State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General

July 6, 2026

The Honorable Lee Zeldin
Administrator, Environmental Protection Agency
1200 Pennsylvania Ave NW, Suite 1101A
Washington, DC 20460

Submitted Electronically via Regulations.gov

Re: Comments of the Attorneys General of the States of West Virginia, Alabama, Alaska, Arkansas, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Wyoming on "Revision of Tier 4 Criteria Pollutant Standards, Part 1: Amendments to Phase-in Schedule for Light-Duty and Medium-Duty Vehicles" (Docket No. EPA-HQ-OAR-2025-3297)

Dear Administrator Zeldin:

The States are grateful for the opportunity to write in support of the Agency's proposal to amend the phase-in schedule for Tier 4 criteria pollutant standards for light- and medium-duty vehicles. *See* 91 Fed. Reg. 28,463 (May 18, 2026).

We welcome EPA's decision to delay any phase-in of the Tier 4 criteria to model year 2029. Market conditions—dramatically different from the prior administration's predictions—demand (at a minimum) a timeline adjustment.

But we also understand that EPA will reconsider the Tier 4 criteria pollutant standards in a Part 2 rulemaking, and we urge the Agency to scrap the Tier 4 standards altogether. EPA's Tier 3 standards were fully implemented just last year, and those standards have successfully abated air pollution while keeping in mind feasibility for manufacturers. The Tier 4 Rule, on the other hand, is a thinly veiled electrification mandate—not authorized by Congress. It places infeasible standards on manufacturers based on unrealistic and unsupported market predictions, while also failing to adequately consider the costs to consumers.

EPA should rescind the Tier 4 Rule and revisit the Tier 3 standards only after giving them time to operate.

BACKGROUND

Motor vehicle emissions standards have come a long way. The Clean Air Act's first emissions standards for cars and light-duty trucks took effect in 1975. Energy Supply and Environmental Coordination Act of 1974, Pub. L. No. 93-319, § 5, 88 Stat. 246, 258-59 (1974). Congress has since tightened vehicle emissions standards multiple times, eventually passing in 1990 what became known as the Tier 1 criteria pollutant standards. Clean Air Act Amendments, Pub. L. No. 101-549, § 203, 104 Stat. 2399, 2474-79 (1990). Since then, EPA has led the charge to regulate motor vehicle emissions. In 2000, EPA issued Tier 2 standards, which fully took effect in 2004. *Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements*, 65 Fed. Reg. 6,698 (Feb. 10, 2000). EPA revisited those standards in 2014 and promulgated the Tier 3 standards that govern model year 2017 to 2025 vehicles. *Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards*, 79 Fed. Reg. 23,414 (Apr. 28, 2014).

These incremental changes have been a success. Tier-3-governed cars and trucks are 99% cleaner than MY 1970 vehicles for smog-related pollutants, including nitrogen oxide, non-methane organic gases, carbon monoxide, particulate matter, and formaldehyde. *Progress Cleaning the Air and Improving People's Health*, EPA, https://tinyurl.com/yxwx3xt2 (last updated Feb. 19, 2026). Considering that the average light-duty vehicle in the United States is 12.8 years old, *Average Age of Automobiles and Trucks in Operation in the United States*, BUREAU OF TRANSP. STATISTICS, https://tinyurl.com/3jpa6a8b (last visited July 2, 2026), most vehicles on the road will meet Tier 3 standards in just a few years.

Despite the substantial progress already made, the prior administration rushed through another, more stringent set of standards—standards that sought to fundamentally reshape the nation's vehicle fleet. *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 89 Fed. Reg. 27,842 (Apr. 18, 2024). The Tier 4 Rule at least acknowledged the CAA and EPA's progress in reducing criteria pollutant emissions. *Id.* at 27,844. But while it recognized that the mobile-emissions problem was already abating, EPA nevertheless pushed an aggressive shift to electric vehicles premised on purported danger posed by greenhouse gas emissions. *Id.* at 27,842. The 2024 Rule placed standards so stringent on the auto industry that EPA projected a greater than 100% increase in the penetration rate for light-duty plug-in electric vehicles from MY 2027 to MY 2032. *Id.* at 28,057. Indeed, EPA projected that PEVs would account for 68% of all MY 2032 light-duty vehicle sales. *Id.*

