

July 6, 2026

ELECTRONIC SUBMISSION

Attn: EPA-HQ-OAR-2025-3297

Dr. John J. Kasab
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
2000 Traverwood Drive
Ann Arbor, MI 48105

RE: Revision of Tier 4 Criteria Pollutant Standards, Part 1: Amendments to Phase-In Schedule for Light-Duty and Medium-Duty Vehicles

Dear Dr. Kasab:

On May 18th, 2026, the U.S. Environmental Protection Agency (EPA) published the proposed rule, “Revision of Tier 4 Pollutant Standards, Part 1: Amendments to Phase-In Schedule for Light-Duty and Medium-Duty Vehicles.”¹ In it, EPA proposed to amend the phase-in schedule for the Tier 4 criteria pollutant standards for certain vehicles, so as to extend the Tier 3 standards for these vehicles to model years (MYs) 2027 and 2028, which would result in the vehicles not being required to phase in the Tier 4 standards until MY 2029. In this Notice, EPA also proposed changes to the test protocols used to evaluate emissions performance for certification and related regulatory issues.

EPA is justified in its concern that allowing the Tier 4 standards to proceed as scheduled would cause severe disruptions in the U.S. automobile market, and would deprive consumers of affordable choices, particularly those consumers who prefer traditional, gasoline-powered cars over Battery Electric Vehicle (BEV) alternatives. Although there are areas where we would encourage EPA to go further, we broadly agree with the overall direction of this Notice, and look forward both to the finalization of this proposal and the future Part 2 rulemaking that EPA announced its intention to pursue. Accordingly, we appreciate the opportunity to comment in support of this proposal.

¹ U.S. Environmental Protection Agency, “Revision of Tier 4 Criteria Pollutant Standards, Part 1: Amendments to Phase-In Schedule for Light-Duty and Medium-Duty Vehicles,” *Federal Register*, Vol. 91, No. 95 (May 18, 2026), p. 28,463.

Discussion

Intervening market realities, which have resulted in major deviations from the projections that drove EPA's adoption of the Tier 4 standards, makes EPA's proposal here urgently necessary. If anything, EPA's proposed rule does not go far enough; EPA should at a minimum delay Tier 4 implementation until after MY 2029, not just MY 2027 and 2028, while comprehensively revisiting the application of the Tier 4 standards afterward. EPA should also ensure that they eliminate any requirements for additional On Board Diagnostics required by the Tier 4 standards, rather than just the emissions standards alone. EPA should also recognize the challenges in requiring Gasoline Particulate Filters in light passenger cars and trucks, and should revise the Draft Regulatory Impact Analysis (DRIA) to account for the cost savings more accurately.

Even so, EPA's Proposal represents a welcome and important first step toward ensuring that the emissions standards are feasible in the long run, and in providing manufacturers the space they need whilst EPA determines how to align Tier 4 standards more appropriately with market and technological realities.

C-1: EPA is Correct to Suspend the Tier 4 Standards for Cars Produced in MYs 2027 and 2028, for Reasons Beyond Those Enumerated in EPA's Specific Comment Requests

Delaying the Tier 4 Standards is Necessary, Given the Gap Between EPA Projections and Reality

Section 202(a)(2) of the Clean Air Act requires EPA to prescribe emissions standards for certain criteria pollutants from motor vehicles, and also discretion to "from time to time revise" such standards.² However, EPA's discretion in establishing these standards is constrained, in that such emissions standards can only become effective "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."³ Given the sheer infeasibility of expecting the automotive industry to meet the Tier 4 standards as scheduled over the next several years, EPA's proposed delay is therefore not only lawful, but necessary.

The expectations for Battery Electric Vehicle (BEV) adoption that explicitly underlay EPA's Tier 4 rules have proven to be wildly over-optimistic. Comparing the observed market figures to EPA's projections, one might argue unrealistically so. The extreme gap between EPA's projections for BEV penetration in the U.S. market by 2025, and the observed data, along with the extent to which assumptions about extensive BEV penetration expressly underlay EPA's

² Clean Air Act § 202(a)(1), 42 U.S.C. § 7521(a)(1).

³ Clean Air Act § 202(a)(2), 42 U.S.C. § 7521(a)(2).

Tier 4 standards, renders it critical that EPA revisit its Tier 4 standards. In the meantime, it is urgent that EPA suspend the Tier 4 standards for the upcoming MYs, until EPA has time to promulgate requirements that car manufacturers can feasibly fulfill.

Revealingly, in the Regulatory Impact Analysis (RIA) that accompanied the 2024 Final Rule, EPA estimated that “[e]ven with BEV penetration rates as low as 35 percent (e.g., as projected in our No Additional BEVs sensitivity)...manufacturers would comply with the NMOG+NO_x standard.”⁴ Thus, EPA acknowledged that even under the technological and compliance pathway that EPA saw for the Tier 4 regulations, implementation would only be possible with 35 percent BEV penetration, and did not actually explain any technological pathway through which gasoline-powered vehicles could achieve the 15 mg/mile standard that applies when the Tier 4 standards fully take effect.

Yet fortunately for EPA, they projected that, even without any further action, BEVs would achieve 26 percent penetration in the light passenger car and light truck market by 2027 (the upcoming model year), and 35 percent penetration by 2032, when the Tier 4 standards would be fully phased in.⁵ The chart that contains these projections is rather perturbing, given that the first line is for Aston Martin, which EPA apparently anticipates will have a fleet consisting of 26 percent BEVs by 2027, this upcoming MY. This would be an extraordinary, if inexplicable achievement, given that Aston Martin does not currently manufacture any BEV cars.

In a gesture toward regulatory humility, EPA’s 2024 RIA includes another table, which purports to project a “slower case” for BEV acceptance at 20 percent market penetration by 2027, and 27 percent by 2032, in the “no action” scenario. Yet now that 2026 is here, and the MY 2027 fleet is beginning to be manufactured and sold, BEV sales in the United States are hovering at six percent market share each month, where they have been since October of 2025.⁶ In fact, even when the EV tax incentives were in full swing in 2024, the BEV share of the overall vehicle market never rose above 7.5 percent.⁷ Thus, now that MY 2027 is effectively upon us, the demonstrated gap between the 20 percent low case BEV penetration scenario that EPA projected for the upcoming year, and the six percent share actually being observed, is impossible to ignore, and calls into question EPA’s expressly stated pathway to Tier 4 compliance, and lays bare the futility of achieving that standard on EPA’s implementation timeline.

⁴ U.S. Environmental Protection Agency. (2024). *Regulatory Impact Analysis: Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*. [EPA-420-R-24-004], 3-53. Office of Transportation and Air Quality. <https://nepis.epa.gov/Exec/ZipPDF.cgi?Dockey=P1019VPM.pdf>

⁵ *Id.* at Table 12-57, page 12-32.

