



**ZERO EMISSION
TRANSPORTATION
ASSOCIATION**

July , 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

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**RE: Docket No. PHMSA-2025-0678 (Notice No. 2025-06)
Revision of Tier 4 Criteria Pollutant Standards, Part 1: Amendments to Phase-In
Schedule for Light-Duty and Medium-Duty Vehicles
EPA-HQ-OAR-2025-3297**

The Zero Emission Transportation Association (ZETA) is a federal coalition committed to enacting policies that drive electric vehicle (EV) adoption, create hundreds of thousands of jobs, and maintain American EV manufacturing dominance. The Association's members span the entire EV supply chain—including vehicle manufacturers, charging infrastructure manufacturers, network operators, battery manufacturers and recyclers, electricity providers, and critical minerals producers, among others. ZETA submits these comments urging the Environmental Protection Agency (EPA) not to finalize the proposed delay of Tier 4 Criteria Pollutant standards, *Revision of Tier 4 Criteria Pollutant Standards, Part 1: Amendments to Phase-In Schedule for Light-Duty and Medium-Duty Vehicles*, 91 Fed. Reg. 28,463 (May 18, 2026) ("Proposed Rule" or "proposal").

DISCUSSION

ZETA urges EPA not to finalize the proposed delay of Tier 4 criteria pollutant standards in the Proposed Rule. EPA proposes to extend the Tier 3 criteria pollutant standards through model years (MYs) 2027 and 2028, thereby delaying the applicability of Tier 4 criteria pollutant standards until MY 2029 for certain light- and medium-duty vehicles. EPA further proposes to delay related test-procedure changes and states that broader reconsideration of Tier 4 standards and program elements may occur in a later "Part 2" rulemaking.

While ZETA supports efforts to ensure that federal vehicle-emissions standards are administrable and technically feasible, this proposal is deficient and fails to consider the reliance interests of the Electric Vehicle (EV) industry.

The Proposed Rule is deficient for several reasons. First, EPA may not revise standards to be less stringent. Second, EPA has not demonstrated that the existing Tier 4 phase-in schedule is infeasible under Clean Air Act section 202(a)(2). Third, EPA's proposal is contrary to the overriding goal of the Clean Air Act and does not consider the health impacts of the delayed standards. Fourth, EPA's factual predicate about battery electric vehicles (BEV) adoption is incomplete and selectively supported. Fifth, EPA fails to adequately consider the reliance interests of EV manufacturers and the broader EV supply chain.

I. EPA May Not Revise Standards to Be Less Stringent

EPA proposes revising the Tier 4 standards by delaying their implementation.¹ Under the best reading of the statute, however, any revisions to emission standards require a reduction of emissions from the previous standard. Section 202(b)(1)(C) directs that “[a]ny revised standard shall require a reduction of emissions from the standard that was previously applicable.” While the first sentence of that provision references standards “under this subsection,” the second sentence with this operative requirement does not—it applies to “[a]ny revised standard.” Indeed, the third sentence goes even further to refer to “[a]ny such revision *under this subchapter*,” demonstrating that this provision is not cabined to revisions made under subsection 202(b). (emphasis added).

Here, EPA's proposal to delay the Tier 4 standards is “[a]ny revised standard”, as EPA acknowledges by describing its proposed action as a proposal “to revise the criteria pollutant emission standards.” But by delaying the Tier 4 standards, EPA revises the standards to be less stringent than before, by having the less stringent Tier 3 standards apply instead of the Tier 4 standards. Under the best reading of the statute, such a revision is impermissible.

II. EPA Has Not Justified Delaying Tier 4 Pollutant Standards Under Section 202(a)

EPA's proposal cites section 202(a)(2) of the Clean Air Act, which requires EPA to provide sufficient lead time for development and application of required technology, giving appropriate consideration to compliance costs. The Agency therefore must support any delay with a reasoned finding grounded in technology, cost, and lead-time considerations. EPA has not done so here.

¹ Courts have routinely held that a change in the compliance deadline of a rule is effectively an amendment to the rule. *See Clean Air Council v. Pruitt*, 862 F.3d 1, 6-7 (D.C. Cir. 2017); *Nat. Res. Def. Council v. Abraham*, 355 F.3d 179, 204-206 (2d Cir. 2004); *Nat. Res. Def. Council v. EPA*, 683 F.2d 752, 765 (3d Cir. 1982).

EPA claims there is now a decrease in projected demand and adoption of BEVs based on policy changes from the Trump administration and changing market dynamics. Therefore, EPA argues, Tier 4 compliance for MY2027–2028 is no longer feasible for some manufacturers because automakers relied on higher BEV projections when developing product plans.