EPA's electrification mandate originated not from sound science and careful judgment but rather from President Biden's political climate agenda. By executive order, he had required the whole of the federal government to commit the full extent of its authority to reducing greenhouse gas emissions. Executive Order on Tackling the Climate Crisis at Home and Abroad, Exec. Order No. 14,008 of January 27, 2021, 3 C.F.R. 477 (2021) ("[W]e must combat the climate crisis with bold, progressive action that combines the full capacity of the Federal Government with efforts

from every corner of our Nation, every level of government, and every sector of our economy."). EPA thus responded to the President's edict.

EPA's present proposed rule pauses that electrification mandate. Under the proposal, the Tier 4 standards would begin phasing in for MY 2029 rather than MY 2027. 91 Fed. Reg. at 28,463. And EPA explains that the proposed rule is only "Part 1" of its "comprehensive[] reconsider[ation]" of the Tier 4 program for light- and medium-duty vehicles. *Id.* at 28,470.

DISCUSSION

The changed regulatory landscape and actual market conditions demand a delayed schedule for Tier 4 standards phase-in. EPA's faulty market predictions make compliance nearly—if not entirely—impossible. And the current schedule is too costly for States and consumers, especially in light of already-strained American power grids. A delay therefore gives the American economy a welcome reprieve while giving the agency time to reconsider whether the Tier 4 standards should be implemented at all.

When EPA reconsiders the Tier 4 standards, it should repeal them entirely. For starters, the Tier 4 standards are illegal. The CAA requires EPA to weigh the costs and benefits of its regulations. EPA's Tier 3 standards' success mitigates against further regulations that overburden consumers while achieving—at best—modest criteria-pollutant reductions. The Tier 4 standards attempt to transform the market by forcing electric vehicles on consumers. EPA should instead extend the Tier 3 standards and let manufacturers build clean cars consumers actually want.

I. EPA Should Delay the Tier 4 Standards.

The Tier 4 standards dramatically overhaul the vehicle market. Real-world evidence shows the 2024 Rule was too much, too soon. Both market and regulatory changes show a pause is necessary to avoid overburdening manufacturers, making consumers' lives unaffordable, overloading American power grids, and opening a chasm between EV supply and demand. EPA should finalize the proposed rule to delay implementation of the Tier 4 standards.

Congress requires EPA to consider cost and energy factors when setting standards. 42 U.S.C. § 7521(a)(3)(A)(i) ("[T]he Administrator [determines standards] giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology."). Those considerations extend to the timing of standard implementation. *Id.* § 7521(a)(2) (explaining that standards "shall take effect after such period as the Administrator finds necessary … giving appropriate consideration to the cost of compliance within such period"). Consistent with these ideas, EPA's "[r]egulations prescribing standards" are implemented in "the model year" when compliance is "feasible." *Id.* § 7521(a)(5)(B).

Cost concerns and compliance feasibility point to delaying implementation. EPA estimated manufacturer technology compliance costs at about $40 billion annually. 89 Fed. Reg. at 27,859.

Before putting that strain on the industry and, ultimately, consumers, EPA should pause implementation and take a second look. The proposed delay is much needed for a few reasons.

First, the regulatory landscape has shifted dramatically since EPA promulgated the Tier 4 Rule. Setting aside the Tier 4 Rule's illegality (more on that later), several deregulatory actions make the 2024 Rule's phase-in schedule impractical.

For one thing, EPA recently rescinded the 2009 Endangerment Finding. *Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act*, 91 Fed. Reg. 7,686 (Feb. 18, 2026). The endangerment finding rescission creates two related problems for the Tier 4 Rule. The endangerment finding served as EPA's statutory hook to obtain authority to regulate mobile GHG emissions. Without the endangerment finding, EPA has no statutory authority to impose the Tier 4 GHG standards. So EPA's endangerment rescission also repealed the Tier 4 GHG standards. *Id.* at 7,738. And with so much focus on reducing GHG emissions, EPA didn't determine whether reductions in criteria pollutant standards alone warranted the Tier 4 Rule's electrification mandate.

