

Active Transportation Alliance * Asthma & Allergy Foundation of America - Michigan Chapter * Clean River Partners * Ecology Center * Environmental Law & Policy Center * Friends of the Boundary Waters * Go Green Illinois * Hoosier Environmental Council * Illinois Environmental Council * Metropolitan Planning Council * MI Air MI Health * Michigan Climate Action Network * Michigan Clinicians for Climate Action * Michigan Environmental Council * Midwest Environmental Advocates * Minnesota River Valley Audubon Chapter * RENEW Wisconsin * Respiratory Health Association * Science Policy Network-Detroit * The Alliance for the Great Lakes * The Climate Reality Project: Chicago Metro Chapter * Upper Peninsula Environmental Coalition * Warehouse Workers for Justice * Wisconsin Conference United Church of Christ * Wisconsin Health Professionals for Climate Action

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Great Lakes & Midwest Environmental Organizations' Comments on Environmental Protection Agency's *Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards*, 86 Fed. Reg. 43,726 (Aug. 10, 2021), EPA-HQ-OAR-2021-0208-0116

The Environmental Law & Policy Center (ELPC) and 24 Great Lakes and Midwest environmental and conservation organizations appreciate the opportunity to provide written comments on EPA's proposal to issue new greenhouse gas emissions standards for model year (MY) 2023–26 cars and light trucks. Many of the undersigned organizations strongly supported the standards EPA issued in 2012 (jointly with fuel economy standards issued by the National Highway Traffic Safety Administration (NHTSA)), which set standards that steadily decreased emissions from new cars and trucks for model years 2017 through 2025,¹ and opposed the prior administration's deeply flawed rollback of those standards.²

Reducing emissions from America's cars and light trucks is critical to mitigating climate change and achieving President Biden's goals and commitment in rejoining the Paris Climate agreement.³ The transportation sector is currently the leading source of U.S. climate-changing pollution, contributing 29% of total U.S. greenhouse gas emissions.⁴ As a result of the prior administration's rollback, the United States has lost years of emissions reductions as the urgency

¹ Environmental Protection Agency & National Highway Traffic Safety Administration, *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).

² Environmental Protection Agency & National Highway Traffic Safety Administration, *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).

³ Executive Order (E.O.) 13,990, *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis* (Jan. 20, 2021), 86 Fed. Reg. 7,037.

⁴ 86 Fed. Reg. at 43,729.

for action on climate change mounts daily. EPA must act urgently now to achieve emissions reductions.

The climate crisis currently playing out across the country and the world demands urgent, strong action.

Section 202 of the Clean Air Act requires the EPA to issue regulations to control motor vehicle emissions that “in [the Administrator’s] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. 7521(a)(1). As the proposed rule notes, EPA made a finding in 2009 that greenhouse gas emissions “may reasonably be anticipated to endanger the public health and welfare of current and future generations.”⁵ EPA therefore has a statutory duty to address these climate-changing, health-and-welfare-endangering emissions, and must issue vehicle emission standards that match the urgency of the crisis.

The sixth assessment report recently issued by the United Nations’ Intergovernmental Panel on Climate Change makes clear both climate change’s human causes and its devastating impacts.⁶ The report notes that human influence has warmed the climate at a rate that is unprecedented in at least the last 2,000 years.⁷ Climate change is already affecting every inhabited region across the globe, with central and eastern North America experiencing increased heavy precipitation and western North America experiencing increases in extreme heat and drought.⁸

The undersigned organizations are specifically concerned about the threat climate change poses to the Midwest and the Great Lakes. The region is home to 61 million people and to the auto industry; it is also a significant engine for agriculture. Temperatures in the Midwest are rising due to climate change. Warmer temperatures impact public health with increased frequency of deadly heat waves and worsening air quality.⁹

In 2019, ELPC sponsored a report by leading Midwest climate scientists that detailed the impacts of climate change on the Great Lakes region.¹⁰ Climate change threatens the Great Lakes ecosystem, fresh water supplies, and the economies that depend on them. The Great Lakes are an international gem with enormous ecological, cultural, and economic value.