⁶ Zhou, Y. (2026). *Light Duty Electric Drive Vehicles Monthly Sales Updates*. Argonne Nat’l Laboratory. <https://www.anl.gov/esia/light-duty-electric-drive-vehicles-monthly-sales-updates>

⁷ See *Record 1.3 Million Electric Vehicles Sold*. (2025, Mar. 20). Cox Automotive. <https://www.coxautoinc.com/insights/record-1-3-million-electric-vehicles-sold-2024/>

Given these realities, it is unlikely that merely suspending the Tier 4 standards for two years as proposed, or even three years, is remotely sufficient. Thus, the Tier 4 standards need either a rescission, or otherwise at minimum a dramatic overhaul in light of the observed market realities. Nonetheless, given that MY 2027 is already virtually upon us, it is necessary at minimum for EPA at least to suspend the Tier 4 requirements, pending a more comprehensive, and perhaps more time-intensive, revision.

The Tier 4 Standards Pressed Legal Boundaries, Requiring a Suspension of the Standards Until EPA Has Time to Revisit the Tier 4 Standards Properly

The text of the Clean Air Act assumes that EPA will impose emissions limit on a per vehicle basis. EPA's authority is to impose emissions standards on each class of vehicles;⁸ the concept of fleet averaging does not appear anywhere in the text of the Clean Air Act. Given that statutes have a "single, best meaning,"⁹ which the agency must endeavor to apply. Under the single, best meaning of the Clean Air Act, EPA should apply standards that the regulated cars can actually meet, rather than invent a new concept of fleet "averaging" that requires manufacturers to build, and consumers to buy, vehicles that can meet the standard, so as to average those that cannot feasibly do so, even given the requirement that the administrator enact standards that are technologically feasible.

This is particularly true given how *Loper Bright's* requirement that EPA implement the "single, best meaning" of the statute interplays with the Major Questions Doctrine as articulated in *West Virginia v. EPA*.¹⁰ As the Supreme Court established in *West Virginia*, Courts should not presume that Congress delegated to Federal agencies major questions of national importance, by way of mere inference and implication. The text of the Clean Air Act gives EPA authority to promulgate emissions standards for classes of vehicles, but it is clear that BEVs would constitute a separate regulatory class from the gasoline-powered vehicles whose engines emit the criteria pollutants being regulated here. It is unlikely that Congress meant to delegate to EPA the authority to initiate a transition from traditional, gasoline-powered vehicles to BEVs, in a statute simply meant to manage emissions levels for gasoline-powered vehicles.

Given that EPA will need to revisit the Tier 4 standards in light of recent Supreme Court caselaw, including *Loper Bright*, which was only decided two months after EPA finalized the Tier 4 standards,¹¹ and given the likely illegality of the standards as written, it is critical that EPA

⁸ *Supra*, n. 3.

⁹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024).

¹⁰ 597 U.S. 697 (2022).

¹¹ U.S. Environmental Protection Agency, "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles," *Federal Register*, Vol. 89, No. 76 (April 18, 2024), p. 27,842.

delay the applicability and enforcement of the standards, until EPA is able to reconsider the Tier 4 Final Rule in light of its statutory authorities and ongoing developments in caselaw.

Changes in Metal Prices Would Make the Regulatory Relief Greater than EPA has Estimated

The DRIA understates the cost avoidance associated with delaying and reconsidering the rule because it does not fully account for the significant increase in the prices of critical compliance materials since the underlying analysis was conducted. Prices for palladium, platinum, and rhodium have risen substantially, with average prices during the recent Iran conflict reaching approximately 40 percent¹², 85 percent¹³, and 90 percent¹⁴ above EPA's original baseline levels, respectively. Given the central role these metals play in emissions control technologies, the actual compliance costs imposed on regulated entities are likely considerably higher than EPA estimated. Accordingly, EPA should update its economic analysis to reflect current market conditions and reassess the full extent of the costs that would be imposed under the existing standards.

C-4: EPA Should Extend the Tier 3 Program Requirements for Three MYs, Through MY 2029, Instead of Two MYs as Proposed.

Under Section 202(a) of the Clean Air Act, EPA is required to set vehicle emissions standards while considering such factors as cost,¹⁵ achievability,¹⁶ and lead time.¹⁷ Consideration of these factors, both individually and collectively, strongly weigh in favor of extending the applicability of the Tier 3 program requirements for at least one year longer than EPA has proposed, through MY 2029 at minimum.

Cost Savings

In terms of cost, the DRIA projects cost savings from the proposal between approximately \$1.66 to \$1.77 billion on present value terms, depending on the discount rate. Given EPA's likely overestimate of the size of the Electric Vehicle market for these years, and the dramatic increases in spot prices for palladium, platinum, and rhodium since the DRIA was drafted,¹⁸ these estimated savings are, if anything, conservative. Yet notwithstanding this likely

¹² Johnson Matthey. *PGM Management*. Retrieved June 25, 2026. <https://matthey.com/products-and-markets/pgms-and-circularity/pgm-management>

¹³ Umicore. *Precious Metals Prices*. Retrieved June 25, 2026. <https://pmm.umicore.com/en/prices>

¹⁴ Daily Metal Price. *Rhodium Price Chart (USD per Troy Ounce)*. Retrieved June 25, 2026. <https://www.dailymetalprice.com/metalprices.php?c=rh&u=oz&d=20&x=USD>

¹⁵ 42 U.S.C. § 7521(a)(3)(A)(i).

¹⁶ *Id.*

¹⁷ 42 U.S.C. § 7521(a)(3)(C).

¹⁸ Kitco. *Live Precious Metals Spot Prices*. Retrieved June 9, 2026. <https://www.kitco.com/price/precious-metals?Currency=USD&Symbol=PLATINUM&langId=EN&multiCurrency=true&zoomFrom=2012-07-02&zoomTo=2012-07-03>

underestimate, it is notable that 66-70 percent of the cost savings are in CY 2028 rather than CY 2027. Given that discount rates effectively depress the cost benefits of years further out, it is especially notable that the greater savings come in CY 2028, rather than CY 2027.

Yet this outcome makes sense, given that under the 2024 Final Rule, the MY 2027 fleet is only required to achieve 20 percent compliance with the Tier 4 standards, while the MY 2028 fleet is required to achieve 40 percent compliance. By this same token, the 2024 Final Rule requires the MY 2029 fleet to achieve 60 percent compliance with the Tier 4 standards. Thus, extending the Tier 3 requirements through the MY 2029 fleet provides a substantial economic payoff, which EPA should consider not only as a positive policy factor, but also in line with the statutory factors that Congress has charged EPA with considering.

Lead Time

In addition, it is doubtful that the entire rulemaking process could proceed in sufficient time for vehicle manufacturers to apply any applicable Tier 4 standards to the MY 2029 fleet. In this context, two separate factors are critical to consider.

First, it is well-known that even uncomplicated rulemaking processes typically take years to complete. Regulatory agencies are understandably reluctant to provide predictive timeframes, and comprehensive data on rulemaking timeframes are sparse, yet the years-long timeline is sufficiently established that the website for the U.S. Courts advises that “[a]n amendment to a federal rule generally takes about three years.”¹⁹ The Administrative Procedure Act does not include any prescriptive overall timelines, yet even once an agency issues a Proposed Rule, there will be 30-60 days for the public to comment, and the process of reviewing and adjudicating the comments can by itself take a year. The Office of Information and Regulatory Affairs will need to review the Final Rule, which typically takes months rather than weeks or days, and even once the final rule is published, there is typically a minimum 30-day period before the Final Rule takes effect.