For another, Congress rejected EPA's preemption waiver for California's Advanced Clean Cars II initiative. California State Motor Vehicle and Engine Pollution Control Standards, Pub. L. No. 119-16, 139 Stat. 66 (2025) (providing "congressional disapproval" of EPA waiver so "such rule shall have no force or effect"). That initiative would have required all passenger vehicles sold in California to meet zero-emission standards by MY 2035. *Advanced Clean Cars*, CAL. AIR RES. BD., https://tinyurl.com/2zursewk (last visited July 2, 2026). Without a waiver, California can't force EV demand into the market.

And Congress ended several EV-focused tax incentives designed to encourage EV demand. 91 Fed. Reg. at 28,470. EPA considered those tax incentives when it determined Tier 4 compliance was feasible. 89 Fed. Reg. at 27,847. Now that Congress and President Trump have ended those tax breaks, the market is dictating demand.

Second, the 2024 Rule's EV market predictions proved unrealistically optimistic. EPA's central analysis case predicted PEV penetration at 32% for MY 2027. But the most recent data shows PEVs account for just 9.7% of vehicle sales. Ronald Montoya & Steven Ewing, *How Many Electric Cars Are There in the U.S.?*, EDMUNDS (Apr. 3, 2025), https://tinyurl.com/mt5pkfpk. And PEV sales are in decline. *Electric Vehicle Sales Fell as Hybrid Vehicle Sales Continued to Rise in 2025*, U.S. ENERGY INFO. ADMIN. (Feb. 9, 2026), https://tinyurl.com/58phd4kv. Manufacturers have been compelled to respond by pulling back on EV production. *See U.S. Automakers Pull Back from Electric Vehicles*, INST. FOR ENERGY RSCH. (Dec. 18, 2025), https://tinyurl.com/bde5xy24. With PEV penetration rates trailing far behind EPA's prediction, compliance feasibility is far-fetched.

The vehicle market is speaking: Consumers won't accept an electrification mandate. To be sure, federal income tax credits have increased EV sales, but research shows that 70% of subsidy recipients would have purchased EVs without the tax credit. Jianwei Xing, Benjamin Leard &

Shanjun Li, *What Does an Electric Vehicle Replace?* 29 (Nat'l Bureau of Econ. Rsch. Working Paper No. 25771, 2019), https://tinyurl.com/23mhy45h. Yet "EV interest in the United States is at its lowest point since 2019." Matt Crisara, *Remember When EVs Were the Future? Americans Don't Really Want Them Anymore*, POPULAR MECHANICS (July 25, 2025, 9:00 a.m.), https://tinyurl.com/3trkhpwc. Coupling these figures with low PEV penetration rates shows that the vast majority of consumers will not be driving PEVs in the near future. So the Tier 4 Rule tries to force electrification on a market that doesn't want it. *See* Press Release, Am. Energy Inst., *New Research Uncovers How Federal EV Mandates Inflate Costs For Gasoline Car Buyers and Electric Utility Customers* (Mar. 2025), https://tinyurl.com/2s3szrvj (describing a recent "study [that] documents how federal policies … are distorting the vehicle market.").

Third, market problems are compounded by the lack of domestic resources for necessary EV battery supplies. Batteries for electric vehicles contain minerals like lithium, cobalt, copper, and nickel, as well as rare earths like neodymium. Jessica Alcott Yllemo, *Electrification and Critical Minerals*, AM. SEC. PROJECT (Apr. 7, 2022), https://bit.ly/3FXkbu3. The United States is historically import-reliant on countries like the Democratic Republic of the Congo and the People's Republic of China for these important resources. *See, e.g.*, *Final List of Critical Minerals 2018*, 83 Fed. Reg. 23,295 (May 18, 2018); THE WHITE HOUSE, BUILDING RESILIENT SUPPLY CHAINS, REVITALIZING AMERICAN MANUFACTURING, AND FOSTERING BROAD-BASED GROWTH: 100-DAY REVIEWS UNDER EXECUTIVE ORDER 14017 96-103 (2021), https://bit.ly/4xXGqso. This over reliance on imported minerals can lead to a whole slew of problems ranging from national security and economic vulnerabilities, *see, e.g.*, U.S. DEP'T OF COM., BUREAU OF INDUS. AND SEC., OFF. OF TECH. EVALUATION, THE EFFECT OF IMPORTS OF NEODYMIUM-IRON-BORON (NDFEB) PERMANENT MAGNETS ON THE NATIONAL SECURITY 96, 98-99 (2022), https://bit.ly/4p0MHzy, to indirectly enabling "armed conflict, illegal mining, human rights abuses, and harmful environment practices," Lauren Fricke, *The Long-Term Problem with Electric Vehicle Batteries: A Policy Recommendation to Encourage Advancement for Scalable Recycling Practices*, 12 SEATTLE J. TECH., ENV'T & INNOVATION L. 27, 36 (2022).

