

To: Assistant Attorney General
Environment and Natural Resources Division
From: Georgetown Climate Center
Re: United States et al. v. Hyundai Motor Company et al.
(Civil Action No. 1:14-cv-1837), D.J. Ref. No. 90-5-2-1-10753.
Date: December 8, 2014

The United States Department of Justice has requested public comment on the Consent Decree in *United States et al. v. Hyundai Motor Company et al.* (the “Settlement”) filed with the District Court for the District of Columbia. The following comments are submitted by the Georgetown Climate Center, a non-partisan, non-profit research center based at Georgetown Law, in its role as facilitator of the Transportation and Climate Initiative (TCI). TCI is a regional collaboration of transportation, energy, and environment agencies in 11 northeast and mid-Atlantic states and the District of Columbia that seeks to develop the clean energy economy and reduce greenhouse gas emissions in the transportation sector.

I. Funds from the settlement should be directed towards reducing greenhouse gas and other pollutant emissions from the transportation sector.

The United States Environmental Protection Agency (EPA) took action against Hyundai Motor Company and Kia Motor Company (the “Defendants”) under Title II of the Clean Air Act, 42 U.S.C. Sec. 7521-7554. As the Department of Justice stated in its complaint, these sections of the Clean Air Act are designed to “protect public and environmental health by reducing emissions of greenhouse gases and other air pollutants from light-duty vehicles.”¹ By misrepresenting vehicle fuel efficiency standards and improperly claiming over four million greenhouse gas (GHG) credits under EPA’s averaging, banking and trading program, the Defendants caused a harmful increase in GHG and criteria pollutant emissions from motor vehicles. To remedy the harm caused by the violation, the Defendants would under the proposed settlement pay a civil penalty of \$100 million, take steps to prevent future violations, and forfeit 4.75 million GHG credits that were wrongfully claimed by the Defendants. We believe there is an opportunity to ensure that the funds collected are used to support reductions of GHG and other pollutant emissions from vehicles. To achieve this outcome, we recommend that the United States revise the settlement to require Defendants to direct funds to state projects and programs that have demonstrated success in reducing transportation-sector emissions, with a particular focus on programs that support electric vehicles,² and reduce the penalty commensurately.³

¹Complaint at 5, *United States et al. v. Hyundai Motor Company et al.* No. 1:14-cv-1837, D.J. Ref. No. 90-5-2-1-10753 (Nov. 3, 2014).

² The term “Electric vehicles” refers to battery electric, plug-in hybrid, and fuel cell electric vehicles.

³ In other words, the reduction in the penalty provided to the Department of Justice should be commensurate to the funds provided to states for PEV programs.

II. One of the most effective means of reducing transportation sector GHG emissions is to increase electric vehicle use.

United States Department of Energy data shows that electric vehicles produce, on average, lower GHG emissions than do conventional gasoline internal combustion engine (ICE) vehicles. Although the emissions per vehicle for electric vehicles varies according to the fuel blend of the electricity generated to power an electric vehicle, the average annual GHG emissions of electric vehicles is significantly lower than that of conventional gas vehicles. When using the national average fuel blend, an all-electric vehicle has annual GHG emissions of 8035 lbs.,⁴ whereas a conventional gas vehicle produces 13,043 lbs. of emissions.⁵ GHG emissions from electric vehicles that charge in the northeast and mid-Atlantic are even lower than national averages, given the clean electricity generation fuel blend in the region.

In addition to fewer annual emissions, electric vehicles, when measured in miles per gallon gasoline equivalent, have better fuel economy than conventional vehicles. For example, in model year 2011, 100-mile electric vehicles averaged 127.9 miles per gallon gasoline equivalent, compared to 34.93 miles per gallon (mpg) for gasoline internal combustion engine vehicles. For model year 2014, 100-mile electric vehicles averaged 131.78 miles per gallon gasoline equivalent and gasoline ICE vehicles averaged 35.62 mpg.⁶

III. Using funds from the settlement to support states' electric vehicle programs would be an effective way to achieve transportation sector emissions reductions.

