Submitted electronically via: https://www.regulations.gov/

RE: Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035; Docket No. NHTSA–2023–0022

Dear Acting Administrator Carlson,

On behalf of the New Mexico Environment Department (NMED), attached please find our comments in support of the subject proposal.

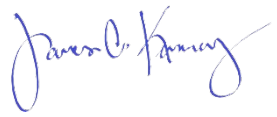
Over the last several years, New Mexico has been a leader in addressing climate change. During her first term, Governor Michelle Lujan Grisham took critical steps to decrease New Mexico's reliance on fossil fuels for electricity and set a nation-leading regulatory framework for oil and gas operations in the state. Specifically, New Mexico: (1) passed the Energy Transition Act, which set renewable energy and zero-carbon emissions standards for electricity providers in the state; (2) passed the Ozone Precursor Rule, which requires significant reductions of volatile organic compounds and nitrous oxides from the oil and gas industry; and (3) passed the Natural Gas Waste Rule that bans the routine venting and flaring of produced natural gas and also requires the oil and gas industry to achieve 98% gas capture by the end of 2026.

In her second term, Governor Lujan Grisham has already demonstrated a commitment to decarbonizing the transportation sector – which is the state's second leading emissions source – while ensuring New Mexico continues to benefit from vehicle innovations. To date, New Mexico has: (1) proposed the adoption of the Advanced Clean Cars II rule to require 82% of new vehicles sold in New Mexico to be zero-emission vehicles by model year 2032; (2) proposed the adoption of the Advanced Clean Trucks rule; and (3) leveraged ample federal funding to ensure the necessary infrastructure is in place to support zero-emission cars and trucks. Additional supporting measures are being considered.

It is under this framework that NMED expresses its support for NHTSA's proposal. Not only will enhancing fuel efficiency assist New Mexico's goals to reduce vehicle emissions, NHTSA's rules will foster a market for cleaner, more fuel-efficient vehicles that complement our state efforts already underway. Greater fuel efficiency also has the potential to reduce fuel costs for New Mexicans and assist residents in rural communities.

We appreciate your efforts on this program and thank you for the opportunity to comment.

Sincerely,



James C. Kenney
Cabinet Secretary

Attachment (1)

cc: Ricky Serna, Cabinet Secretary, New Mexico Department of Transportation
Sarah Cottrell Propst, Cabinet Secretary, Energy Minerals and Natural Resources Department
Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham

New Mexico Environment Department
Comments to the National Highway Traffic Safety Administration
Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035; Docket No. NHTSA–2023–0022

Program Overview

The Corporate Average Fuel Economy (CAFE) standards are regulations that came out of the 1975 Energy Policy and Conservation Act (EPCA). The EPCA was enacted in response to an increase in oil prices due to the Arab Oil Embargo of 1973-1974.[1] The 1975 oil embargo demonstrated the need to regulate fuel efficiency to protect the nation from energy price fluctuations. Although the original aim of this set of regulations was to limit U.S. dependence on foreign energy, recent regulations are designed to address the domestic job market, to reduce criteria pollutants (i.e. NO_X, CO, PM, etc.), and to reduce greenhouse gas (GHG) emissions to mitigate the impacts of global warming.

The CAFE standards are administered by the Secretary of Transportation via the United States Department of Transportation (USDOT), whose authority is delegated to the National Highway Traffic Safety Administration (NHTSA) to establish and evaluate the CAFE standards. Further, the authority of the DOT and NHTSA preempts any state or local laws pertaining to fuel economy standards.[2] Congress specifies that the CAFE standards must be set at the "maximum feasible level" considering technological feasibility, economic practicality, the effect of other standards on fuel economy, and the need of the nation to conserve energy. This regulatory approach aims to incentivize automotive manufacturers to seek fuel efficiency improvements via technological innovation and design rather than imposing a tax on gas, which would otherwise directly impact consumers. Manufacturers that do not meet the CAFE standard for a particular model year (MY) face a monetary penalty. The penalty is quantified by determining how far below the fuel economy standard a particular manufacturer's fleet performed compared to the imposed CAFE standard for that MY and vehicle type (passenger car, light-duty truck, medium-duty truck, or heavy-duty pickup truck or van). Conversely, manufacturers that realize a greater average fleet mileage than the CAFE standard may bank those credits and apply them to offset years in which they were not compliant. There are no new or modified proposed changes to the civil penalty for CAFE shortfalls; this rate is retained at $16 per 0.1 mpg under the fleetwide CAFE requirement and will be adjusted periodically for inflation.

Comment 1: The Proposed CAFE Standards Support New Mexico's Climate Change Goals.