The Great Lakes are the largest freshwater ecosystem on earth, containing 21% of the world’s

⁵ 86 Fed. Reg. at 43,778 (quoting Environmental Protection Agency, *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496, 66,523 (Dec. 15, 2009)).

⁶ IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Aug. 2021), <https://www.ipcc.ch/report/ar6/wg1/#FullReport>.

⁷ IPCC, 2021: Summary for Policymakers at SPM-7. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*.

⁸ *Id.* at SPM-12.

⁹ *Climate Impacts in the Midwest*, City of Chicago, <https://climatechange.chicago.gov/climate-impacts/climate-impacts-midwest>.

¹⁰ *An Assessment of the Impacts of Climate Change on the Great Lakes* (June 2019), <https://elpc.org/wp-content/uploads/2020/04/2019-ELPCPublication-Great-Lakes-Climate-Change-Report.pdf>.

freshwater supply and providing drinking water for over 42 million people.¹¹ The available water supply helps to drive the regional economy.¹² Commercial and recreational fishing, alone, in the Great Lakes injects over \$5 billion into the economies of the surrounding states.¹³

The changing climate brings increased storm intensity, changes to water temperatures, flooding, runoff, and algal growth—all presenting a significant and increasing threat to the Great Lakes. Costly weather-related disasters, like the recent devastating flooding in Detroit, have been linked to climate change.¹⁴

EPA must do all it can to avert the worst impacts of the climate crisis.

EPA must issue strong, technology-forcing standards for cars and light trucks to slash U.S. climate pollution.

EPA itself notes that “[a]ddressing the climate crisis will require substantial reductions in GHG emissions from the transportation sector” and that we are in a “pivotal moment.”¹⁵ The climate crisis should leave no doubt that EPA should go beyond its proposed emissions standards. EPA must adopt its more stringent Alternative 2, which adopts the same stringency as 2012 standards in MY 2023–2025 and extends the same level of stringency to MY 2026.¹⁶ EPA should also adopt the 10 g/mi greater stringency for MY 2026 on which the agency requested comments.¹⁷

Because Alternative 2 is feasible, there is no reason for EPA not to adopt this alternative that achieves larger, urgently-needed climate benefits and greater consumer benefits. According to EPA’s analysis, Alternative 2 will result in greater net benefits than the proposed standards, including lower tail pipe carbon dioxide emissions, reduced upstream greenhouse gas emissions,¹⁸ increased consumer savings, and other benefits.¹⁹

The Clean Air Act provides that EPA’s vehicle emission standards “shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.” 42 U.S.C. § 7521(a)(2). EPA acknowledges that the automakers were already planning for the strong standards issued in 2012.²⁰ The technology “requisite” to achieve the Alternative 2 standards already exists.²¹ Adopting any weaker standards would run counter to EPA’s statutory mission to reduce pollution that endangers the public health and welfare. An increased 10 g/mi stringency in MY 2026 is also appropriate in light of both the greater “lead time” available

¹¹ *Climate Impacts in the Midwest*, supra note 9.

¹² *Id.*

¹³ *Id.*

¹⁴ Laura Gersony, *Detroit Flooding Previews Risks from a Warming Climate*, Great Lakes Now (July 1, 2021), <https://www.greatlakesnow.org/2021/07/detroit-flooding-risks-warming-climate/>.

¹⁵ 86 Fed. Reg. at 43,729.

¹⁶ *Id.* at 43,738.

¹⁷ *Id.*

¹⁸ Environmental Protection Agency, EPA-420-R-21-018, *Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards: Regulatory Impact Analysis* at 5-1, 5-3 (Aug. 2021).

¹⁹ 86 Fed. Reg. at 43,742 tbl.12, 43,743 tbl.15, 43,744 tbl.16.

²⁰ *Id.* at 43,776.

²¹ *Id.* at 43,776.

before MY 2026 and the accelerating transition to electric vehicles.

We also note that EPA clearly has the authority under the Clean Air Act to act separately from NHTSA. Even though the two agencies have jointly proposed and finalized rulemakings in the past in order to harmonize their respective vehicle emissions and fuel-efficiency standards, there is no requirement that the agencies act jointly, and their separate statutory authority and statutory duties make it logical for them to act separately here.