The proposal's core defect is that it treats lower projected BEV penetration as a substitute for a showing of infeasibility of meeting Tier 4 pollutant standards. EPA states that the Tier 4 NMOG+NO_x standards were established based on projected high BEV market share and that BEVs would help manufacturers comply because they count as zero in fleet averaging. EPA also states that high BEV sales could reduce or eliminate the need for additional particulate matter (PM) controls on conventional gasoline vehicles during the MY 2027 and MY 2028 phase-in.

However, EPA's claims on BEV market projections do not establish that the existing standards are infeasible. Manufacturers that produce internal combustion engine (ICE) vehicles may comply with Tier 4 standards by producing BEVs to offset the emissions from ICE vehicles in the fleet. However, producing BEVs is only one valuable compliance pathway.

Vehicle manufacturers can also comply through improvements to internal-combustion engines, hybridization, catalyst improvements, gasoline particulate filters, product-mix decisions, fleet averaging, and average, banking, and trading (ABT) credits. EPA itself acknowledges that NMOG+NO_x standards allow ABT, and that ABT can reduce compliance costs by spreading technology deployment across multiple model years.

That acknowledgement is significant. If manufacturers can use ABT credits to reduce costs and manage compliance timing, EPA must evaluate whether the existing credit program and other targeted flexibilities are sufficient to address the near-term issues EPA identifies. The proposal does not adequately do so. Rather, EPA says that “due to the myriad potential permutations attached to the ABT program, the EPA is presenting here only one cost case.”² EPA's failure to assess whether the ABT program could allow manufacturers to comply with the standards is arbitrary and capricious.

EPA also fails to provide a sufficiently granular analysis of which manufacturers or vehicle classes face concrete compliance barriers. Instead, the proposal assumes that lower BEV projections will broadly disrupt manufacturer compliance strategies. This level of analysis is insufficient to justify the proposal. The Clean Air Act requires EPA to evaluate the development and application of requisite technology; it does not permit EPA to weaken standards based on generalized market uncertainty or the changing business preferences of certain manufacturers to no longer rely on BEV sales as a compliance mechanism.³

² Proposal at 28,476.

³ Section 202 (a)

Nor does EPA adequately explain why a two-year delay is necessary for the entire affected fleet. EPA states that manufacturers may need additional time to change production plans, but it does not show that all affected manufacturers require the same relief, or that MYs 2027 and 2028 standards are infeasible across the industry. EPA should instead consider targeted alternatives, including limited transitional flexibilities, revised certification timing, additional ABT flexibility, or class-specific relief where a concrete record demonstrates a genuine lead-time problem.

When agencies depart from settled compliance structures, they must consider less disruptive alternatives and explain why more targeted approaches would not address the agency's stated concerns.⁴ The same principle applies here. EPA cannot justify a broad delay while failing to meaningfully analyze alternatives that would preserve the existing Tier 4 schedule for manufacturers that can comply and protect the investments of companies that planned around the MY 2027 start date.

In addition, EPA does not adequately explain its change in position from 2024 that the existing Tier 4 schedule would be technologically feasible "without additional zero-emission vehicles beyond the volumes already sold." 89 Fed. Reg. 27,842 at 27845. EPA does not even acknowledge this previous finding. Moreover, as recognized by industry at the time of promulgation, the 2024 rules adopted a permissive phase-in period that allowed manufacturers significant lead time and would preserve flexibility in complying.⁵ EPA ignores industry's prior views of the standards as feasible at the time of promulgation, noting that "The rules are mindful of the importance of choice to drivers and preserves their ability to choose the vehicle that's right for them," as well as the degree to which the 2024 rules already adopted a permissive phase-in period.

III. EPA's Proposal Is Contrary to The Overriding Purpose of the Clean Air Act

Congress intended the Clean Air Act to be "technology-forcing" and directed EPA to reduce emissions by adopting innovation-promoting standards. The "overriding goal" of the statute is "air quality," and other considerations, such as cost, "are subordinate to that goal."⁶ To that end, EPA must adopt the most stringent standards that are technologically feasible and may only consider cost as a secondary factor. EPA has previously recognized that "[s]ince the earliest

⁴ See *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1911–15 (2020) (holding that agency rescission was arbitrary and capricious where the agency failed to consider less disruptive alternatives and serious reliance interests).

