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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
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The Environmental Protection Network (EPN) harnesses the expertise of more than 750 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

I. Introduction

On May 18, 2026, EPA proposed to revise the compliance deadlines for Tier 4 criteria pollutant standards for light-duty and medium-duty vehicles, pushing the start of the standards from model year 2027 to model year 2029. EPA's proposal is based on a superficial logical progression that goes as follows:

1. Tier 4 (4/2024) was based on assumptions of increased Battery Electric Vehicles (BEV) sales.
2. We believe manufacturers built their product plans and compliance plans around these assumptions.
3. Times have changed and the assumptions are not coming true.
4. We believe manufacturers will need to change their product plans and compliance plans in light of lower than expected BEV sales.
5. We believe manufacturers will need to upgrade their internal combustion engine (ICE) vehicles in ways they did not plan for.
6. There is not enough lead-time to do that in the near-term, including Model Year (MY) 27 and 28. EPA proposes a 2-year delay to solve this problem.

A more detailed summary of EPA's logic can be found in the **Appendix**. The proposal provides at least some support for assertions 1 (BEV assumptions behind Tier 4), 3 (changes since then), and 6 (not enough lead-time to now upgrade ICE vehicles for MYs 27 and 28).

However, assertions 2, 4, and 5 have no support behind them. There is a superficial logic to them in a theoretical sense, but EPA provides no evidence to support them. That is where the proposal is fatally flawed. EPA's proposal of a two-year delay is based on EPA's assertion that manufacturers likely will or should need more lead-time than is available for Tier 4 MY 27. EPA does not provide concrete evidence, one way or the other, whether manufacturers actually have a problem complying with the Tier 4 MY 27 and 28 standards.

At the same time, EPA has in-depth, in-house information on manufacturers production and compliance plans for MY 27, from its on-going involvement in the process of manufacturers planning to apply for certificates of conformity for their vehicles.[1] EPA's involvement in the certification process means EPA knows and has in-house information on whether manufacturers are or are not able to comply with the Tier 4 standards for MY 27. EPA knows whether they do or do not need more lead-time, on a manufacturer by manufacturer basis.

[1] See 40 CFR Part 86 subpart S, and in particular the application requirements in Parts 86.1843-01 through 86. 1844-01.

If this in-house information showed manufacturers had problems with compliance for MY 27, EPA could readily spell out in the proposal what those problems are. EPA could spell out what range of manufacturers have compliance problems, if any; what kinds of vehicles have problems; whether any problems are widespread or limited; whether any problems are pollutant specific or not; and so on. This kind of real-world information is needed to support EPA's proposal.

None of that real world, concrete information is in the proposal. The lack of it is a red flag that the proposal is unsound and fundamentally flawed. The failure of EPA to make its case based on real world information in its possession leads to one conclusion – manufacturers are in fact ready to comply with Tier 4 MY 27, and there are not any major or serious lead-time problems, if any problems at all. There are a host of elementary administrative law violations here: under the Clean Air Act (CAA), EPA must provide the public with adequate notice of a proposed rule and a meaningful opportunity to comment on the substance of the rule, and, among other things, provide "the factual data on which a proposed rule is based."[2] Nor can the agency rely on speculative assertions rather than data, fail to consider an important aspect of the problem at issue, offer explanations which are contradicted by evidence of record, or offer speculative assertions while failing to examine objective data including information in the agency's own possession.[3] The proposal violates all of these basic principles.

We are now in late spring 2026. Based on EPA's years of experience with certification of new motor vehicles, the assumption should be that every manufacturer's product plans for MY 2027 are now nearly set in stone, and their plans provide for compliance with Tier 4. That is the typical, default situation for the late spring before the next MY. Manufacturers have to be in this situation, as the prospect of non-compliance means their vehicles will not be certified and they will not be able to sell vehicles after January 1st.

At this point in the year, EPA thus has detailed knowledge of each manufacturer's production and compliance plans. EPA typically would have two meetings with manufacturers during calendar year 2026 to review their production and compliance plans for MY 2027. The same would have occurred in 2025, when EPA met with each manufacturer to go over their production and compliance plans for MY 2026. Given the Tier 4 standards starting in MY 2027, the 2025 meetings typically would include preliminary discussions on the manufacturer's plans for transitioning to Tier 4. The result is that EPA now knows what each manufacturer's production and compliance plans are and knows, manufacturer by manufacturer, whether they do or do not have any problems complying with Tier 4 for MY 27. Likewise, they likely have good ideas about manufacturers positions with respect to compliance with the Tier 4 MY 28 standards.

There are good reasons the certification process works this way. Both manufacturers and EPA need and want to avoid a crisis as the certification process nears the end and a new MY arrives. Manufacturers spend years getting ready to certify their vehicles. A very high premium is placed on ensuring successful certification, as the failure to certify a model means it cannot be sold. That is such a serious adverse impact that manufacturers spend lots of resources to ensure it does not happen. Likewise, EPA wants and needs to avoid a situation where it has to deny a certificate based on non-compliance. EPA needs and wants to avoid

[2] CAA section 307 (d)(3).