While we support EPA’s proposal to strengthen vehicle emissions standards, we note there are flaws in the proposal which potentially undermine its climate goals and which should not be finalized: EPA’s proposed rule goes beyond allowing automakers to use credits—which reallocate the burden of emission reductions, while achieving the same overall reductions—to allow for “flexibilities” that as a practical matter will increase emissions.

EPA allows an automaker that overcomplies with the standards in a given year to earn credits, which it can then either use to offset its own undercompliance in a different year or trade to another manufacturer to offset that manufacturers’ undercompliance. Such a system ensures that the entire U.S. automobile fleet’s emissions meet the overall standards and emissions reductions goals.

EPA’s proposed rule, unfortunately, also contains “flexibilities,” such as “multipliers” that allow automakers to generate credits without reducing emissions, and other loopholes. As EPA acknowledges, inclusion of such flexibilities undermines the proposed rule’s topline targets and therefore its emissions-reduction benefits.²² EPA should not include in its final rule any flexibilities that allow for credits to be generated without emissions reductions. These excessive technology credits and loopholes will allow automakers to stall gasoline vehicle improvements and will fail to significantly boost the electric vehicle market given automakers’ announced plans.

Critically, gasoline-fueled light trucks dominate the new vehicle market.²³ These vehicles will be on the road, spewing climate-changing pollution well beyond 2030. Each year that automakers can exploit flexibilities to continue to sell polluting trucks with little to no change in greenhouse gas emissions undermines our ability to mitigate the climate crisis.

In order to meet this moment in the climate crisis, EPA must adopt Alternative 2, adopt the additional 10 g/mi stringency in MY 2026, and eliminate flexibilities that are untethered to emissions reductions.

Stronger emissions standards will support clean car innovation and manufacturing.

Strong emission standards from EPA will support the auto manufacturing that is critical to the

²² 86 Fed. Reg. at 43,760 (EPA modeling of proposed stringency loss due to multipliers).

²³ The U.S. Energy Information Administration notes that “[s]ince 2014... the popularity of crossover-utility vehicles has resulted in an increasing market share for light trucks,” and that light trucks accounted for 77% of sales in April 2020. *The Recent Decline in Light-Duty Vehicle Sales Has Affected Cars More than Light Trucks*, U.S. Energy Information Administration (May 29, 2020), <https://www.eia.gov/todayinenergy/detail.php?id=43835>.

economies and well-being of Midwest states—from Michigan, Ohio, Indiana, Minnesota, and Wisconsin, to the Dakotas.

Past analysis by the Blue Green Alliance and Natural Resources Defense Council concluded that there were nearly 290,000 jobs in the advanced technology vehicle sector. These are workers making more efficient cars and trucks possible. Across the Midwest, according to that report, there were a total of 151,714 jobs in 480 facilities associated with making cleaner vehicles. Three states—Michigan, Indiana, and Ohio—topped the list.²⁴

EPA makes clear that its proposed standards will be met with existing technology.²⁵ And loopholes will allow automakers to do more of the same with the climate paying the price. Adopting Alternative 2, along with the additional 10 g/mi stringency in MY 2026 and without the multipliers and other loopholes, will spur innovation, drive deployment of emissions-reducing technologies, and help sustain clean car manufacturing jobs across the Midwest and beyond.

EPA must also act swiftly to set standards for MY 2027 and beyond that will slash climate-changing pollution and ensure the U.S. can achieve 100% zero-emission vehicle sales no later than 2035, consistent with the Biden administration’s science-based goal of net-zero greenhouse gas emissions economy-wide by 2050.

Conclusion

The undersigned organizations appreciate the opportunity to submit this comment letter and urge EPA to finalize strong standards. The climate cannot afford delay.

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Metropolitan Planning Council
MI Air MI Health
Michigan Climate Action Network
Michigan Clinicians for Climate Action
Michigan Environmental Council
Midwest Environmental Advocates
Minnesota River Valley Audubon Chapter

²⁴ *Supplying Ingenuity II: U.S. Suppliers of Key Clean, Fuel-Efficient Vehicles Technologies* (May 2017), <https://www.nrdc.org/sites/default/files/supplying-ingenuity-clean-vehicle-technologies-report.pdf>.

²⁵ 86 Fed. Reg. at 43,776.

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