

CHOICE IN AUTOMOBILE RETAIL SALES ACT OF 2023

SEPTEMBER 1, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H. R. 4468]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4468) to prohibit the Administrator of the Environmental Protection Agency from finalizing, implementing, or enforcing a proposed rule with respect to emissions from vehicles, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Committee Action	8
Committee Votes	9
Oversight Findings and Recommendations	13
New Budget Authority, Entitlement Authority, and Tax Expenditures	13
Congressional Budget Office Estimate	13
Federal Mandates Statement	13
Statement of General Performance Goals and Objectives	13
Duplication of Federal Programs	13
Related Committee and Subcommittee Hearings	13
Committee Cost Estimate	14
Earmark, Limited Tax Benefits, and Limited Tariff Benefits	14
Advisory Committee Statement	14
Applicability to Legislative Branch	14
Section-by-Section Analysis of the Legislation	14
Changes in Existing Law Made by the Bill, as Reported	16
Minority Views	32

PURPOSE AND SUMMARY

The purpose of H.R. 4468 is to prohibit the Administrator of the Environmental Protection Agency (EPA) from finalizing, implementing, or enforcing a regulation with respect to emissions from light-duty and medium-duty vehicles starting with model year 2027; to prevent EPA from mandating the use of specific technology in new motor vehicles or issuing rules that result in limited availability of vehicles to end-use consumers based upon the engine in that vehicle; and to preserve American automobile manufacturing and protect access for American consumers to choose affordable, reliable, and functional automobiles for their needs.

BACKGROUND AND NEED FOR LEGISLATION

AMERICA AND THE CAR

The automobile was a key force for change in twentieth-century America, becoming one of the backbones of a consumer goods-oriented society,¹ providing upward mobility and personal freedom, spawning the growth of suburbs, and ending rural isolation from medical care and schools.² A total of 278,063,737 personal and commercial vehicles were registered to drivers in the U.S. in 2021; and 91.7 percent of households had at least one vehicle that same year.³

Yet, despite the reliance on the car to commute to work or school, handle personal or other employment obligations, and travel long distances; Americans have not settled for accepting just any model of vehicle. Affordable and reliable automobiles are a hallmark demand of Americans to help them meet their transportation needs. This demand dates to the first modern motor cars when the central problem of automotive technology was reconciling the advanced design of the 1901 Mercedes with the moderate price and low operating expenses of the Olds⁴ and continues today.⁵

THE ENVIRONMENTAL PROTECTION AGENCY AND THE CLEAN AIR ACT

Title II of the Clean Air Act (CAA) addresses mobile (transportation-based) sources of air pollution emissions via the tailpipe by seeking to reduce pollutants from both on-road and nonroad vehicles (vehicle emission standards), as well as transportation (gasoline & diesel) fuel (fuel controls). It calls for air pollutant emissions standards applicable to new motor vehicles and new motor vehicle engines, as well as nonroad vehicles and nonroad engines—these address air pollutants, including particulate matter (PM), nitrous oxide (NOx), and greenhouse gases (GHGs).

Within Title II, CAA section 202 provides the Environmental Protection Agency (EPA) with the authority to set emission standards for new motor vehicles. Standards under section 202(a) take effect “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

¹ See “*Automobile History*,” History.com Editors, August 21, 2018.

² *Id.*

³ See “*Car Ownership Statistics 2023*,” Forbes, August 17, 2023.

⁴ See note 1.

⁵ See “*Worth the Watt: A Brief History of the Electric Car, 1830 to Present*,” Car and Driver, March 31, 2023.

such period.” The EPA must consider issues of technological feasibility, the cost of compliance, and lead time.⁶ The EPA also may consider other factors, including the impacts of potential standards on emissions of air pollutants and associated public health and welfare effects, impacts on the automotive industry, impacts on the vehicle purchasers/consumers, oil conservation, energy security and other energy impacts, safety, and other relevant considerations.⁷

Beginning in 2010, EPA began to interpret CAA section 202 as providing the Agency authority to regulate greenhouse gas (GHGs) emissions from cars and trucks. CAA section 202 requires the EPA administrator to prescribe “standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines,” which EPA believes “cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.” Between 2010 and the end of 2022, EPA had promulgated three rounds of GHG standards for light-duty vehicles, covering model years 2012–2026, and two rounds of GHG standards for medium- and heavy-duty trucks, covering model years 2014–2027.

