

September 27, 2021

Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Re: *Notice of Proposed Rulemaking on Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards*, Docket ID No. EPA-HQ-OAR-2021-0208

Dear Administrator Regan:

The Northeast States for Coordinated Air Use Management (NESCAUM) offers the following comments on the U.S. Environmental Protection Agency's (EPA's) notice of proposed rulemaking titled "Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards," 86 Fed. Reg. 43726 (Aug. 10, 2021), in the above-referenced docket.

NESCAUM is the regional association of state air pollution control agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NESCAUM serves as a technical and policy advisor to its member agencies on a wide range of air pollution and climate issues and facilitates multi-state initiatives to improve air quality and mitigate climate change. For more than three decades, NESCAUM and its members have closely collaborated with California and other states, EPA, and the automobile industry to promote low- and zero-emission vehicles (ZEVs).

I. Introduction

The climate crisis represents an increasingly clear and present danger to public health, the environment, and the economy. At the same time, the technologies needed to substantially reduce greenhouse gas (GHG) emissions from light-duty vehicles (LDVs) are already widely available and in use today, and the pace of technological innovation continues to accelerate. Strong national GHG standards are a critical building block for state efforts to substantially reduce GHG and criteria pollutant emissions from the transportation sector and accelerate the transition to electric vehicles (EVs).

In 2012, EPA adopted federal GHG emissions standards for model years (MYs) 2017 and later LDVs based upon an extensive record of scientific data and exhaustive technical analysis. These standards received overwhelming support from industry and the states. During the 2018 mid-term evaluation, EPA confirmed that the standards for MYs 2022-2025 were technologically feasible and appropriate. The technically and legally flawed rollback of these standards and attack on state authority in the "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule"

unnecessarily endangered public health and welfare.¹ Against this backdrop, many states challenged the SAFE Vehicles Rule on legal and technical grounds. Meanwhile, states continued to pursue market-enabling programs and policies to accelerate ZEV deployment, such as offering vehicle purchase incentives, providing charging infrastructure grants, adding EVs to state and municipal fleets, launching a regional EV awareness campaign,² and encouraging utilities to invest in transportation electrification.

As discussed more fully below, there is ample justification for EPA to finalize strong national GHG standards for LDVs that recover and restore the benefits of the national program that EPA adopted in 2012 and confirmed to be technologically feasible and appropriate in 2018. NESCAUM urges EPA to promptly adopt the most stringent GHG emission standards feasible for MYs 2023-2026, and to move swiftly to propose ambitious post-MY 2026 standards, to put the nation on track to rapidly electrify the entire light-duty fleet.

II. The Urgent Need for Strong Federal GHG Emissions Standards

The Earth's climate is changing faster than it has in thousands of years, driven primarily by GHG emissions from human activities. Atmospheric concentrations of carbon dioxide are at their highest levels in at least two million years. Every region across the globe is experiencing extreme weather and climate-related events and devastating economic impacts. In the United States, severe drought and wildfires plague the western states, while more intense precipitation events and Atlantic cyclones are wreaking havoc in the South and Northeast states. Across the country, heat waves, associated with increased illness and death, are more widespread and more intense. Snow and ice are retreating. Seas are rising at an increasing rate and becoming more acidic. Ecosystems are being irreparably altered at an unprecedented rate and scale. Entire communities are being displaced. According to the Intergovernmental Panel on Climate Change (IPCC), unless there are immediate, rapid, and large-scale reductions in GHG emissions from all sectors, limiting global warming to 1.5 degrees Celsius or even 2 degrees Celsius, consistent with the goals of the Paris Agreement, will be impossible.³

Transportation is the largest source of GHGs in the nation and in the Northeast. Light-duty cars and trucks are the largest contributor to those emissions. LDVs are also a major source of particulate matter, air toxics, and ozone-forming pollutants that harm public health. Significant portions of the Northeast are not in attainment with federal ozone standards, and climate change is expected to exacerbate tropospheric ozone levels. Low-income communities, communities of

¹ See, e.g., NESCAUM, Comments on SAFE Vehicles Rule Proposal (Oct. 25, 2018), <https://www.nescaum.org/documents/nescaum-comments-safe-vehicles-proposal-20181025.pdf/view>.

² *Drive Change. Drive Electric.* is a collaborative EV awareness campaign that represents a unique public-private partnership between auto manufacturers and Northeast states to advance consumer awareness, understanding, consideration and adoption of electric cars. See <https://driveelectricus.com> (visited Sept. 14, 2021).

³ See IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J. B. R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekçi, R. Yu and B. Zhou (eds.)]. Cambridge University Press. In Press, available at <https://www.ipcc.ch/report/ar6/wg1/> (visited Sept. 2, 2021).

color, and indigenous populations in the Northeast are particularly vulnerable to the effects of climate change and are disproportionately impacted by air pollution. Mitigating the climate crisis will require deep reductions in GHG emissions from motor vehicles.

The Northeast states have a long history of taking actions to reduce GHG emissions and air pollution from the transportation sector. Seven of NESCAUM's member states have exercised their authority under Section 177 of the Clean Air Act to adopt California's Advanced Clean Car standards, including requirements for automakers to deliver increasing volumes of ZEVs. Together with California, the states that have adopted or are in the process of adopting these standards represent approximately 40 percent of the national LDV market. Transportation electrification is a critical component of state plans to reduce emissions from cars and trucks to meet their climate and air quality goals. In addition to state efforts to advance the ZEV market, strong federal standards are needed to accelerate the transition to ZEVs.