This does not even take into account the amount of time to draft and publish the initial Notice of Proposed Rulemaking in the first place. From outside EPA, it is not possible to know how close EPA is to drafting its amendments the Tier 4 standards. However, it is worth noting that EPA has structured its Tier 4 review as a sequence of two separate rulemaking projects. In this context, it would be unsurprising if the full sequence of Tier 4 rulemaking projects took EPA years to complete. Even if EPA envisions a more ambitious timeframe, it would be prudent for EPA to prepare for the likelihood that this could take longer.

¹⁹ U.S. Courts. *Pending Rules and Forms Amendments*. <https://www.uscourts.gov/forms-rules/pending-rules-and-forms-amendments>

In that vein, it is also important to recognize that vehicle manufacturers release their vehicles for each MY months before the start of the Calendar Year that would correspond with the MY in question. It is fairly well known that MY cars for most mainstream car brands begin to arrive at dealerships in the autumn before the MY in question. In other words, the MY 2027 vehicles will become available beginning in September and October of 2026, just two to three months after the comment period for this Proposed Rule closes. In fact, even during the comment period for this proposed Rule, in June of 2026, several MY 2027 vehicles are already available for purchase, including the 2027 Chevrolet Bolt²⁰ and Corvette Grand Sport,²¹ the 2027 Audi Q6,²² the 2027 Cadillac VISTIQ,²³ and the 2027 Kia Telluride Turbo-Hybrid.²⁴ Perhaps in part out of awareness of this timeline, EPA published the finalized Tier 4 standards in April of 2024,²⁵ more than two years before these cars were released.

Given that the MY 2029 cars will begin being released only two years from now, that any Notice of Proposed Rulemaking reevaluating the Tier 4 standards has not even been published yet, and the years' long timeline typically required to complete a rulemaking proposal, EPA should revise the Proposed Rule to extend the suspension of the Tier 4 standards by at least one year, so as to cover the MY 2029 fleet.

Achievability

Finally, we have major concerns as to the achievability of the Tier 4 standards by the MY 2029 timeframe, particularly in the context of the suspension of Tier 4 for MYs 2027 and 2028. As a preliminary matter, it seems fair to acknowledge that EPA itself had doubts about the achievability of the Tier 4 standards absent electrification, and moreover that such doubts were in fact a feature rather than a bug, with relation to the 2024 Final Rule. Indeed, EPA's expectations as expressed in the rulemaking project leading up to the 2024 Final Rule, that the standards would be achieved in part through electrification of the U.S. vehicle fleet, seems in itself to be an acknowledgment that improving gasoline-powered cars to meet these standards would be so burdensome that a shift to electrification would result.

²⁰ Chevrolet. *The New 2027 Bolt*. Retrieved June 9, 2026. <https://www.chevrolet.com/electric/bolt-ev>

²¹ Chevrolet. *New 2027 Corvette Grand Sport*. Retrieved June 9, 2026. <https://www.chevrolet.com/performance/corvette/grand-sport?x-modelyear=2026&x-carline=&x-bodystyle=&x-provider-id=560803>

²² Audi. *2027 Audi Q-6 e-tron*. Retrieved June 9, 2026. <https://www.audiusa.com/en/models/q6-e-tron/q6-e-tron/2027/overview/>

²³ General Motors. *All-Electric 2027 VISTIQ Luxury for your Life*. Retrieved June 7, 2026. <https://www.cadillac.com/electric/vistiq>

²⁴ Kia. *The First-Ever 2027 Telluride Turbo-Hybrid*. Retrieved June 7, 2026. <https://www.kia.com/us/en/telluride-hybrid>

²⁵ U.S. Environmental Protection Agency, "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles," *Federal Register*, Vol. 89, No. 76 (April 18, 2024), p. 27,842.

Yet even the proposed suspension of the Tier 4 standards creates its own concerns in terms of the regulatory cliff that EPA would create. Specifically, the Tier 4 standards, as currently in effect, phase in so that only 20 percent of vehicles sold in MY 2027 must meet Tier 4 standards, 40 percent sold in MY 2028 must meet Tier 4 standards, and 60 percent sold in MY 2029 must meet Tier 4 standards.²⁶ As currently written, the Proposed Rule creates regulatory relief by suspending the standard for MYs 2027 and 2028, but leaves the MY 2029 requirements unchanged, which effectively creates a regulatory cliff that year, in which vehicle manufacturers must transition from zero percent compliance in MY 2028 to 60 percent compliance in MY 2029.

This cliff would be avoidable, if EPA delayed the Tier 4 standards by two years rather than suspended them over two years. Nonetheless, if EPA prefers to proceed with a suspension along the lines of the Proposed Rule, the 60 percent cliff is potentially both confusing and damaging. Given that MY 2029 vehicles are only two years from being offered in the marketplace, and the fact that vehicle manufacturers spend months and years working on the vehicles before rolling them out each MY, the years' long timeline for the rulemaking process, and the fact that a more comprehensive review of the Tier 4 standards has been announced, but not yet published in any detail, car manufacturers will face a conundrum for their MY 2029 fleets.

Specifically, car manufacturers will have to decide whether to continue to prepare for the MY 2029 regulatory cliff, which could be made obsolescent by a subsequent Tier 4 rulemaking proposal, or begin preparing their MY 2029 car models without any clarity as to whether the MY 2029 fleet will be governed by the Tier 4 standards currently in place, preexisting Tier 3 standards, or some other alternative. EPA can relieve the pressure from car manufacturers, and help ensure that any resulting standards are achievable, by including MY 2029 in the Tier 4 suspension as well, rather than create a 60 percent Tier 4 regulatory cliff that will affect vehicles that will start to be released less than two years from now.

Thus, if EPA carries out the full analysis that weighs the Clean Air Act § 202 statutory factors of cost, lead time, and achievability, we are confident that EPA will conclude that the Proposed Rule would be further improved by extending the Tier 3 standards to include the MY 2029 fleet as well.

²⁶ 91 Fed. Reg. at 28,473-74 (tables 8 and 9).

C-6: EPA Should Remove Any On Board Diagnostic Requirements Intended to Confirm Compliance with the Tier 4 Standards for MYs 2027 and 2028, Especially Those Related to the Gasoline Particulate Filters Intended to Ensure Compliance with the Tier 4 Particulate Matter Standards

EPA should, as a matter of urgency, remove any and all On Board Diagnostic (OBD) requirements for vehicles covered by the suspension of the Tier 4 standards. In a disturbing trend, the Biden administration did not only tightened emissions standards, but used the Clean Air Act in innovative ways to file criminal prosecutions against individuals who allegedly tampered with air pollutant control and diagnostic systems in diesel vehicles.²⁷ There are legitimate reasons for owners to intervene with these diagnostic systems, which after all are part of their own property; for example, farmers riding tractors that stall due to failures in their diesel particulate filter have had success getting the tractor to restart by disabling the filter or diagnostic systems. Indeed, particularly in the case of end users, they may not even realize that they are violating the law in getting their vehicle to restart.