On April 12, 2023, EPA announced new, more ambitious standards to reduce air pollutant emissions from light-duty and medium-duty vehicles starting with model year 2027.⁸ The proposal, published May 5, 2023, builds upon EPA’s final standards for federal greenhouse gas emissions standards for passenger cars and light trucks for model years 2023 through 2026, and the proposed standards would phase in over model years 2027 through 2032.⁹ According to EPA, these “proposed standards are projected to accelerate the transition to electric vehicles” and the Agency “projects that EVs could account for 67% of new light-duty vehicle sales and 46% of new medium-duty vehicle sales in MY 2032.”¹⁰ EPA received more than 252,400 comments on this rule and had 359 comments posted to its rulemaking docket,¹¹ including a statement from the Alliance for Automotive Innovation which called the proposal “neither reasonable nor achievable in the timeframe provided.”¹²

THE CHALLENGES OF CONVERTING THE UNITED STATES TO A LARGELY
ELECTRIC FLEET OF VEHICLES

Critical Minerals

Energy technology for electric vehicles (EVs) requires a specific mix of critical materials, including critical minerals and rare earth elements. The International Energy Agency (IEA) emphasized, “[m]inerals offer a different and distinct set of challenges, but their rising importance in a decarbonizing energy system requires energy policy makers to expand their horizons and consider potential new

⁶ See “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles,” 88 Fed. Reg. 87, May 5, 2023.

⁷ *Id.*

⁸ See “Biden-Harris Administration Proposes Strongest-Ever Pollution Standards for Cars and Trucks to Accelerate Transition to a Clean-Transportation Future,” Environmental Protection Agency, April 12, 2023.

⁹ See “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles,” 88 Fed. Reg. 87, May 5, 2023.

¹⁰ *Id.*

¹¹ See “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium Duty Vehicles: Rulemaking Docket,” Environmental Protection Agency, August 2023.

¹² See “Comment Submitted by Alliance for Automotive Innovation,” Posted by the Environmental Protection Agency, May 22, 2023.

vulnerabilities.”¹³ As production increases to meet demand, current challenges with critical mineral mining, processing, and refining will only intensify.

The United States Geological Survey’s (USGS) 2022 list of critical minerals includes 50 unique commodities, and the Energy Act of 2020 requires the Department of the Interior to update a list of critical minerals at least every three years.¹⁴ The most recent list includes aluminum, chromium, cobalt, copper, manganese, nickel, and zinc.¹⁵ The Department of Energy (DOE) defines rare earth elements as 17 elements¹⁶ that “play a critical role to our national security, energy independence, environmental future, and economic growth.”¹⁷ Sixteen of the 17 individual rare earth elements are included in the 2022 USGS list of critical minerals.¹⁸

EV batteries rely upon five critical minerals: lithium, cobalt, manganese, nickel, and graphite.¹⁹ Compared to a conventional internal combustion engine car, an electric car requires six times the mineral inputs.²⁰ Furthermore, IEA estimated that the demand for lithium will increase by 43 times by 2040.²¹

China

Critical minerals are crucial for EVs and batteries, and China dominates much of the supply chains for EV batteries. According to a recent Brookings report:

- China refines 68 percent of nickel globally, 59 percent of lithium, and 73 percent of cobalt;
- China dominates global production of battery cells, including 70 percent of cathodes, 85 percent of anodes, 66 percent of separators, and 62 percent of electrolytes;
- China has 78 percent of the world’s cell manufacturing capacity for EV batteries;
- Three-fourths of the world’s lithium-ion battery mega-factories are in China; and
- China is “the largest consumer of the minerals it refines.”²²

Meanwhile, China is unquestionably the largest emitter of greenhouse gas emissions in the world, far surpassing all other developed countries.²³ Consequently, a push for overwhelming U.S. vehicle consumers primarily with EVs, without first building out our domestic critical minerals supply chains, means we will be dependent upon China and its environmental practices.

¹³ See “*The Role of Critical Minerals in Clean Energy Transitions*,” International Energy Agency, March 2022.

¹⁴ P.L. 116–260.

¹⁵ See “*2022 Final List of Critical Minerals*,” DOI–2021–0013, Department of the Interior, U.S. Geological Survey, February 22, 2022.

¹⁶ See the list of 17 rare earth elements from the “*Report on Rare Earth Elements from Coal and Coal Byproducts*,” Department of Energy, January 2017.

¹⁷ See “*Rare Earth Elements*,” Department of Energy, April 2023.