⁵ See Alliance for Automotive Innovation, Press Release (March 20, 2024), <https://www.autosinnovate.org/posts/press-release/epa-greenhouse-gas-emissions-and-criteria-pollutant-rules-statement>

⁶ *Husqvarna AB v. EPA*, 254 F.3d 195, 200 (D.C. Cir. 2001).

days of the CAA, Congress has emphasized that the goal of section 202 is to address air quality hazards from motor vehicles, not to simply reduce emissions from internal combustion engines to the extent feasible.”

In addition to improperly prioritizing cost considerations, EPA has entirely ignored the public health effects of its proposal. In 2024, EPA stated: “Addressing the public health impacts of criteria pollutants (including particulate matter (PM), ozone, and NOX) will require continued reductions in these pollutants (and their precursors) from the transportation sector.”⁷ But in its current proposal, EPA admits that it did not even conduct air quality modeling to determine how emissions increases resulting from the proposal could change the ambient concentrations of air pollutants and did not monetize the health effects associated with emissions changes.” EPA cannot ignore the public health impacts of its rules.

IV. EPA’s Factual Predicate Re BEV Adoption is Flawed and Selectively Supported

EPA’s proposal relies heavily on the assertion that BEV adoption will be lower in MYs 2027 and 2028 than EPA projected in the 2024 rule. EPA now projects BEV market share of 8 percent in MY 2027 and 12 percent in MY 2028, decreases from prior central-case projections of *26 percent and 31 percent* for all light-duty program vehicles in those years. EPA also states that policy changes, including congressional action concerning California’s ACC II waiver and changes to federal EV incentives, have altered the market landscape.

The proposal relies substantially on selected automaker announcements concerning EV delays, platform changes, hybrid emphasis, or ICE investments. Those announcements may be relevant, but they do not establish industry-wide infeasibility. Market forecasts are inherently uncertain, particularly in a period of rapid technological change and new product development in fleet electrification. EPA treats these automaker announcements and dispositive evidence regarding their ability to comply with Tier 4 standards. However, these announcements reflect business decisions by manufacturers operating in a competitive marketplace. Some manufacturers may adjust EV timing; others may continue to expand EV production, increase domestic battery capacity, or rely on BEVs as a central compliance and business strategy. EPA’s record supporting this proposal must consider the inherent uncertainty of the market forecasts and the potential for change in those projections.

BEV technology has seen widespread adoption and sustained growth over multiple years. According to the International Energy Agency (IEA) EV Outlook 2026, BEV share of total vehicle sales in the U.S. has grown from 1.8% in 2020 to 8% in 2025. The U.S. BEV market has grown by four-times in a relatively short period of time, due in part to the increase of mass market EVs at a lower upfront cost. With the inclusion of plug-in hybrid electric vehicles

⁷ 89 FR at 27844.

(PHEVs), the market has gone from 2% to 10% penetration in that same period. BloombergNEF's (BNEF) Lithium-ion Battery Price Survey 2025 reflects that progress, with global EV battery pack prices declining by 36% over the same five-year period to \$108 per kilowatt-hour globally. Globally, adoption is moving even faster - with global BEV adoption at around 17% comparatively (and 25% when grouped with PHEVs).

Moving forward, forecasters like BNEF and IEA expect the U.S. market to continue growing as a result of these falling battery costs, increased economies of scale, and global competition. In most markets, EV adoption accelerates as EVs reach upfront price parity with internal combustion engine vehicles. In IEA's latest outlook, for example, the report finds that U.S. BEV market share is already at 8% despite the repeal of federal incentives and fuel economy regulations. By 2035, IEA's Stated Policy Scenario expects the market to more than double, while other outlooks are even more bullish. EPA fails to consider these documented trends and outlooks in their proposal. Furthermore, EPA should not dismiss those trends based on short-term market adjustments or selective public statements from certain automakers as the market has shifted rapidly between drivetrains before, and today's higher gas price context will also play a role that was not measured in detail for the aforementioned outlooks.

EPA's analysis also appears to conflate reduced Federal policy incentives with reduced consumer demand. The expiration or modification of certain tax credits in the One Big Beautiful Bill Act may affect near-term purchase decisions, but it does not establish that BEVs are not commercially viable, that consumer interest has collapsed, or that manufacturers cannot comply with Tier 4 standards. EPA should analyze total cost of ownership, charging availability, fleet demand, state and local procurement, commercial use cases, and ongoing private investment before drawing broad conclusions about BEV deployment.