[3] See, e.g. Motor Vehicle Mfr's Ass'n v. State Farm Mutual, 463 U.S. 29, 44 (1983); Sinclair Wyoming Refining Co. v. EPA, 114 F. 4th 693, 713-14 (D.C. Cir. 2024); National Lifeline Ass'n v. FCC, 921 F. 3d 1102, 1105, 1116 (D.C. Cir. 2019).

such a certification crisis right before a model year starts given the institutional stress such a crisis places on EPA.

The result over many years is that both manufacturers and EPA want to make sure there are no problems with successful certification, and that any potential problems are identified early and solved before they cause a crisis. Process wise, the standard practice is that EPA certification staff typically meet with a manufacturer twice. The first meeting is early in the process, the second meeting later in the process. In the certification meetings manufacturers provide EPA detailed information on their production plans, the emissions control technology they will be using, and other aspects of their compliance plan. The goal is for both the manufacturer and for EPA to find out early on if there are going to be any problems with successful certification of the manufacturer's vehicles, and if there are, to determine how to fix them. This is what would have happened throughout 2026 so far.

That means at this point in time – summer 2026 – manufacturers will have their production and compliance plans basically set for MY 27. They will have gone over them in detail with EPA staff. At this point in time, if there are any problems with successfully certifying to MY 27 Tier 4 standards, both the manufacturers and EPA know what the problems are and how serious they are.

That means EPA has in-depth knowledge of whether or not manufacturers have any problems with successfully certifying to the Tier 4 MY 27 standards. EPA has in-depth knowledge whether the things EPA says it "believes" are "likely" to be the case (see numbers 2, 4, and 5 above), and the conclusions EPA draws (6), are in fact true. Given that knowledge, it is striking that EPA's proposal fails to provide what it knows about manufacturers' real-world, concrete compliance plans and capabilities for MY 27. The only concrete information EPA has provided is that some manufacturers have already certified some of their MY 27 vehicles to Tier 4 standards.

EPA is silent on what it knows from its involvement in the certification process. Instead, EPA relies on the logic of its "beliefs" as noted above. Given EPA's inside knowledge on manufacturers actual production and compliance plans, and the absence of EPA presenting such knowledge to show there are in fact compliance problems that call for a two-year lead-time delay, the only conclusion to draw is there are not any such serious lead-time problems and there is no need for such a delay.[4]

II. Conclusion

[4] *See* Sinclair Wyoming Refining Company, LLC v. EPA, 114 F. 4th 693, 713-714 (D.C. Cir. 2024) ("In other words, EPA assumed that weekend fuel prices would reflect Friday's RIN prices. But EPA provided no studies or data to support that conclusion. … Thus, EPA's determination that refineries can efficiently pass through RIN costs on weekends amounts to "sheer speculation." Sorenson Commc'ns, Inc. v. FCC, 755 F.3d 702, 708 (D.C. Cir. 2014)."), TransUnion LLC V. Ramirez, 594 U.S. 413, 439 (2021) ("The inferences on which the argument rests are too weak to demonstrate that the reports of any particular number of the 6,332 class members were sent to third-party businesses. … Cf. Interstate Circuit, Inc. v. United States, 306 US. 208, 226, 59 S.Ct. 467, 83 L.Ed. 610 (1939) ("The production of weak evidence when strong is available can lead only to the conclusion that the strong would have been adverse")."), United States v. Vega, 826 F.3d 514, 532-533 (D.C. Cir. 2016) ("A missing-evidence instruction "is appropriate if it is peculiarly within the power of one party to produce the evidence and the evidence would elucidate a disputed transaction." West, 393 F.3d at 1309; see also United States v. Williams, 113 F.3d 243, 245 (D.C. Cir. 1997) (foundation for analogous missing-witness instruction). "When these two requirements are met, jurors may be instructed that the controlling party's failure to produce the evidence permits them to draw the inference that the evidence would have been unfavorable to that party." Id.").

EPA's theory of what manufacturers are likely to do or need to do is an unacceptable fig-leaf for EPA's obvious failure to tell the world what it knows based on its access to manufacturers actual production and compliance actions. The obvious conclusion is that EPA's proposed extension of the standards is not supported by the facts and is arbitrary, capricious, and unlawful.

Appendix: Supplement based on text from the proposal. Page references are to the proposal, 91 FR 28463 (May 18, 2026).

EPA's logic is as follows:

1. The Tier 4 standards were premised on increasing sales of BEVs. Given the phase-in of the tighter standards, this meant manufacturers would not have to do much to their ICE vehicles for compliance purposes. Manufacturers built their product mix and compliance plans on these assumptions.

   Collectively, this meant that manufacturers did not plan on the need to reduce emissions from non-BEV vehicles for MYs 2027 and 2028 to any significant degree. Manufacturers correspondingly built their product mix and compliance strategies on this assumption, which reflected the EPA's predictive judgments at the time about trends relevant to the feasibility of the Tier 4 standards. (P 28466).