¹⁸ *Id.*

¹⁹ See “*Critical Minerals in Electric Vehicle Batteries*,” Congressional Research Service, August 29, 2022.

²⁰ See “*The Role of Critical Minerals in Clean Energy Transitions: Mineral Requirements for Clean Energy Transitions*,” International Energy Agency, March 2022.

²¹ *Id.*

²² See “*China’s Role in Supplying Critical Minerals for the Global Energy Transition: What Could the Future Hold?*” Brookings, August 1, 2022.

²³ See “*Global Emissions*,” Center for Climate and Energy Solutions (C2ES), August 4, 2023.

Negative Environmental Impacts

The IEA has identified several negative environmental impacts associated with critical minerals production around the world, such as increased greenhouse gas emissions from mining and processing, environmental degradation due to changes in land use, pollution of the surrounding air and water resources, and waste from excavation.²⁴ Additionally, raw ores need to be processed into usable minerals for renewable technologies. In 2019, China was found to contribute 27 percent of all global greenhouse gas emissions—more than all the other nations of the earth, combined.²⁵ Moreover, to help fuel these efforts, China permitted two new coal power plants per week in 2022.²⁶

Additionally, EVs do not necessarily provide environmental benefits through reduced emissions. Over its lifetime, an EV only has lower emissions than an internal combustion engine vehicle if it travels between 28,069 and 68,160 miles and remains in service for more than 10 years—circumstances which are not being realized today.²⁷

EVs also have significant impacts on land and land use. According to Mark Mills of the Manhattan Institute, who testified before the Committee, one EV battery requires the extraction of 100,000 pounds of ore (60,000 pounds of cobalt ore, 20,000 pounds of lithium brine, 12,000 pounds of copper ore, 10,000 pounds of nickel ore, and 2,000 pounds of graphite ore).²⁸ The mining of 100,000 pounds of ore requires miners to dig up 500,000 pounds of earth—and that is just for one battery.²⁹

Human Rights Abuses

Human rights abuses are also pervasive in some of the world's largest critical minerals purveyors. For instance, 70 percent of global cobalt production, which is essential for EV batteries, occurred in the Democratic Republic of the Congo—home to more than half of worldwide cobalt reserves.³⁰ Approximately 40,000 Congolese children conduct “artisanal and small-scale mining” practices where these children search for critical minerals by digging with their hands.³¹ Forced labor (i.e., enslavement) and child labor concerns are not unique to the Congo. Lithium-ion batteries from China are considered to include inputs produced with child labor.³²

National Security Risks

Finally, national security risks cannot be ignored when considering policies that provide major economic advantages to global adversaries while simultaneously diminishing U.S. influence inter-

²⁴ See “*The Role of Critical Minerals in Clean Energy Transitions: Sustainable and Responsible Development of Minerals*,” International Energy Agency, March 2022.

²⁵ See “*New report says China emits more greenhouse gases than all other developed nations combined*,” The Hill, May 7, 2021.

²⁶ See “*China Permits Two New Coal Power Plants per Week in 2022*,” Centre for Research on Energy and Clean Air and the Global Energy Monitor, February 27, 2023.

²⁷ See *Written Testimony of Ashley Nunes*, Director, Federal Policy, Climate and Energy, The Breakthrough Institute, before the Committee on Energy and Commerce, April 26, 2023.

²⁸ See “*Electric Vehicles for Everyone? The Impossible Dream*,” Mark Mills, July 12, 2023.

²⁹ *Id.*

³⁰ See “*Mineral Commodity Summaries 2022: Cobalt*,” United States Geological Survey, 2022.

³¹ See “*The DRC Mining Industry: Child Labor and Formalization of Small-Scale Mining*,” Wilson Center, September 1, 2021.

³² See “*List of Goods Produced by Child Labor or Forced Labor*,” Department of Labor, Bureau of International Labor Affairs, September 28, 2022.

nationally and voluntarily placing major financial burdens on U.S. consumers. The IEA stressed that, “critical minerals threaten a decades-long trend of cost declines for clean energy technologies.”³³ On EVs specifically, the National Wildlife Federation emphasized that, “the fluctuating price of critical minerals can greatly affect battery price,” which in turn impacts the overall price of an EV.³⁴ The price of lithium, a key input for EV batteries, increased by 738 percent from January 2021 to March 2022.³⁵ Prices for cobalt, nickel, aluminum, and copper all significantly increased over the same time period and raised the cost of wind turbines by 9 percent and solar PV modules by 16 percent.³⁶