Moreover, as discussed in more detail in C-8 below, even recreational drivers could have reasons to remove their gasoline particulate filters, to the extent that those filters inhibit performance by reducing fuel efficiency and horsepower, or otherwise contribute to vehicle failure. The U.S. Department of Justice (DOJ) has announced that they will end such prosecutions in the case of diesel particulate filters, but that announcement thus far appears to have been limited to an internal memorandum and external tweet.²⁸ As such, this policy would be potentially reversible, especially by future administrations, even assuming that the enforcement discretion extended to diesel systems would be extended to users of gasoline-powered vehicles. Indeed, notwithstanding DOJ's exercise of enforcement discretion in this area, EPA continues to develop new tools to detect such interventions.²⁹

Moreover, even without DOJ launching criminal prosecutions, civil liability can be ruinously expensive. According to EPA's own figures, in FY 2020-23, EPA finalized 172 civil enforcement cases that resulted in a total of \$55.5 million in civil penalties, as well as 17

²⁷ U.S. House Committee on Oversight and Reform Subcommittee on Federal Law Enforcement. (2025). *From Protection to Prosecution: EPA Enforcement Gone Rogue Under the Biden Administration*, 119th Cong. <https://www.congress.gov/event/119th-congress/house-event/118610/text>

²⁸ Guillén, A. (2026, Jan. 22). *DOJ ends criminal prosecutions of vehicle emissions 'defeat devices.'* E&E News by POLITICO. <https://www.eenews.net/articles/doj-ends-criminal-prosecutions-of-vehicle-emissions-defeat-devices/>

²⁹ *EPA Developing New Modeling, Monitoring Tools to Detect Tampering.* (2026, June 8). InsideEPA.com. <https://insideepa.com/daily-news/epa-developing-new-modeling-monitoring-tools-detect-tampering>

criminal cases that resulted in \$5.6 million in penalties, \$1.2 million in restitution, and 54 months of incarceration.³⁰

Suspending the enforceability of Tier 4 emissions standards without suspending the OBD requirements could potentially create a backdoor mechanism to enforce certain Tier 4 requirements, even while the emissions standards are not in force. This is particularly illogical given that the major point of the OBD requirements in the first place is to monitor compliance with the Tier 4 standards. Even if EPA has no intention of enforcing the OBD requirements in this way, it raises the question why EPA would not change the OBD requirements. In any event, in the event that the emissions requirements are terminated for MY 2027 and 2028 vehicles, protecting American drivers and mechanics from overcriminalization should not be a matter left to EPA's, or any regulator's enforcement discretion.

We therefore urge EPA to terminate the OBD requirements for any vehicles covered by the rule that EPA ultimately finalizes; terminating the emissions requirements but leaving the OBD requirements untouched would be a confusing, incomplete result that would have the potential to subject Americans to terrible, unfair surprises in terms of both civil and criminal liability.

C-7: Economic impacts of potential noncompliance with MYs 2027 and 2028 standards, including costs associated with revised product plans and sunk development costs, to adjust the economic analysis

EPA's DRIA appropriately accounts for many of the direct compliance costs manufacturers face with the Tier 4 standards. However, it does not fully account for the economic impacts associated with maintaining standards that may prove infeasible in practice, particularly given the substantial uncertainty surrounding the implementation of the Tier 4 requirements for MYs 2027 and 2028.

As discussed above, MY 2027 vehicles are already entering production and MY 2028 vehicle programs are already substantially developed. Manufacturers therefore have limited ability to alter production plans without incurring significant additional expense. At the same time, EPA has acknowledged that the assumptions underlying the 2024 Final Rule, particularly with respect to expected BEV market share, have not developed as anticipated and that a broader reconsideration of the Tier 4 program is warranted.

In this context, manufacturers face costs regardless of which path they choose. If manufacturers

³⁰ U.S. Environmental Protection Agency. (2024, August). *Fiscal Year 2020-23 national enforcement and compliance initiatives*. EPA 2020-2023 NECI Document. <https://www.epa.gov/system/files/documents/2024-08/2020-2023neci.pdf>

proceed under the assumption that the Tier 4 standards will remain in place, they may incur substantial costs developing and implementing compliance strategies that ultimately prove unnecessary should EPA later revise the standards. Such expenditures may include engineering and testing programs, supplier contracts for emissions-control technologies, tooling and manufacturing modifications, certification efforts, vehicle redesigns, and other investments undertaken specifically to satisfy Tier 4 requirements. To the extent EPA ultimately revises or rescinds portions of the Tier 4 framework, some or all of these expenditures may become costs that cannot be recovered.

Conversely, manufacturers cannot reasonably assume that future revisions will occur or that enforcement discretion will eliminate the consequences of noncompliance. If manufacturers determine that compliance is technologically impractical, economically unjustified, or otherwise unattainable, they face the prospect of delayed certifications, production disruptions, regulatory enforcement actions, civil penalties, litigation risk, or other liabilities associated with failing to satisfy applicable Clean Air Act requirements. Even where such penalties are avoided or waived, manufacturers must devote resources toward minimizing these risks through contingency engineering efforts, parallel product-development strategies, additional testing and certification activities, and other precautionary expenditures.

An infeasible standard creates costs even when it is not enforced, because manufacturers must devote resources toward preparing for compliance and preparing for noncompliance in the face of regulatory uncertainty. Yet the DRIA does not appear to account for this category of costs. Instead, the analysis largely focuses on direct compliance expenditures while treating the existing Tier 4 implementation schedule as a costless baseline.

More fundamentally, the proposed delay has economic value because it preserves the ability of both EPA and manufacturers to make decisions using better information. Additional time will allow EPA to evaluate actual vehicle market trends, compliance technologies feasibility, and actual consumer demand before forcing manufacturers commit capital to investments that may ultimately prove unnecessary. Where substantial uncertainty exists, delaying irreversible compliance expenditures reduces overall regulatory costs without foreclosing EPA's ability to impose future standards if subsequent evidence supports doing so.

C-8: The Gasoline Particulate Filters Required for Gasoline-Powered Vehicles to Meet the Tier 4 Requirements Create Significant Challenges for Manufacturers and Consumers, Including in Ways that have Become Clearer Since EPA Proposed and Finalized the Tier 4 Standards

The Tier 4 standards, as applied to traditional gasoline-powered vehicles, would almost certainly require the addition of a gasoline particulate filter (GPF) to each gasoline-powered car.

Adding components to complex pieces of machinery, including vehicles, not only create an additional manufacturing cost as the component itself is added, but also creates an additional part of the vehicle that can (and eventually will) break down, and will need to be maintained. In short, this makes the car more expensive, even whilst adding a new source of unreliability.