Occasional imported minerals might pose less of a problem were the United States able to independently meet EV battery demand domestically. Indeed, in defending past overreaching tailpipe regulations, EPA imagined that plans for future government and automaker investments would bridge the supply gap. EPA, REVISED 2023 AND LATER MODEL YEAR LIGHT-DUTY VEHICLE GREENHOUSE GAS EMISSION STANDARDS: RESPONSE TO COMMENTS, 12-77, 19-19 to -20, https://bit.ly/3MRy6mK. But mirroring the lack of demand for EVs generally, domestic mineral supply chains have struggled to keep up. The United States continues to rely on China and others to provide EV-related minerals for 80 percent of its rare earths and more than 75 percent of its cobalt needs. *See* U.S. DEP'T OF THE INTERIOR, MINERAL COMMODITY SUMMARIES 2025 (March 2025), https://tinyurl.com/5n6w2vv4. This continuing reliance on the foreign supply is no surprise given "metals and mining is a long lead-time, highly capital-intensive sector." *The Raw-Materials Challenge: How The Metals And Mining Sector Will Be At The Core Of Enabling The Energy Transition*, MCKINSEY & CO. (Jan. 10, 2022), http://bit.ly/3SAUMcd.

Even if the United States could build up capacity to mine and refine all the required minerals to meet projected demand immediately, it would still have to make the batteries from them. Building battery factories takes years. *See* Eli Leland, *So You Want To Build A Battery Factory*, MEDIUM: BATTERIES ARE COMPLICATED (July 16, 2021), http://bit.ly/3TVjftU. And while auto manufacturers are savvy, sourcing takes time under even the best conditions. Automakers subject their components to strict specifications and demanding performance standards. That deliberative process is by design, as production mistakes in electric vehicles—all vehicles, really—can cost lives. *See* Bradley Berman, *Battery Experts Provide Deeper Explanations for Chevy Bolt Fires*, AUTOWEEK (Nov. 15, 2021, 12:44 p.m.), http://bit.ly/3NbPi6O (describing recall of 141,000 electric vehicles following 16 reported fires).

Fourth, EPA's cost-benefit analysis for the Tier 4 Rule included consideration of the now-repealed GHG emissions standards. 89 Fed. Reg. at 28,097-99. EPA should reconsider whether the Tier 4 standards' predicted criteria-pollutant reduction, standing alone, outweighs manufacturers' increased compliance costs and consumers' increased purchase costs. Given that the Tier 3 standards already reduce criteria pollutants by 99%, the juice wouldn't appear on first blush to be worth the squeeze.

Finally, since the Tier 4 Rule's issuance, power grid reliability concerns have skyrocketed. Some firms project 3.5% annual increases in power demand over the next fifteen years. Adam Barth, Humayan Tai & Ksenia Kaldiouk, *Powering a New Era of US Energy Demand*, MCKINSEY & CO. (Apr. 29, 2025), https://tinyurl.com/mwxxban5; *see also, e.g*, Sonal C. Patel, *NERC Warns Long-Term Grid Reliability Risks Mounting from Surging Demand, Lagging Resources*, POWER (Jan. 29, 2026), https://tinyurl.com/yjwnvrf6 ("The North American electric grid faces intensifying reliability risks over the next decade as demand growth … threatens to outpace resource additions."). While power demand increases, fossil-fuel-powered electricity generation has been under attack. Molly Christian, *Electric Co-ops Welcome New Agency Efforts to Support Crucial Generation*, NAT'L RURAL ELEC. COOP. ASS'N (Sept. 30, 2025), https://tinyurl.com/4uwas8xb. That combination leads to growing costs and affordability concerns for consumers. Retail electricity bills have increased about six percent annually since 2020. Barth, et al., *supra*. Overhauling the nation's vehicle fleet with EV mandates will only magnify the reliability and affordability crisis.