The 2023 proposed CAFE Standards apply to model year (MY) 2027-2031 passenger cars and light trucks. NHTSA, on behalf of the USDOT, considered five potential plans, including a no-action alternative, with varying year-over-year increases in stringency for the Passenger Car (PC) and Light Truck (LT) CAFE standards for MY 2027-2031. Similarly, NHTSA considered four potential plans, including a no-action alternative, with varying year-over-year stringency for Heavy-Duty Pickup Trucks and Vans (HDPUVs) for MY 2030-2035. NHTSA has proposed to adopt the plan that institutes a 2% per year increase in fuel economy for PCs and a 4% per year increase in fuel economy for LTs (PC2LT4 alternative). PCs were assigned a lower year-over-year fuel efficiency increase than LTs because it is believed that LTs have

[1] 49 C.F.R. §§ 531.1 to 531.6
[2] 49 U.S.C. § 32919

greater realizable gains in mileage per gallon that can be realistically achieved. NHTSA has also proposed to adopt the 10% per year increase in fuel economy for HDPUVs (HDPUV10 alternative). Ultimately, these mileage increases in the PC2LT4 and HDPUV10 alternatives would require an average fleet-wide fuel economy for PCs and LTs up to approximately 58 miles per gallon (mpg) by MY 2032, a projection based on the expected breakdown of fleets of PCs and LTs for MY 2032 vehicles. Similarly, NHTSA predicts a fleet-wide fuel economy requirement of 2.6 gallons per 100 miles for HDPUVs to meet the proposed CAFE standard in 2035. NHTSA calculates that the average fuel cost savings over the lifetime of vehicles would be $1,043 for PCs and LTs and $439 for HDPUVs.

NHTSA selected the PC2LT4 and HDPUV10 alternatives due to the long-term economic savings from higher fuel efficiency and the overall economic benefits from the lessened climate-related impacts. These long-term economic benefits ultimately outweigh the higher upfront capital cost for consumers to purchase more fuel-efficient vehicles. More stringent alternatives may not be either technically achievable or economically reasonable for consumers. NHTSA's conclusion is that the proposed CAFE standards meet the goal of the agency to improve overall fuel economy, improve national security by lessening the United States' dependence on foreign energy, and ultimately reduce emissions. Further, the adoption of these rules will encourage auto manufacturers to seek aggressive improvements in fuel economy and will have a dramatic impact on transforming future vehicle fleets. NHTSA predicts that the adoption of these standards will result in a reduction in consumption of gasoline by approximately 90 billion gallons and reduce CO_2 emissions by approximately 900 million tons through 2050 compared to baseline values.

The proposed CAFE standards align with Governor Lujan Grisham's Executive Order 2019-003; they are more stringent on the gas mileage requirements for future vehicles, which will reduce gasoline usage, and ultimately reduce emissions and resource consumption. Furthermore, fleetwide mileage increases contained within the proposed CAFE standard may incentivize traditional manufacturers of internal combustion engine (ICE) vehicles to convert to significant percentages of battery-powered, hybrid, or hydrogen fuel cell vehicles to meet the fleetwide CAFE standard. No matter ICE, battery powered, hydrogen fuel cell or other, NMED supports regulatory efforts to increase fuel efficiency for consumer vehicle fleets.

The proposed rules also complement New Mexico's proactive and determined approach to improving air quality through improvements in the transportation sector and leveraging federal dollars for necessary infrastructure investments to support zero emission vehicles (ZEV). Examples of initiatives that the state of New Mexico has championed include:

- New Mexico has invested money through its public agencies to support the expansion of alternative fuel technologies in the transportation sector. The federal Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58 dedicates $550 billion in the years 2022-2026 to roads, bridges, mass transit, and other public sectors. The New Mexico Department of Transportation (NMDOT) expects to receive approximately $38 million from the USDOT over a five-year period. Under New Mexico's National Electric Vehicle Infrastructure (NEVI) Formula Program, the state will conduct projects to expand and improve the availability of electric charging stations to support a future with a greater number of electric vehicles in use, including the installation of over 20 level 3 EV chargers to ensure that charging stations are no greater than 50 miles apart along New Mexico interstates.

- New Mexico is dedicated to reducing the GHG emissions of the electricity generation sector, which will ultimately power the grid and charge electric vehicles. The state's Energy Transition Act of 2019 set renewable energy and zero-carbon emissions standards for electricity providers in the state (80% renewable energy by 2040 and 100% zero-carbon by 2045 for investor-owned utilities and 80% renewable and 100% zero-carbon by 2050 for rural electric cooperatives).