The replacement costs will likely range from \$400 to \$2,500, based on the cost of the GPF itself, which will range from \$50 to \$300, and labor costs that can range from \$150 upwards, depending on the complexity of the repair and whether the mechanic in question works for an independent repair shop or for a dealership. This is actually significantly lower than the \$1,000-\$10,000 cost to replace the diesel particulate filters (DPFs) that are already common in the U.S. market.³¹

Even where GPFs do not need to be replaced, they will still need to be cleaned as ash accumulates, which is a specialized job. These components are not strictly necessary to run a car, and have not been used in cars before regulations essentially required them, so U.S. car consumers will not have experience cleaning or repairing these components. Moreover, these filters will be attached to fuel systems, which operate under pressure and contain hazardous, flammable liquids. As such, these repairs will not be appropriate for Do-It-Yourself consumers who lack experience working with pressurized fuel systems. Again, using DPFs as a(n imprecise) comparator, the cleaning costs can range from \$100 - \$1,000, depending in part on whether the filter needs to be removed from the vehicle.³² Gasoline is less harsh than diesel fuel, so hopefully the GPFs will self-clean more efficiently, but that will not always be the case, particularly for consumers who eschew freeway driving for urban, stop-and-go uses.

These factors add to the costs of the Tier 4 requirements. However, this information was already largely available when EPA proposed and finalized the Tier 4 requirements. The new information for EPA to consider now falls in two categories. First, there are developments as to the longevity of the car, and second, there are developments related to the economic measurement of the effects that GPFs have on performance.

Longevity

The Tier 3 standards, phased in from 2017 through 2025, were justified under an assumption on EPA's part that the Full Useful Life (FUL) of the light cars in question would be, on average, 15 years or 150,000 miles, whichever came first. This assumption probably made more sense in 2013 (when the Tier 3 standards were proposed) and 2014 (when the Tier 3

³¹ Airtasker (2025, May 26). *Diesel particulate filter replacement cost in the US: What to expect from service & labor*. <https://www.airtasker.com/us/costs/mechanic/diesel-particulate-filter-replacement-cost/>

³² Lite-Check.com. *DPF Cleaning Cost: Insight for Smarter Fleet Maintenance*. <https://www.lite-check.com/blog/dpf-cleaning-cost-guide>

standards were finalized), at which point the average age of light vehicles on the road was 11.4 years.³³ Even in 2024, when Tier 4 was finalized, the Tier 3 standards had not yet fully taken effect, which meant that there was no data from after the Tier 3 standards were fully implemented, with which to update these longevity estimates.

Yet now that 2025 is past, EPA should rely on current data to reevaluate that assumption, and update the assumption, if necessary. In particular, according to the U.S. Department of Transportation's Bureau of Transportation Statistics, the average of automobiles and trucks in operation in the United States had risen from 11.4 years in 2014, to 12.8 years in 2025. Yet during this time, the average age of light trucks had remained largely unchanged, from 11.4 years in 2014 to 11.19 years in 2025. In contrast, the age of light passenger cars in operation rose substantially, from 11.4 years in 2014 (the same as light trucks) to 14.5 years in 2025. Put differently, EPA's assumption of a 15-year FUL for light passenger cars is unsupportable as applied to the modern light passenger fleet, unless EPA assumes that the average light passenger car is only six months away from retirement.

Thus, the new reality of an existing fleet that consists of 14 ½ year old cars on average, it is increasingly common for cars to last for 200,000 miles or more,³⁴ which would equate to 20 years using EPA's 10,000 mile per year rule of thumb, and which roughly aligns with the 4-year gap between the average vehicle age in 2014, and EPA's FUL estimate that year. Extending the FUL to account for the reality of the older passenger fleet driven by U.S. consumers today, compared to 12 years ago, would have a broad variety of knock-on effects, which will ripple through any economic analysis, and which go well beyond the scope of this particular comment request.

However, this longevity has specific implications in the context of GPFs. In particular, as the U.S. passenger fleet grows increasingly old, it becomes increasingly optimistic to hope that GPFs' self-cleaning attributes will obviate the need for professional cleaning costs. It also becomes much less likely that the GPF lasts for the entire life of the car. EPA's cost estimates, and EPA's regulatory decisions, should accurately reflect, and take into account, the increased likelihood that GPF costs will ultimately be passed to the consumer, given how significantly the age of the passenger fleet has increased since the Tier 3 standards were proposed and adopted.

³³ U.S. Department of Transportation, Bureau of Transportation Statistics. *Average Age of Automobiles and Trucks in Operation in the United States*. <https://www.bts.gov/content/average-age-automobiles-and-trucks-operation-united-states>

³⁴

Performance Effects

Finally, since EPA's Tier 4 rulemaking, there is greater information available to help quantify the performance effects of including GPFs. In particular, GPFs are directly attached to the engine of the car, and as such impede performance, by reducing the engine's horsepower. This is one area where GPFs have a more negative effect than DPFs. Given diesel-powered engines are typically used in commercial vehicles, consumers of diesel fuel are generally less concerned about factors such as horsepower. For light passenger cars and light trucks, lower horsepower has a direct economic effect; consumers will pay less, and manufacturers can charge less money for light passenger cars and light trucks, when they come with lower horsepower.

As far as we are aware, the car companies have not been entirely forthcoming about the precise effect of the GPF, but it is well-documented that the 2026 Ford F-150 Eco-Boost, the first Ford equipped with GPFs, had a 382-hp engine, which was 18hp lower than the generation immediately before,³⁵ attributable to the new GPF.³⁶ The loss of performance caused in the 2026 Ford F-150 caused by the GPF is new information that would not have been present in 2024, but perhaps more actionable is the fact that there are more data points to help EPA estimate the economic value in the lost horsepower.

Specifically, Mercedes-Benz offers higher horsepower to customers who pay a subscription. Specifically, EQE owners can increase their horsepower by 60hp, from 288hp to 348hp, and EQS owners can increase their horsepower by 80hp, to a total of 235hp, if they pay either a subscription or one-time charge. Specifically, EQE owners can pay \$60 for a monthly subscription (which would amount to \$1 per 1hp monthly), \$600 for an annual subscription (which would amount to \$10 per 1hp annually), or a one-time fee of \$1,950 for the life of their EQE (or \$32.5 per 1hp for the life of the vehicle). The EQS values are slightly higher, at \$90 for a monthly subscription (\$1.125 per 1hp monthly), \$900 for an annual subscription (\$11.25 per 1hp annually), and \$2,950 for the life of the EQS (\$36.875 per 1hp for the life of the vehicle).³⁷

Technically, this pricing information may have been available to EPA when the Tier 4 standards were finalized, even if it might not yet have been clear, for example, the precise extent to which the installation of the GPF would diminish the performance of the Ford F-150.

³⁵ Smirnov, A. (2025, Nov. 12). *News: The 2026 Ford F-150 EcoBoost is Getting a Gasoline Particulate Filter – Her I's What It Means*. Tfltruck.com. <https://tfltruck.com/2025/11/news-the-2026-ford-f-150-ecoboost-now-makes-18-hp-less-than-before-its-getting-a-particulate-filter/>

³⁶ CTech-review. (2025, Oct. 28). *2026 Ford F-150 18hp loss vs. 2025 F-150 3.5l Ecoboost*. YouTube. <https://www.youtube.com/watch?v=EPwH-oseYvQ&t=81s>

³⁷ Mazuru, M. (2023, Apr. 27). *Mercedes-Benz Offering 60 Horsepower for \$60 per Month, Making Your EQE and EQS Faster*. Autoevolution. <https://www.autoevolution.com/news/mercedes-benz-offers-60-horsepower-for-60-per-month-makes-the-eqe-and-eqs-faster-214090.html>

However, in the time since EPA promulgated the 2024 Final Rule, Volkswagen has come out with its own horsepower subscription program. Specifically, in the United Kingdom (where the GPF is far more common), Volkswagen offers its British customers a subscription to unlock 27 brake horsepower (bhp), for a monthly fee of £16.50 (about £0.61 per 1 bhp monthly), or an annual fee of £165 (about £6.11 per 1 bhp annually).³⁸ At current exchange rates, this amounts to a \$22 monthly fee (roughly 82¢ per 1bhp monthly), or a \$220 annual fee (roughly \$8.20 per 1 bhp annually).