All these factors bring to light the Tier 4 Rule's flaws. EPA should give automakers and consumers breathing room by delaying implementation.

II. EPA Should Ultimately Repeal the Tier 4 Standards.

The States applaud EPA's consideration of the burdensome costs and impracticalities that plague the timing of its Tier 4 standards. But EPA should not stop there. Given recent Agency findings and past administrations' failures to consider relevant costs, EPA should reexamine the Tier 4 standards' legal efficacy writ large. A proper examination will reveal its fatal deficiencies.

A. The Tier 4 Standards Exceed Statutory Authority.

To start, recall that EPA cannot act "in excess of statutory … authority … or short of statutory right." 5 U.S.C. § 706(2)(C). It "must point to clear congressional authorization" for the power it wields. *West Virginia v. EPA*, 597 U.S. 697, 723 (2022) (cleaned up). In other words, it must stay within the "bounds of its statutory authority." *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 326 (2014) (cleaned up).

EPA derives its congressional authorization for Tier 4 standards from the Clean Air Act. 89 Fed. Reg. at 27,887-88. As part of that authorization, EPA may regulate vehicle air pollutant emissions that "in [its] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare." 42 U.S.C. § 7521(a)(1)-(2). So Congress authorizes EPA to regulate vehicle emissions when they emit air pollutants that endanger public health or welfare.

Congress authorized EPA to regulate criteria pollutants. 42 U.S.C. § 7521(a)(3)(A)(i). EPA expanded its congressional authorization to reach greenhouse gases by finding that they endanger public health and welfare indirectly by contributing to climate change. *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496, 66,497 (Dec. 15, 2009). And building on this framework, EPA issued its Tier 4 standards. *See* 89 Fed. Reg. at 27,843. Specifically, Tier 4 seeks to "establish[] new, more stringent vehicle emissions standards for criteria pollutant and greenhouse gas [] emissions" for certain vehicles. *Id.* And under its approach, EPA would force "manufacturers [to] adopt a wide array of technologies, including various ICE, HEV, PHEV, and BEV technologies, to comply with th[e] rule"—essentially, an electrification mandate. *Id.* at 27,898.

Tier 4's mandates, however, exceed EPA's congressional authorization in at least two ways.

First, as mentioned, EPA rescinded its "findings of contribution and endangerment and repeal[ed] all greenhouse gas (GHG) emission standards for light-duty, medium-duty, and heavy-duty vehicles and engines." 91 Fed. Reg. at 7,686. EPA's rescission rule completely nullifies the Agency's statutory-authority prerequisite—an EPA judgment that greenhouse gas emissions endanger public health or welfare.

Second, Section 202(a)'s limitations apply to criteria-pollutant regulations. And the statute says nothing about imposing standards that require manufacturers to shift the entire industry toward electric vehicles. Congress only allows EPA to require "available" technology after considering the "cost … associated with the application of such technology." 42 U.S.C. § 7521(a)(3)(A)(i). An entire industry shift in the nature of the vehicle itself cannot be fairly described as a "technology" standard—but an eradication of gasoline engines. "Congress did not … clearly authorize the EPA to make" "policy choice[s] by prescribing emission standards that force a transition to EVs." 91 Fed. Reg. at 7,690.