States across the country, including those in TCI, are already investing in transportation-sector GHG emissions reduction programs and projects pursuant to state policy goals to reduce GHGs. These efforts are successfully achieving reductions in GHGs and other pollutants, and the impact of such efforts – in particular programs to support electric vehicles – would increase with the support of settlement funds. Working cooperatively since 2010, the TCI states have successfully launched a suite of initiatives to advance the electric vehicle market in the northeast and mid-Atlantic region, creating a multiplier effect for funds distributed to these states.

Some states, such as Maryland and Massachusetts, are offering financial incentives to consumers to reduce the up-front cost of electric vehicles. In Maryland, for example, residents are eligible to receive a tax credit of up to \$3,000 towards the purchase of an electric vehicle, and a rebate of up to 50

⁴Measured in lb. of CO₂ equivalent.

⁵ United States Department of Energy, Alternative Fuels Data Center, "Emissions from Hybrid and Plug-In Electric Vehicles" (Accessed November 20, 2014) Available http://www.afdc.energy.gov/vehicles/electric_emissions.php

⁶ United States Energy Information Administration, "Light-Duty Vehicles Miles Per Gallon by Technology Type, Reference Case" (Accessed November 20, 2014) Available <http://www.eia.gov/oiaf/aeo/tablebrowser/#release=AE02014&subject=15-AE02014&table=50-AE02014®ion=0-0&cases=ref2014-d102413a>

percent of the costs (not to exceed \$900) for home charger installation.⁷ Massachusetts created the Massachusetts Offers Rebates for Electric Vehicles (MOR-EV) program to provide consumer rebates of up to \$2,500 for purchase of an electric vehicle registered in the state.⁸

The states have learned that consumer incentives are critical for potential electric vehicle buyers. Over 80 percent of the 254 Massachusetts residents who responded to a survey after receiving their consumer rebate said that the incentive funding was an “extremely” or “very” important factor in making it possible for them to acquire their vehicles.⁹

In addition to incentives directed at consumers, states can stimulate electric vehicle use by providing incentives to fleet purchasers and supporting electric vehicle infrastructure. States such as Connecticut, Maryland, Massachusetts, and New York provide incentives for municipal governments or businesses to purchase electric vehicles.¹⁰ States also are directly investing in electric vehicle infrastructure. For example, Vermont has provided grants to municipalities throughout the state to install publicly available electric vehicle charging stations,¹¹ and Delaware has a partnership with the University of Delaware to install electric vehicle charging stations for public use.¹²

State incentives and other electric vehicle programs are an important catalyst in the early electric vehicle market. While the incremental cost between a conventional vehicle and PEV is projected to decrease in the long term, short term funding of state incentive programs is essential to accelerating early electric vehicle adoption and reducing transportation sector emissions. Moreover, publicly available electric vehicle infrastructure is needed to encourage vehicle adoption, and state investment in electric vehicle infrastructure at strategic locations is needed to support early market development. Providing additional funding for these and other state electric vehicle programs would support electric vehicle use and decrease GHG and other pollutant emissions from the transportation sector, and would have an enhanced impact in states that are working together to support regional electric vehicle deployment.

⁷“Electric Vehicles and Recharging Equipment – Rebates and Tax Credits” (SB 908, Ch. 359, 2014 Laws of Maryland).

⁸ Massachusetts Offers Rebates for Electric Vehicles, <https://mor-ev.org/>

⁹ Internal analysis conducted by MOR-EV Staff, Center for Sustainable Energy.

¹⁰ United States Department of Energy, Alternative Fuels Data Center, “State Laws and Incentives,” (Accessed December 8, 2014) Available <http://www.afdc.energy.gov/laws/state> See Connecticut Clean Fuel Program, Maryland Freedom Fleet Voucher Program, Massachusetts Department of Energy Resources Clean Vehicle Project, New York State Energy Research and Development Authority Heavy-Duty Alternative Fuel and Advanced Vehicle Purchase Vouchers.

¹¹ Vermont Agency of Commerce and Community Development, Department of Housing & Community Development, “Downtown Designated,” Available http://accd.vermont.gov/strong_communities/opportunities/revitalization/downtown

¹² University of Delaware, “UD, state partner to create electric vehicle charging station network” (Feb. 19, 2014) Available <http://www.udel.edu/udaily/2014/feb/ev-charging-stations-021914.html>