One bhp is slightly higher than 1 hp, yet even these numbers help quantify the economic value of the foregone horsepower, using real transactions between car manufacturers and consumers. Using the Mercedes-Benz EQE values, for example, losing 18 hp (using the Ford F-150 loss) would equate to an economic equivalent of \$585 in foregone value (when multiplied by the \$32.50 value per 1hp for the life of the Mercedes EQE), which would be applicable to each car with the GPF equipped. Using the more recent, lower Volkswagen prices, the numbers would be slightly less, but would still likely amount to over \$14 per vehicle per year, which could then be applied to the FUL of the vehicle.

Thus, since the promulgation of the Tier 4 standards in 2024, EPA has greater knowledge both about the longevity and FUL of the light passenger cars and trucks being covered, the negative impact on performance, and how car companies and consumers could value that impact. EPA should update its cost estimates to ensure that its regulations account for the full economic cost of promulgating standards that effectively require GPF installation in light cars, and these updated estimates should influence how EPA proceeds with criteria pollutant regulations in future.

Need for New Information

It is interesting that EPA's comment request asks not only for information on the challenges integrating GPFs with light- and medium-duty vehicles, but "especially regarding what has changed" since what EPA characterizes as the "extensive public record" that informed its previous rulemaking project.³⁹ Even with the information on record, it is almost impossible to measure the effectiveness of the GPFs that the Tier 4 standards would require car manufacturers to install.

First, it is almost impossible to measure the effectiveness of GPFs at the levels that EPA seeks to regulate in Tier 4. As a simple reminder, the Tier 2 standards for Light Duty passenger cars and trucks allowed 10 milligrams of particulate matter per mile, as measured by the Federal

³⁸ Philip, S. (2025, Aug. 27). *Opinion: VW's horsepower subscription is great for consumers*. BBC TopGear. <https://www.topgear.com/car-news/opinion/opinion-vws-horsepower-subscription-great-consumers>

³⁹ 91 Fed. Reg. at 28,479.

Test Procedure (FTP). The Tier 3 standards lowered that allowance to 3 milligrams of particulate matter per mile. The Tier 4 standards further reduce this allowance to half a milligram per mile, which sounds like a victory for clean air, until one realizes that this amount is so small that it cannot even be reliably tested. In fact, as industry data demonstrate, at particular matter limits near 1.0 milligram per mile, the net particulate matter in the testing filter approaches ambient background levels in the testing equipment anyway, which makes tests on the filter efficacy both very difficult and unreliable. The difficulties in establishing the effectiveness of these filters, if any, with precision, remain ongoing.

There are other technical challenges too, such as integrating the GPFs into the automotive software to make sure that the GPFs work reliably across the life of the vehicle. It is not yet clear how long the GPFs will even last on average, which is especially concerning given that American drivers are using their vehicles longer than ever before. This is in addition to the fact that even while promulgating standards that would force the adoption of gasoline particulate filters, the existing impact analyses have failed to account for the necessary sensors and controllers, as well as negative effects on mileage efficiency.

In the diesel context, particulate filters have been shown to have negative effects on fuel economy,⁴⁰ which appears to be likely in the GPF context for light passenger cars and trucks as well.⁴¹ The technology is still so new, however, that additional testing is still required, both to verify the efficacy of GPFs at the levels that the Tier 4 standards require, and to establish both whether and the extent to which GPFs have a negative effect on fuel economy.

It is incumbent on EPA, as the regulator, to be confident as to the existence or nonexistence of these effects, and the extent to which these effects occur, before requiring that manufacturers add these components to the light passenger cars and trucks that they manufacture. At a minimum, it is appropriate for EPA to suspend the Tier 4 standards for at least several years, to give EPA and the regulated industries a better opportunity to compile data necessary to determine both the efficacy of GPFs at the miniscule Tier 4 levels, and also to establish any effects on fuel economy.

⁴⁰ Junfeng Huang, Jianbing Gao, Yufeng Wang, Haibo Chen, Juhani Laurikko, Ari-Pekka Pellikka, Ce Yang, Chaochen Ma, Insight into the penalty of exhaust emissions and fuel consumption by DPF regeneration of a diesel passenger car, *Chemosphere*, Volume 309, Part 1, 2022, 136629, ISSN 0045-6535.
<https://doi.org/10.1016/j.chemosphere.2022.136629>

⁴¹ Leung, A. (2025, Apr. 17). *Impact of Gasoline Filters on Fuel Economy*. Chevron Lubricants.
https://www.chevronlubricants.com/en_us/home/learning/from-chevron/personal-rec-vehicles-and-equipment/impact-of-gasoline-particulate-filters-on-fuel-economy.html

C-9: In the Current Draft Regulatory Impact Assessment, EPA Continues to Overestimate the Size of the Electric Vehicle Market for MYs 2027 and 2028.

In the DRIA, EPA projected a Battery Electric Vehicle (BEV) market share of eight percent in MY 2027 and 12 percent in MY 2028. We are concerned about these estimates on two levels; first, projections at these levels will likely prove to be overestimates, and second, these numbers represent a significant upward trend across the two MYs, which EPA does not explain in the DRIA, and which does not seem to be supported by the overall market data.

Two tax credits to fund the purchase of electric vehicles expired on September 30th of 2025, namely the New Clean Vehicle Credit⁴² and the Qualified Commercial Clean Vehicle Credit.⁴³ With the end of these tax credits, the BEV market collapsed in the fourth quarter of 2025; according to the U.S. Energy Information Administration (EIA), electric vehicles accounted for less than six percent of vehicle sales for each month in the fourth quarter.⁴⁴

The classic bull case would be that the end of the tax credits accelerated purchases in Calendar Year 2025, as consumers and businesses timed their purchases before the tax credits expired, thereby cannibalizing sales for the remainder of the year, but that sales would eventually at least rebound. However, according to the numbers reported by the Argonne National Laboratory, BEV sales have remained depressed at these levels, and only constituted 6.08 percent of all vehicle sales in April 2026.⁴⁵ According to the monthly sales statistics compiled by Argonne, the monthly sales of BEVs specifically fell off a cliff in the final quarter of 2025, from 20,040 vehicles in September to 12,441 vehicles in October, a decline of almost 38 percent. Similarly, the monthly April 2026 figures show a BEV sales decline, in absolute numbers, of 35.9 percent from April 2025; in fact, one would need to go back to 2022 to find another time when BEV sales were lower. [See Monthly Electric Vehicle Sales figures from Argonne National Laboratory attached as “EXHIBIT A”].