- New Mexico recognizes the importance of clean hydrogen in transportation as a key component of meetings its GHG emissions reduction goals. New Mexico, along with its partner states Colorado, Utah and Wyoming, are seeking $1.25 billion from the United States Department of Energy funding to fund the Western Interstate Hydrogen Hub (WISHH) to create hydrogen production and transportation infrastructure. Under the proposal, federal funding and private sector investments will help the region meet its diverse energy needs and policy goals, including reducing greenhouse gas emissions, using a broad range of feedstock to develop a clean hydrogen economy across New Mexico. This ensures the state's economic competitiveness and supports communities on the front lines of the energy transition.

- Currently, NMDOT is developing a Carbon Reduction Strategy that will support the state's efforts to reduce on-road carbon dioxide emissions in New Mexico. The Carbon Reduction Strategy is being developed in coordination with the state's Regional Transportation and Metropolitan Planning Organizations (RTPOs and MPOs) to be appropriate to the context of the New Mexico and includes actions to:
    - reduce vehicle miles traveled through investment in multimodal transportation options including walking, biking and transit service;
    - reduce the emissions of vehicles through investment in electric vehicle charging stations as identified in the state's NEVI Program, and transitioning the state vehicle fleet to more efficient vehicles;
    - reduce emissions of NMDOT operations and materials through installation of energy efficiency upgrades at NMDOT facilities statewide, implementing paperless processes, and selection of more sustainable materials for use in infrastructure projects; and
    - carbon sequestration through wetland mitigation projects, vegetation management practices in the NMDOT right-of way, and integration of green stormwater infrastructure in projects and design guidance.

Comment 2: The Proposed CAFE Standards Align with New Mexico's Current Advanced Clean Cars II and Advanced Clean Trucks Rulemaking.

Governor Lujan Grisham announced in July of 2023 that New Mexico plans to adopt the Advanced Clean Car II (ACCII) and Advanced Clean Trucks (ACT) standards under Section 177 of the Clean Air Act (CAA) with the goal of reducing emissions, improving air quality, and ensuring New Mexicans have access to zero emission vehicles.

Transportation in New Mexico is the second-largest contributor to GHGs after oil and gas extraction and production. The combustion of diesel and gasoline from the transportation sector also results in the release of pollutants like nitrogen oxides (NO_X), carbon monoxide (CO), and particulate matter (PM) into the atmosphere. These emissions lead to negative impacts on local air quality in areas within the state of New Mexico and contribute to the overall effects of global climate change. Further, the current reliance

on fossil fuels requires significant quantities of gasoline and diesel storage, pipelines for fossil-fuel conveyance, and other infrastructure that introduce opportunities for contamination of New Mexico's water supply via leaks and stormwater runoff. The U.S. Environmental Protection Agency estimates that about one-half of the 450,000 brownfield sites in the co are impacted by petroleum underground storage tanks (USTs). Adoption of ACCII will limit the need for New Mexico's 3,000 USTs and 5,000 Aboveground Storage Tanks will diminish the number of potential contamination sources.

The proposed 2023 CAFE standards consider the implementation of the ACCII standards and similar ZEV policy adoption across the United States. NHTSA anticipates that absent of the CAFE standard, states are likely to continue to pursue policies to adopt alternative fuel technologies, and thus, these ZEV policies were considered as part of the NHTSA's baseline analysis of fleets and the potential improvements available to manufacturers. NHTSA is statutorily disallowed from considering battery-powered electric vehicles when establishing a fuel economy standard for a fleet of vehicles but retains the consideration of ZEV policy adoption when assessing the baseline reality of motor vehicles in the ensuing years. It is not anticipated that the consideration of the passing of the 2023 CAFE standards deters or impedes the adoption of ACCII or ACT in the state of New Mexico.

New Mexico also understands that the standards do not impose any penalty on gasoline-powered vehicles that are bought prior to 2026 and these regulations will not ban or limit the use of gasoline or diesel engine vehicles sold prior to 2026. New Mexico appreciates the flexibility that these standards provide to current traditional vehicle owners and potential purchasers of gasoline and diesel-powered vehicles in the immediate future.

Comment 3: The Proposed CAFE Standards Support Rural New Mexico.

New Mexico's rural transportation infrastructure is characterized by vast and diverse landscapes, presenting both challenges and opportunities for connectivity. The state's extensive network of highways and roads serves as a lifeline for many remote communities, allowing residents access to essential services, employment opportunities, and cultural centers. For these rural communities, reliable transportation is not a luxury, it's a requirement. According to the United States Department of Energy, rural drivers put more daily miles on their cars than urban and suburban drivers (USDOE). We anticipate the improvement of the fuel efficiency of the nation's car fleets will benefit the New Mexico's rural communities and potentially decrease fuel travel costs associated with those necessary extra miles.