2. Since Tier 4 was promulgated in spring 2024, there have been significant changes. These changes have had a substantial impact on manufacturers product plans for future vehicles.

   Since the promulgation of the Tier 4 standards in April 2024, significant changes in the automotive marketplace, regulations, and Federal and State laws have substantially impacted manufacturers' future product plans for light- and medium-duty vehicles, particularly the development, production, and sales of BEVs. (P 28466)

3. Manufacturers will be faced with fewer BEV sales than expected. They have only a limited time to alter their product plans. They would need to rely on unplanned modifications to lots of ICE vehicles to comply with Tier 4.

   The EPA expects that every manufacturer that sells a mix of conventional and electric vehicles has been significantly impacted by these changes. Manufacturers who were planning to rely on BEVs for Tier 4 standards compliance will be faced with fewer BEV sales than previously expected and have a limited time to alter their product plans for MYs 2027 and 2028. Given that zero emission BEVs significantly assist any fleet average and can eliminate the need for additional emission controls on non-BEV vehicles, manufacturers would need to rely on unplanned modifications to large numbers of non-BEV vehicles to meet the Tier 4 standards. Thus, given the significant disruption in manufacturer product planning, the EPA proposes finding that more time is "necessary to permit the…application of the requisite technology" into new, compliant vehicles. (P 28467)

4. A two-year delay is needed for manufacturers to adjust their production plans.

   The EPA proposes a two-year delay based on industry practices that indicate a year to 18 months would be necessary to adjust production plans, and the industry has not had sufficient time to respond to the enormous changes in the BEV landscape, and companies' ability to comply with Tier 4 for MYs 2027 and 2028 are in jeopardy. (P 28467)

5. Changes to BEV plans are likely to significantly impact manufacturers' ability to comply with Tier 4. Manufacturers have likely seen their plans change in the past year.

   The changes to BEV product plans summarized above are likely to significantly impact manufacturers' ability to comply with the Tier 4 standards. Vehicle manufacturers have the option to demonstrate compliance with the phase-in requirements using a mix of ICE vehicles, HEVs, PHEVs, and BEVs. Manufacturers planning to rely on BEV sales for their Tier 4 compliance plans have likely seen those plans change significantly in just the past year. (P 28472)

6. Manufacturers only have one option to comply with MY 27 and 28 – develop improved ICE vehicles in a short time. That is likely not feasible.

   Manufacturers may respond to the changing conditions in several ways, with each option having a different lead time. Examples include changing the price of their BEVs—those not canceled or delayed—to compensate for lost purchasing and leasing tax incentives, restricting production of some ICE vehicles that do not support Tier 4 compliance, or developing additional ICE vehicles with the requisite technology to support Tier 4 compliance. The first two options—changing pricing and restricting ICE vehicle products—still may not result in a company being able to demonstrate compliance with the MYs 2027 and 2028 Tier 4 standards. Furthermore, they may have potentially significant near-term financial impacts on manufacturers and potentially negatively impact consumers through reduced choices of vehicle models. For these reasons, EPA does not believe these two options are feasible for all manufacturers. The third option, developing additional improved ICE vehicles on short notice to meet the current Tier 4 phase-in requirements for MYs 2027 and 2028, is likely infeasible because there is not sufficient lead time for firms to make such changes. (P 28472)

7. Not enough lead-time to revise product plans and develop better ICE technology for MYs 27 and 28.

   In light of the change in the BEV landscape, EPA now expects manufacturers would consider improvements to ICE vehicle technologies as a means to comply with the Tier 4 criteria pollutant program. This could include technology plans that require improvements in gasoline ICE vehicle exhaust aftertreatment systems, engine controls, and monitoring systems in several significant ways–approaches which require a change in companies' technology development plans which requires lead time. (P 28472)

   Given the policy, legislative, regulatory, and marketplace changes which have occurred, the start of MY 2027, and the upcoming start of MY 2028, the EPA does not believe the automotive industry and supplier base have adequate lead time to revise their product plans to develop and industrialize the requisite ICE vehicle technology to support the near-term Tier 4 phase-in. EPA believes that many manufacturers planned on high BEV sales to comply with the Tier 4 requirements and did not plan for the alternative, which is implementing changes, as described above, to large portions of their ICE product line. Manufacturers would need to revise plans, source suppliers, and make necessary changes to assembly lines to implement the updates needed in their ICE vehicles—but there is insufficient time to complete those steps for MYs 2027 and 2028. (P 28472-73)

8. The recent changes have disrupted manufacturers' near-term plans. The lower BEV market share makes compliance perhaps unachievable.

   The recent changes in policy, regulations, Federal law, and near-term BEV market share projections have disrupted vehicle manufacturers' nearterm product plans. BEVs were a major factor contributing to Tier 4 program compliance, both for the per-vehicle standards such as PM and for NMOG+NOX fleet averaging standard. A lower projected BEV market share makes compliance with the Tier 4 standards challenging and perhaps unachievable. Therefore, EPA is reconsidering the Tier 4 program. (P 28473)