In this context, it is worth recalling that 2024 represented a record year for BEV sales. In this year, with the full benefit of the incentives from the Inflation Reduction Act, BEV sales only amounted to 7.5 percent of the market, according to Cox Automotive, which counts BEVs

⁴² Inflation Reduction Act of 2022, Pub. L. No. 117-169, § 13401, 136 Stat. 1818, 1955 (codified at 26 U.S.C. § 30D), as amended.

⁴³ Inflation Reduction Act of 2022, Pub. L. No. 117-169, § 13403, 136 Stat. 1818 (codified at 26 U.S.C. § 45W), amended by One Big Beautiful Bill Act of 2025, Pub. L. No. 119-21, § 70503, 139 Stat. 72 (terminating credit effective Sept. 30, 2025).

⁴⁴ U.S. Energy Information Administration. (2026, Feb. 9). *Electric vehicle sales fell as hybrid vehicle sales continued to rise in 2025*. Today in Energy. <https://www.eia.gov/todayinenergy/detail.php?id=67144>

⁴⁵ Zhou, Y. (2026). *Light Duty Electric Drive Vehicles Monthly Sales Updates*. Argonne Nat'l Laboratory. <https://www.anl.gov/esia/light-duty-electric-drive-vehicles-monthly-sales-updates>

separately from hybrid and plug-in hybrid vehicles.⁴⁶ Yet even with the knowledge that the tax credits would expire, BEVs made up a smaller share of vehicles sold in 2025, and the BEV market share has remained stagnant at the same levels since the tax credits were rescinded on September 30th of 2025. Actual market trends provide a much more reliable indication of consumer preferences moving forward rather than projected adoption curves. The slower than expected rate of BEV adoption suggests that consumers place substantial value on vehicle attributes that may not be fully reflected in EPA's analysis, including range, charging availability, and towing capacity, amongst other features.

Viewed in this light, EPA's projections for, BEV sales as a share of the overall market, would exceed the share sold in 2024, the record-breaking year. Given EPA's correct justification for this Notice, namely that the elimination of tax credits necessitates recognition of a weaker marketplace for BEVs, the projection that BEV market share for MY 2027, after which all the tax credits have terminated, will somehow exceed the record-breaking calendar year of 2024, when the tax credits were still in force, makes little sense. Moreover, the actual monthly sales data since the termination of the tax credits, which shows BEV sales hovering at approximately six percent of the overall vehicle market, confirms both EPA's intuition in the Proposed Rule that the termination of the tax credits would undermine BEV's share in the overall market, and also the wrongness of EPA's assumption in the DRIA that MY 2027 sales would somehow exceed the record-breaking market share of Calendar Year 2024.

If anything, EPA's projections for MY 2028 are more confusing. The 12 percent market share projection for that year would represent yet another record-breaking year, and an upward trend, in which BEV sales would increase by 50 percent year on year, as a share of the market. This makes little sense given the justification that EPA provided for this rulemaking, and even less sense in light of the data; BEVs at 12 percent of the market would effectively mean that they would double their market share from today, even without any of the Federal tax incentives that led to the previous 7.5 percent market share record in 2024. This is especially noteworthy given that the current spike in gasoline prices wrought by the conflict with Iran would, if anything, be expected to result in exactly the increase in BEV sales that EPA seems to be projecting. Yet, at a time when gasoline prices are at \$3.831 nationally as of June 29, 2026, up \$0.352 from 2024,⁴⁷ BEVs only consist of 6 percent of the overall vehicle sales market. Even these prices understate positive effect that recent gasoline prices should in theory have had on BEV sales, given that gasoline prices were even higher, at \$4.052, just two weeks previously.⁴⁸

⁴⁶ See *Record 1.3 Million Electric Vehicles Sold*. (2025, Mar. 20). Cox Automotive. <https://www.coxautoinc.com/insights/record-1-3-million-electric-vehicles-sold-2024/>

⁴⁷ U.S. Energy Information Administration. *Gasoline and Diesel Fuel Update*. <https://www.eia.gov/petroleum/gasdiesel/> (accessed July 1, 2026).

⁴⁸ *Id.*

In theory, it remains possible that BEV sales will rebound...eventually. However, the DRIA in this case does not purport to make long-term projections, but only to project the two MYs in the immediate future. Inflating BEV market share, in the context of the DRIA, understates the economic benefits of the Proposed Rule, by effectively understating the number of gasoline-powered vehicles that will benefit from being governed by the Tier 3, rather than Tier 4, standards. MY 2027 vehicles are already available at some dealerships, and will continue to be made available in rising numbers. To the extent that EPA's projected compliance costs depend on overly optimistic assumptions around BEV adoption, the divergence between projected and actual market conditions calls into question the accuracy of the DRIA as a whole.

More broadly, the divergence between EPA's projected and actual BEV adoption rates has implications beyond the accuracy of the forecast itself. Because projected BEV market share serves as a foundational assumption throughout the DRIA, forecast errors affect EPA's estimates of compliance costs, consumer impacts, and the overall economic effects of the proposed rule. To the extent EPA assumes a larger BEV fleet than is likely to exist going forward, the DRIA correspondingly understates the number of gasoline-powered vehicles that will remain subject to the Tier 3 standards under the Proposed Rule and therefore understates the economic benefits of delaying the Tier 4 implementation.

Forecast errors also impose real costs on manufacturers. Vehicle manufacturers must commit engineering resources, production capacity, and capital investments years before future market conditions are known. Where regulatory requirements rely on adoption projections that fail to materialize, manufacturers may incur unnecessary compliance expenditures, stranded investments, and additional costs associated with revising product plans. These consequences further support updating the DRIA to reflect observed market conditions rather than projections that have not materialized.

Thus, EPA should explain in their DRIA how they expect BEVs to achieve record-breaking market share in the immediate future, and to achieve a 50 percent increase in the next two years, even absent the tax credits that made the previous record-breaking calendar year of 2024 possible. Absent a satisfactory explanation, which is not immediately clear to us, EPA should adjust the projections in its DRIA around the market share currently achieved, namely six percent of the overall market. EPA also should not project any rise (or fall) in that market share, at least not in its base case, from MY 2027 to MY 2028, without grounding that assumption in a reasoned explanation. Otherwise, especially given how near we are to MY 2027 and 2028, EPA and the public would be better served by DRIA projections based around currently observed data, rather than unexplained record-breaking years, which would boast dramatic market share increases that would seem to contradict the very justification that EPA provided in its Proposed Rule.

EPA's projected BEV market share is a key input underlying the DRIA's estimates of compliance costs, regulatory benefits, and the overall economic impact of the Proposed Rule. When projected BEV adoption exceeds what the market is likely to achieve, EPA necessarily understates the number of gasoline-powered vehicles that will remain subject to the Tier 4 standards and, in turn, understates the compliance costs those vehicles will bear. Manufacturers must make investment, engineering, and production decisions years in advance based on EPA's regulatory assumptions. If those assumptions prove inaccurate, manufacturers risk stranded investments, underutilized production capacity, and unnecessary compliance expenditures that ultimately increase vehicle prices for consumers. Before imposing costs on the basis of projections that subsequent market data has not supported, EPA should revise the DRIA to reflect current market conditions or extend the Tier 3 standards until sufficient real-world evidence exists to support updated projections.