EPA should also consider the competitive consequences of relying on the claims of ICE manufacturers to delay standards. Companies that invested early in EVs and related technologies reasonably expected those investments to have compliance value under the Tier 4 program. Delaying Tier 4 requirements reduces that value and benefits manufacturers that delayed or reduced investments in lower-emission technologies. As a result, this proposal effectively penalizes automakers that led in innovation while rewarding those that failed to invest. Finally, EPA's cost analysis is incomplete. EPA estimates that the proposal would produce emissions-control system cost savings of approximately \$1.77 billion at a 3 percent discount rate and \$1.66 billion at a 7 percent discount rate. But those estimates focus on manufacturer compliance cost savings and do not adequately account for the lost compliance value of BEV sales, diminished credit-market opportunities, disrupted investment-backed expectations, or broader supply-chain harms to the BEV industry.

EPA cannot reasonably evaluate the proposal's consequences while counting avoided costs for manufacturers that would otherwise need to improve ICE emissions performance, but ignoring costs imposed on manufacturers and suppliers that invested in zero-emission technologies.

V. EPA Fails to Adequately Consider ZETA Members' Reliance Interests

EPA acknowledges that companies planned for the MY 2027 start date for Tier 4 criteria pollutant standards, particularly with respect to PM standards, and that some companies already expended resources on research, development, and compliance. The proposal also seeks comments on reliance interests relating to MYs 2027 and 2028 Tier 4 criteria pollutant standards. That mere acknowledgement of investment is not enough. EPA's proposal dismisses reliance interests based on the agency's view that changed circumstances outweigh them. But the proposal does not adequately identify, analyze, or quantify the reliance interests at stake. Nor does it explain why those interests should be subordinated to the compliance preferences of manufacturers that now seek relief from the Tier 4 requirements.

ZETA members' reliance interests in these requirements are substantial. EV manufacturers have invested in vehicle technology improvements, domestic manufacturing facilities, workforce development, and standing up supply chains in reliance on federal emissions standards that recognize and reward zero-tailpipe-emission performance. These reliance interests in these requirements extend beyond just vehicle manufacturers throughout the BEV supply chain. Battery manufacturers, recyclers, critical-mineral producers, charging providers, and utilities have likewise made investment decisions based on expected growth in EV deployment and the stable implementation of federal standards.

The U.S. manufacturing sector is experiencing investment in battery and EV factories and related supply chains. Companies making these investments need a stable regulatory framework to ensure those capital expenditures deliver their full economic, job-creation, supply-chain, and competitiveness benefits. Those reliance interests are directly implicated but not adequately addressed by EPA's proposal.

The proposal also threatens credit-related reliance interests. EPA recognizes that BEVs participate in NMOG+NOx averaging at zero emissions and can reduce the need for additional PM controls on conventional vehicles. That means BEV deployment has real compliance value under the Tier 4 criteria-pollutant program. Delaying Tier 4 reduces the scarcity value of credits and the compliance value of zero-emission vehicles in MYs 2027 and 2028. For EV manufacturers, that is not an incidental effect; it is a direct economic consequence of the proposed delay.

Credit-trading programs, like the ABT available for Tier 4 compliance, create flexibility, reduce compliance costs, and reward manufacturers that outperform regulatory standards. Eliminating

or weakening credit value undermines investment-backed expectations and causes serious financial harm to EV manufacturers. Although the present proposal does not eliminate a credit-trading program outright, its effect is similar in important respects: it reduces near-term demand for compliance solutions generated by cleaner vehicles and weakens the value of early investment in zero-emission technologies.

EPA cannot satisfy the Administrative Procedure Act merely by acknowledging that some companies may have spent money on Tier 4 compliance and then concluding that those interests do not outweigh changed market conditions. When an agency changes position, it must provide a reasoned explanation and consider serious reliance interests.⁸ EPA's proposal fails to adequately consider the serious reliance interests of the BEV industry.

VI. Requested Action

For the foregoing reasons, ZETA urges EPA not to finalize the proposed two-year delay. EPA should instead retain the existing Tier 4 phase-in schedule for MYs 2027 and 2028.

If EPA identifies specific, record-supported compliance concerns, it should address them through targeted, limited mechanisms rather than a blanket delay.

EPA's proposal would reduce near-term compliance pressure on higher-emitting vehicles, diminish the value of BEV investments, and create uncertainty for companies that planned around the MY 2027 Tier 4 start date. The agency has not provided the reasoned explanation required to justify that result. ZETA therefore respectfully requests that EPA withdraw the proposal or substantially revise it to preserve the existing Tier 4 schedule while addressing all demonstrated, specific compliance concerns through narrower and less disruptive means.



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⁸ See *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (“Agencies are free to change their existing policies as long as they provide a reasoned explanation for the change,” but “a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy,” including “serious reliance interests.”); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020).