Coupled with Section 202(a)'s text, EPA's own statements illustrate the point. EPA is permitted to set emissions standards only for classes of new motor vehicles that "cause, or contribute to, air pollution." 42 U.S.C. § 7521(a)(1). But EPA asserts that BEVs do not emit criteria pollutants. 89 Fed. Reg. at 27,966 (stating that BEVs "certify[] to a Bin 0" for NMOG+NOx). If EVs are not subject to the Agency's emissions standards, then it follows that EPA cannot include EVs in any calculations that determine those emissions standards. By allowing EVs to help set standards for internal combustion engines, the Proposed Rule puts its thumb on the scale of free markets.[1]

Even if an electrification mandate could be fairly characterized as a technology standard, the past administration based its Tier 4 standards on its finding that "BEVs and PHEVs [we]re [] poised to become a rapidly growing segment of the U.S. fleet," so electric vehicles were "available and feasible for controlling motor vehicle emissions." 89 Fed. Reg. at 27,851. But as shown, costs are far too steep to conclude that electric vehicles are available, much less feasible or even desirable among consumers. Indeed, an electrification mandate if imposed would result in "[a] significant decrease in auto production" which "will have a major economic impact on labor and suppliers to the [manufacturing] companies." *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d 615, 641 (D.C. Cir. 1973).

The past administration also tried to justify its exacting electric mandate saying that it didn't require "any manufacturer [to] use any specific technology to meet the standards in th[e] rule" or "ban gasoline engines." 89 Fed. Reg. at 27,898. But its standards have exactly that effect, and a "particular label" cannot override "the substance" of an agency decision. *Columbia Broad. Sys. v. United States*, 316 U.S. 407, 416 (1942). If anything, the past administration chose to impose the electrification mandate "through [the] conduit" of the Tier 4 standards. *Diamond Alt. Energy, LLC v. EPA*, 606 U.S. 100, 116 (2025) (cleaned up). So EPA could not rebrand its mandate by clothing it in alternative terms. The electrification mandate is thus beyond any congressional authorization.

The Clean Air Act doesn't authorize EPA to consider EV regulations at all. Tier 4's electrification mandate is thus far afield of its congressional authority and must be discarded.

B. The Tier 4 Standards are Arbitrary and Capricious.

EPA also cannot proceed with actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(A). An agency's action is considered arbitrary and capricious when it "failed to consider an important aspect of the problem." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

The Clean Air Act requires EPA to "giv[e] appropriate consideration to cost, energy, and safety factors associated with the application of such technology." 42 U.S.C. § 7521(a)(3)(A)(i).

[1] If EPA's Part 2 reconsideration of the Tier 4 standards addresses EV inclusion in emissions standards calculations in Tier 3, then the States will gladly provide further comment.

The previous administration ignored the enormous price tag associated with its Tier 4 standards—$40 billion annually. 89 Fed. Reg. at 27,859. Because these costs were downplayed amid electrification zeal, the Tier 4 standards do not appropriately reflect their economic burden. And the gap between what might be an appropriate cost and the mandate only widens when considering the deteriorating EV market and an overloaded national electric grid.

Sadly, these considerations encompass only overall economic load, too. Equally burdensome are the regulatory costs imposed on States, consumers, and taxpayers. The Tier 4 standards are complicated and take real time to navigate and implement. It took companies four years to comply with Tier 1, *see* 42 U.S.C. 7521(g)(2), five years for Tier 2, 65 Fed. Reg. at 6,702, and a whopping nine years for Tier 3 standards, 79 Fed. Reg. at 23,421. Yet still, Tier 4 stands to take another six years to implement. 89 Fed. Reg. at 27,854. And the costs associated with this years-long compliance regime are sure to be "felt most by those with little income or wealth." Michael Greenstone et al., *Fuel Economy 2.0*, 44 HARV. ENV'T L. REV. 1, 7 (2020).

Never mind that those who comply suffer additional "disadvantage[s]." *Michigan v. EPA*, 576 U.S. 743, 752 (2015). For example, they take on the headache of dealing with "auditing, insurance, financial, personnel, and other management systems associated with" compliance. *Becerra v. San Carlos Apache Tribe*, 602 U.S. 222, 228 (2024). They also spend resources "learning about rights, rules, and demands." Aske Halling & Martin Baekgaard, *Administrative Burden in Citizen-State Interactions: A Systematic Literature Review*, 34 J. PUB. ADMIN. RSCH. & THEORY 180, 181 (2024). So regulated entities take on a vast breadth of costs when regulations like the Tier 4 standards are implemented.