However, we do want to congratulate EPA for not attempting to monetize the per-ton health costs of any increased emissions. Over the last 50 years, EPA has successfully helped drive emissions so low, that it is not clear what benefit, if any, further reductions would bring. As a result, any monetized estimate of further reductions of already very low air pollution would be highly speculative and misleading, so EPA is correct not to attempt to monetize the health costs, if any, of such miniscule emissions increases.

C-10: There are No Reliance Interests Sufficient to Prevent EPA from Adopting the Proposed Rule

For the following reasons, there are no justifiable reliance interests on the part of any relevant parties that should prevent EPA from proceeding with its Proposal to delay the phase-in of the Tier 4 standards until MY 2029, or even later.

First, this Proposed Rule is a liberalizing measure, permissive rather than prescriptive in nature. Businesses that proceed with measures to limit criteria pollutants from their gasoline-powered vehicles for MYs 2027 and 2028 will not be penalized, and nobody will be required to change their behavior in response to this rulemaking action if finalized. The Proposed Rule would not prohibit any new vehicles from being sold or manufactured, but would simply allow manufacturers to offer a broader variety of vehicles, specifically gasoline-powered cars that still meet EPA's stringent Tier 3 standards, to consumers.

Second, it is worth recalling that, under EPA's Proposal, the Tier 4 standards would still be scheduled to take effect, at the levels previously scheduled, at the reduction levels previously scheduled, in 2029. In other words, EPA's currently enacted phase-in schedule requires 20 percent of the manufacturer's fleet to be at Tier 4 for MY 2027, 40 percent in MY 2028, and 60

percent in MY 2029.⁴⁹ Under EPA’s proposal, the 60 percent phase-in for MY 2029 would still be required.

This would mitigate any negative reliance interests, because the standards are still scheduled to phase in for MY 2029. In fact, the current Proposal results in something of a cliff, given that MY 2029 would see a 60 percent Tier 4 requirement, up from none in the previous year. A prudent manufacturer would therefore still, even under the Proposed Rule, be well-advised to be prepared in two years for the standards to start taking effect.

In fact, by taking such a staged approach, EPA is acting admirably to mitigate reliance interests caused by this rule. The rule currently in effect only requires 20 percent phase-in by MY 2027, and 40 percent by MY 2028, which mitigates any reliance impact. Moreover, manufacturers have ample notice that the standards might change, years before the MY 2029 cars come out.

Third, the very language of Section 202 of the Clean Air Act envisions that the regulations will change. Specifically, the statute does not merely require EPA to prescribe standards, but also “from time to time revise”⁵⁰ those same regulations. This explicit statutory language stands on top of the implicit presumption that agencies may generally, unless specifically forbidden by or in contravention to the statute, change their regulatory provisions, provided that the agency acknowledges the change in position, provides a reasonable explanation for the new position, and considers legitimate reliance interests in the prior position (as is being done here).⁵¹

Here, the statutory context in which EPA expected a widescale transition to EVs in the U.S. consumer market has clearly changed, with the June 2025 Congressional Review Act legislation voiding EPA’s preemption waiver for California’s Advanced Clean Cars II standards,⁵² and the One Big Beautiful Bill enacted in July 2025,⁵³ which eliminated many of the tax credits that EPA had anticipated would help foster the transition to EVs.

Given that Congress itself reversed course on its funding for the transition to EVs during this timeframe, that EPA expressly relied on these incentives in justifying its Tier 4 timeline, and

⁴⁹ 91 Fed. Reg. at 28,473-74.

⁵⁰ 42 U.S.C. 7521(a)(1).

⁵¹ See *FDA v. Wages & White Lion Investments, LLC*, 604 U.S. 542, 565 (2024); and *Clean Air Council v. Pruitt* 862 F.3d 1, 8 (D.C. Cir. 2017) (“Agencies obviously have broad discretion to reconsider a regulation at any time”).

⁵² See “Providing congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to ‘California State Motor Vehicle and Engine Pollution Control Standards; Advanced Clean Cars II; Waiver of Preemption; Notice of Decision,’” Pub. L. No. 119-16, June 12, 2025, 139 Stat. 66.

⁵³ See “An act to provide for reconciliation pursuant to title II of H. Con. Res. 14,” Pub L. No. 119-21, July 4, 2025, 139 Stat. 72.

that the very language of the Clean Air Act requires EPA to revise its regulations in response to developments over time, stakeholders have had ample warning of the likelihood that EPA would need to respond to these developments by adjusting its transition timeline to EVs in the regulated marketplace.

Fourth, EPA’s Tier 4 standards are effectively impossible to achieve for MYs 2027 and 2028 (and, we would argue, 2029 as well), when the realities of BEV market penetration are weighed against the overly optimistic projections that EPA relied on in the 2024 Final Rule, both in the DRIA and, more crucially, as intrinsic to any compliance pathway that EPA could envision. There is no technological pathway for individual gasoline-powered cars to meet the NMOG+NO_x standards in particular, so that the only way for the U.S. fleet as a whole to achieve compliance would be to achieve BEV penetration rates of 35 percent or higher. Even to the extent that individual manufacturers may have taken measures to comply with the eventual Tier 4 standards, such piecemeal efforts must be weighed against the fact that, judging BEV sales against the projections that informed EPA’s Tier 4 standards, compliance in the market as a whole is effectively impossible.

Fifth, and finally, even when an agency “ultimately concludes that the reliance interests rank as serious, they are but one factor to consider.”⁵⁴ Balancing the totality of considerations weighed in the Proposed Rule and in this comment, along with the factors that weigh against reliance as listed above, EPA should find that there are no reliance interests sufficient to prevent EPA from finalizing the Proposed Rule.

Conclusion

Rescinding the Tier 4 standards, whether permanently or only for two or three MYs, does not create an unregulated marketplace, but merely reverts the marketplace to the Tier 3 standards. These standards already keep vehicle emissions of criteria pollutants at extremely low levels, which are nonetheless detectable by testing and technologically achievable. There is no public health emergency when it comes to vehicular emissions of criteria pollutants; the air is far cleaner than it was 50 years ago, and criteria pollutant levels are now so low that it is not even clear whether further reduction would bring any health benefits.

EPA therefore has time to carefully consider how to update the Tier 4 standards that EPA released in 2024, which market realities have shown to be unrealistic and unachievable. Rather than create a regulatory emergency that would lead to a confusing, rushed implementation by industry, and which would cause any regulatory relief to come too late, EPA should delay Tier 4 implementation whilst EPA revisits those standards. This is respectful, not only of the

⁵⁴ *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 32 (2020).

automobile manufacturers who must meet EPA’s mandates, but also of the American consumers who have consistently chosen to buy and drive gasoline-powered vehicles, with a loyalty whose strength EPA underestimated when promulgating the Tier 4 standards in 2024.

We are grateful for the opportunity to comment.

Respectfully yours,

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⁵⁶ *Id.*