III. Technological Readiness and Investments in Electrification

NESCAUM's agrees with EPA's finding that the proposed GHG standards are readily achievable with technologies that are currently in use. Zero-emission technologies have advanced rapidly since EPA established its MY 2017 and later standards in 2012, and the pace of innovation has only accelerated since the 2018 mid-term evaluation. Battery costs continue to decline, and the number of ZEV and plug-in hybrid electric vehicle (PHEV) models offered for sale in the United States is rapidly increasing. As EPA discusses in its proposal, the proliferation of announcements by automakers of their intention to electrify their fleets signals a rapidly growing shift in investment away from internal combustion technologies and toward zero-emission technologies.

The automakers' electrification plans are supported by continuing technological advancements and driven by the need to compete in a global market in which other countries are implementing aggressive zero-emission transportation policies. Likewise, California is currently developing new ZEV requirements for passenger vehicles beyond MY 2025. The new requirements are expected to put market growth on pace for all new vehicle sales being ZEVs or PHEVs by 2035. Several states, including NESCAUM states, are watching this development closely and considering plans to follow suit. In fact, New York recently enacted legislation setting a goal for all new passenger cars and trucks sold in New York State to be zero-emission by 2035.⁴

The 2019 Framework Agreements offer additional support that the technologies needed to meet the proposed GHG standards are readily available. Under those agreements, several manufacturers voluntarily agreed to comply with California's GHG emission reduction targets through model year 2026 across their national vehicle fleets, notwithstanding the unjustified weakening of federal standards in the SAFE Vehicles Rule.

⁴See N.Y. Envtl. Conserv. Law § 19-0306b (2021), available at <https://www.nysenate.gov/legislation/laws/ENV/19-0306-B> (visited Sept. 24, 2021).

IV. EPA Should Restore the Benefits of the 2012 Rule and Adopt the Most Stringent GHG Standards Feasible

EPA's proposal highlights recent commitments by many automakers to aggressively pursue zero-emission technologies. However, the impact of these commitments is not apparent in the proposed standards. Instead, EPA's proposed standards can be met with very little electrification. EPA's proposed rule also acknowledges that the technologies needed to meet the proposed standards are already widely available and currently in use and that there is no need to develop new technologies to meet the proposed standards. Rather than forcing new technologies, EPA acknowledges that compliance with the proposed standards will only require greater implementation and pace of technology penetration through MY 2026 using existing GHG reduction technologies. In NESCAUM's opinion, industry's technological readiness should serve as the floor, and not the ceiling, for the proposed standards. To accelerate the transition to widespread electrification, EPA should require more stringent standards, especially for MY 2026 given the additional lead time available.

NESCAUM urges EPA to promulgate final standards that would, at a minimum, restore the emission benefits provided under the national program adopted in 2012. EPA's "Alternative 2" has the greatest net benefits of the three approaches EPA modeled. Alternative 2, augmented with a MY 2026 standard that is 10 grams/mile more stringent than its proposal, appears to come the closest to achieving the GHG and particulate matter emissions and ground-level ozone reduction benefits that would have accrued under the 2012 standards. Thus, NESCAUM strongly supports final GHG standards that restore these benefits. Further, EPA should be cautious not to afford unnecessary flexibility to automakers based on lead time concerns associated with the aberrant promulgation of the SAFE Vehicles Rule in 2020. More specifically, EPA should carefully consider whether a lower multiplier for advanced technology vehicle credits would be more appropriate.

V. Placing Greater Weight on Emission Reduction Benefits Is Appropriate Under the Clean Air Act

Under the Clean Air Act, and in particular section 202(a), Congress charged EPA with protecting the public's "health" and "welfare." In light of EPA's statutory purpose, it is entirely reasonable and consistent with congressional intent for EPA to place greater weight on the benefits of reducing harmful emissions over other factors, such as costs and lead time, that the agency considers when setting motor vehicle emission standards. Thus, NESCAUM concurs with EPA's decision to reject the position taken in the SAFE Vehicles Rule and return to its previous approach of placing greater weight on the magnitude and benefits of reducing emissions that endanger public health and welfare, while continuing to consider compliance costs, lead time, and other relevant factors.

VI. Conclusion

As EPA notes in its proposal, the shift to ZEV technologies is already underway, and it presents a strong potential for dramatic reductions in GHG and criteria pollutant emissions. This pivotal rulemaking presents EPA with the opportunity to exercise global climate leadership and put the United States on track to rapidly decarbonize the entire light-duty fleet, while serving as a critical building block for a comprehensive, multipollutant regulatory program. Strong federal GHG emissions standards will help mitigate the climate crisis while ensuring the competitiveness of the American automotive industry in a rapidly changing global marketplace, saving consumers money, and creating new economic opportunities.

For the reasons stated above, NESCAUM urges EPA to promptly adopt the most stringent GHG emission standards feasible for MYs 2023-2026, and to move swiftly thereafter to propose ambitious post-MY 2026 GHG standards, to put the nation on track to rapidly electrify the entire light-duty fleet.

Sincerely,



Paul J. Miller
Executive Director

cc: NESCAUM Directors
Lynne Hamjian, Cynthia Greene, EPA R1
Richard Ruvo, EPA R2