



March 16, 2022

Dear Chair Alexander, Vice Chair Posthumus, Vice Chair Garza, and members of the House Agriculture Committee,

The Michigan Energy Innovation Business Council (Michigan EIBC), Clean Fuels Michigan (CFM), and MICHauto **write in opposition to the language in House Bill 5893 added to section 28c(4). Specifically, we do not believe it is appropriate to codify a draft, tentative code in statute and that it would be more appropriate for the Michigan Department of Agriculture and Rural Development (MDARD) to open a rulemaking process to determine appropriate consumer protections for Michigan.**

Michigan EIBC, CFM, and MICHauto are member-driven business organizations representing companies working in Michigan in a variety of sectors, including in mobility, electric vehicle charging, and the automotive supply chain.

While House Bill 5893 appears to be largely intended to provide general amendments to the Weights and Measures Act, the bill also includes a provision that would require electric vehicle charging equipment to comply with an unfinished and "tentative code" held in the National Institute of Standards and Technology's 2022 Handbook 44. The first line of the relevant section of the NIST Handbook 44 states: "This tentative code has a trial or experimental status and is not intended to be enforced." The requirements are designed for study prior to the development and adoption of a final code.<sup>1</sup>

House Bill 5893, however, would preemptively enforce compliance with this tentative code that is explicitly not meant to be enforced. We believe that it would be bad precedent to enact legislation requiring compliance with a tentative code. It is clear that the tentative code is designed for "study" — meaning that aspects of it could change prior to finalization. As such, it will be important for MDARD, the Legislature, and stakeholders to assess the components of the final code prior to requiring compliance via statute.

In addition to not preemptively enforcing a tentative code, it is important that the State set forth a plan to allow existing electric vehicle charging stations to come into compliance with the final code. To meet the goals established by the state, our utilities, and our automakers, we need to greatly expand our existing charging infrastructure – and not sideline existing infrastructure that is providing a valuable service to Michiganders. It is critical that any

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<sup>1</sup>National Institute of Standards and Technology (NIST). "Specifications, tolerances, and other technical requirements for weighing and measuring devices." Page 3-157. Available at <https://www.nist.gov/system/files/documents/2021/12/06/Handbook-44e2022.pdf>

future regulations related to the enforcement of the final code allow appropriately for existing stations to be retrofitted to ensure compliance.

Michigan EIBC, CFM, and MICHauto suggest that MDARD could open a collaborative process under current statutory authority to determine how best to ensure consumer protection and accuracy related to electric vehicle charging stations. This could be done as an informal process or a formal rulemaking process. Such a process would allow MDARD to determine what will work best in Michigan in collaboration with the electric vehicle charging industry, consumer protection advocates, and other stakeholders. Such a process has been undertaken in other states to ensure that the aspects of the NIST Handbook which make sense for the state are included and those that do not, are modified or excluded. With MDARD leading this effort, Michigan may achieve a better-fitting model to regulate electric vehicle charging systems.

In summary, Michigan EIBC, Clean Fuels Michigan, and MICHauto oppose the language in House Bill 5893 in section 28c(4), which requires adoption of the NIST Handbook 44 tentative code. We recommend that this language be removed from the bill and instead that MDARD begin a collaborative process or a rulemaking to determine the appropriate regulations to ensure consumer protections for electric vehicle charging in Michigan.

We look forward to working with Representative Witwer and the Committee to ensure that we are able to address these issues without disrupting the broader goals of this legislation.

Sincerely,

Dr. Laura Sherman  
President  
Michigan EIBC  
[laura@mieibc.org](mailto:laura@mieibc.org)

Jane McCurry  
Executive Director  
Clean Fuels Michigan  
[jmccurry@cleanfuelsmi.org](mailto:jmccurry@cleanfuelsmi.org)

Glenn Stevens  
Executive Director  
MICHauto  
[gstevens@michauto.org](mailto:gstevens@michauto.org)