The previous administration de-emphasized the aggregate economic and regulatory compliance costs when implementing its Tier 4 standards. The Tier 4 standards were thus arbitrary and capricious.

What's more, EPA failed to provide an honest accounting of EV-fueled upstream criteria-pollutant emissions. In response to comments demanding consideration of electricity-generation-related emissions from EV charging, the Agency finally "develop[ed] [an] approach[] to estimate the upstream emissions." 89 Fed. Reg. at 28,006. EPA concluded that the Tier 4 standards were "anticipated to increase generation … by approximately 7.6 percent by 2050." *Id.* at 28,007. And that increased generation was expected to slightly increase NOx, SO2, and PM emissions. *Id.* at 28,010-12. But EPA's approach discounted electricity generation emissions. The Agency's "modeling results showed that the increased use of renewables will largely displace coal and (to a lesser extent) natural gas EGUs." *Id.* at 28,007. EPA's modeling determined that, "[b]y 2035," "non-hydroelectric renewables (primarily wind and solar) will be the largest source of electric generation (approximately 45 percent of total generation), and would account for more than 75 percent of generation by 2050." *Id.*

EPA's renewable energy predictions are, in generous terms, optimistic. Wind and solar generated about 18% of total U.S. utility-scale electricity in 2025. *Electricity Explained*, U.S. ENERGY INFO. ADMIN., https://tinyurl.com/muyn5hfm (last visited July 2, 2026). So EPA's

modeling suggests that those energy sources will more than double in the next ten years and will more than quadruple in the next 25 years. Those lofty projections are as unrealistic as the Agency's projected EV penetration rates. *See* U.S. ENERGY INFO. ADMIN., ANNUAL ENERGY OUTLOOK 2026 16 (April 2026), https://tinyurl.com/bdhw7xar (projecting wind and solar to combine for about 40% of electricity generation by 2050). They show that EPA deliberately fudged the numbers to claim only a modest increase in criteria pollutant emissions from EV charging. And recent legislation ending wind and solar subsidies makes the Agency's generation predictions even more implausible. *Secretary Wright Applauds End of New Federal Wind and Solar Subsidies*, U.S. DEP'T OF ENERGY (July 2, 2026), https://tinyurl.com/26knnsrr (explaining that Working Families Tax Cut Act ends wind and solar subsidies on July 4, 2026).

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In sum, the past administration went far beyond its authority when it made the Tier 4 electrification mandate. In doing so, it also failed to account for the overly burdensome costs associated with its action. And the Agency failed to seriously consider the upstream emissions caused by its electrification mandate.

CONCLUSION

The Tier 4 Standards illegally force electric vehicles on manufacturers and consumers alike. EPA's proposed rule provides a much-needed reprieve and should be finalized. When EPA proceeds to Part 2 of its rulemaking, it should scrap the Tier 4 Standards altogether and extend the Tier 3 standards. The Tier 3 standards have already reduced criteria pollutant emissions by 99%. EPA shouldn't impose another round of costly, illegal regulations to squeeze a fraction out of the last percent, especially before the Nation's fleet has a chance to catch up.

Sincerely,

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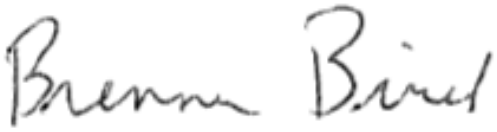

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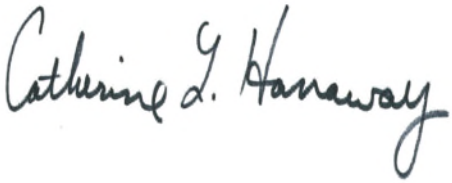

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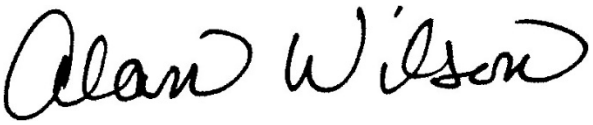

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