



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

September 13, 2022

ELECTRONIC SUBMITTAL VIA REGULATIONS.GOV

Steven S. Cliff, Ph.D., Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE, Room W12-140
Washington, DC 20590

Re: Docket No. NHTSA-2022-0075: MY 2027 and Beyond CAFE Standards and MY 2029 and Beyond Heavy-Duty Pickup Trucks and Vans FE Improvement Program Standards EIS

Hello Administrator Cliff:

Mille Lacs Band of Ojibwe (the "Band") is a federally-recognized Anishinaabe Tribe, located in east-central Minnesota, with our reservation established under the 1855 Treaty of Washington (10 Stat. 1165) with reserved rights in the 1837 Treaty of St. Peters (7 Stat. 536) and 1842 Treaty of La Pointe (7 Stat. 591) treaty-ceded territories spanning from east central Minnesota, across northern Wisconsin, and into western portion of the upper peninsula of Michigan, including the portions of Lake Superior in Minnesota, Wisconsin, and Michigan. A portion of our Reservation in Mille Lacs County is within the Minneapolis–St. Paul–Bloomington MN–WI Metropolitan Statistical Area ("Twin Cities") containing two of our nine statutory communities, while seven of our other statutory communities are located in Aitkin and Pine Counties, along with our Urban Service Area located in the heart of the Twin Cities.

In our District 1, the 1855 Treaty authorized a direct highway link between the Mille Lacs Reservation and US Indian Agency at Fort Snelling, located today in the Twin Cities at the confluence of the Minnesota River with the Mississippi River, where the highway evolved to become Minnesota Constitutional Highway 35 in 1921, which became sections of US Highway 169 and Minnesota Highway 47, connecting to East River Road in Anoka, MN, which then follows the Mississippi River's eastern banks to Fort Snelling. Through our District 2 runs Minnesota Constitutional Highway 2, originally designated as Minnesota Trunk Highway 49 in 1921, which in the 1930s became US Highway 210, and then as Minnesota Trunk Highway 210 in 1973. Additionally, starting in 1852, the Army Corps of Engineers began building a road from Point Douglas at the confluence of the St. Croix River into the Mississippi River to the outlet of the St. Louis River into Lake Superior, passing through the traditional territory of the Band along the Minnesota-Wisconsin border, with the military road being replaced by Minnesota Constitutional Highway 1 which eventually became US Highway 61, and then it being replaced with Interstate Highway 35. Consequently, with a long history of US highways impacting the Tribe,

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the Band is pleased to provide the National Highway Traffic Safety Administration (NHTSA) with comments regarding the Model Years (MY) 2027 and Beyond Corporate Average Fuel Economy (CAFE) Standards and MY 2029 and Beyond Heavy-Duty Pickup Trucks and Vans Fuel Efficiency (FE) Improvement Program Standards Environmental Impact Statement (EIS).

In order to mitigate climate impacts, we must aggressively decarbonize the US transportation sector by ensuring there is at a minimum a 10.0 percent annual average increase in fuel efficiency, with alternatives examining the feasibility of up to 25.0 percent annual average increase in fuel efficiency. However, acknowledging that elimination of all carbon fuels from the transportation sector is not feasible or desirable, there also must be standards set for engines that use fuels other than gasoline and diesel, with plans in place to increase their fuel efficiency.

We strongly urge the NHTSA to require all newly produced light-duty vehicles to be zero-tailpipe emissions by no later than model year 2030 and heavy-duty vehicles no later than model year 2035. This move is needed to aggressively decarbonize the US transportation sector.

Complete Life-Cycle Assessment (LCA) of the impacts must be conducted in order to properly quantify LCA, which would require extensive data collection on many variables that are highly uncertain. But even with uncertainty, if true effort is needed to issue a truly meaningful EIS, extensive data must be collected and analyzed. We realize that there will be a high degree of uncertainty because collecting complete data may not be possible. But attempts should be made to collect as much relevant data as possible, and insert best guesses based on past experiences because informing the public of the complete as possible findings with their caveats is of utmost importance.

The EIS must analyze and discuss land impacts from changes in mining and energy extraction activities, be it the source of vehicle component composition, including changes from Internal Combustion Engines to Electric Vehicle. The EIS must also analyze land impacts from scrapping of old vehicles due to their replacement by newer vehicles and either recycling or disposal of the vehicles.

The EIS must contain a Historic and Cultural Resources section. It must cover the National Historic Preservation Act of 1966 (54 U.S.C. § 100101 *et seq.*) and speak to the National Register of Historic Places (NRHP). The EIS must discuss the possibility of degradation of tangible and intangible cultural assets set forth in the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. 3001 *et seq.*, 104 Stat. 3048). Though quantifying the impacts under NAGPRA may be difficult, some aspects such as cursory analysis of intangible cultural assets can be performed, and be discussed both in the Historic and Cultural Resources section and reiterated in an Environmental Justice section.

Environmental Justice section of the EIS must discuss how mining and energy resources activities, and their impacts, oftentimes occur on or within 35 miles of Indian Country, or on Treaty-ceded Territories where Tribes exercise Treaty or other Reserved Rights. These impacts of mining and energy extraction to Native American and other Indigenous Communities must be discussed with a clear guidance suggested in the EIS to minimize or mitigate for those impacts.

We hope the NHTSA will produce a substantive EIS that will truly shape potential policy, guidance, and program changes through key opportunities that the EIS for MY 2027 and Beyond CAFE Standards and the MY 2029 and Beyond FE may spur. If you have follow-up questions or would like to continue this discussion, please feel free to request for a formal government-to-government consultation with us. Again, Band thanks the NHTSA for this opportunity for us to provide comments on the MY 2027 and Beyond CAFE Standards and MY 2029 and Beyond Heavy-Duty Pickup Trucks and Vans FE Improvement Program Standards EIS.

Lastly, before closing our comments, we would like to extend our deep appreciation to you personally, Administrator Cliff, for serving as NHTSA's Deputy Administrator during our last correspondence, and now as the NHTSA's Administrator. We hope under your leadership, NHTSA will tap into the extensive and rich scientific and regulatory background you bring, including from your past service with the California Air Resources Board.

Sincerely,

A handwritten signature in black ink that reads "Kelly Applegate". The signature is written in a cursive, flowing style.

Kelly Applegate
Commissioner of Natural Resources

cc: Susan Klapel, Executive Director, Mille Lacs Band of Ojibwe DNR
Perry Bunting, Director of Environmental Programs, Mille Lacs Band of Ojibwe DNR
Charles Lippert, Air Quality Specialist, Mille Lacs Band of Ojibwe DNR