Geopolitical events also influence commodity pricing for critical minerals. On March 8, 2022, the London Metal Exchange suspended nickel trading after the price of the commodity doubled to over \$100,000 per ton in response to Russia’s invasion of Ukraine and coordinated sanctions by various countries.³⁷ Russia accounted for 9.3 percent of nickel production in 2021 and represented the third largest producing country.³⁸

THE U.S. VEHICLE LANDSCAPE AND U.S. CONSUMERS

As recently as 2021, data for light-duty vehicle registrations in the United States demonstrates that Americans chose a diversity of engine types and car classes to meet their needs. Specifically, 93.8 percent of these registrations were for cars powered by gasoline or ethanol/flex fuel, 0.33 percent operated on diesel or biodiesel, almost 0.02 percent were hybrid vehicles, and 0.008 percent were plug-in hybrid or battery electric vehicles.³⁹

ELECTRIC VEHICLE COSTS

American consumers are directly impacted by the cost of vehicles. According to Kelley Blue Book, the average price of an EV is \$65,291, which is \$17,197 more than the average price of an internal combustion engine vehicle.⁴⁰ Insurance for an EV is also \$44 more expensive per month or \$528 more expensive per year than insurance for gas-powered cars.⁴¹ Pricing is especially important, because access to a car is tied to improved economic outcomes for low-income households. Additionally, any Inflation Reduction Act funding intended to subsidize the final purchase price and thus the growth of EV sales among certain Americans ends in 2032 when EPA’s rule—mandating two-thirds of new motor vehicles sold be EVs—becomes fully effective.

³³ See “Critical Minerals Threaten a Decades-Long Trend of Cost Declines for Clean Energy Technologies,” International Energy Agency, May 18, 2022.

³⁴ See “Critical Minerals for Clean Energy Reference Guide,” National Wildlife Federation, 2022.

³⁵ See “Lithium prices hit record high as market pricing takes hold,” Benchmark, December 14, 2022.

³⁶ See “The Role of Critical Minerals in Clean Energy Transitions: Mineral Requirements for Clean Energy Transitions,” International Energy Agency, March 2022.

³⁷ See “LME Forced to Halt Nickel Trading, Cancel Deals, After Prices Top \$100,000,” Reuters, March 8, 2022.

³⁸ See “Distribution of Mine Production of Nickel Worldwide in 2021, by Country,” Statista, March 3, 2023.

³⁹ See, “Vehicle Registration Counts by State,” U.S. Department of Energy Office of Energy Efficiency & Renewable Energy, 2022.

⁴⁰ See “Electric Car FAQ: Your Questions Answered,” Kelley Blue Book, October 31, 2022.

⁴¹ See “Electric car insurance 2023 guide”, Policygenius, December 29, 2022.

The costs of fueling differing types of new vehicle engines has also been part of the argument in favor of having the government require EVs to flood the marketplace. Yet, a study by the Anderson Economic Group (AEG) found that trucks cost about the same to fuel and charge, while entry and midlevel cars and SUVs cost more to charge at home and in public than they do to fuel at a gas station.⁴² AEG found the cost to charge an entry-priced ICE cars and crossovers was “around \$9.78 per 100 purposeful miles,” but an entry-priced EV charged mostly at home was \$12.55 and an EV charged mostly at commercial charging stations was \$15.97.⁴³ In addition, AEG found the cost to charge mid-priced ICE cars and crossovers was “approximately \$11.08 per 100 purposeful miles,” but a mid-priced EV charged mostly at home was \$12.62, and an EV charged mostly at commercial charging stations was \$16.10.⁴⁴ In the luxury segment, consumers of electric vehicles who charged mostly at home paid around \$13.50 per 100 miles, as opposed to \$17.56 for the ICE version. Consumers of luxury electric vehicles who charged commercially paid \$17.81 per 100 miles.⁴⁵ This study was based on the latest information on gas and residential electricity prices, commercial charging prices, tax rates on fuel and electric cars, fuel economy details, and more to compare the cost of fueling versus charging for 100 miles of driving. Moreover, unlike studies that only compare gas and electricity costs, the AEG study amortized other costs, like charging installation and EV registration fees, as part of the cost of home charging, as well as time spent driving to and waiting at a station as a cost part of commercial charging.

EV consumers are faced with a myriad of hidden costs in addition to the vehicle and fuel itself. If consumers choose to install a charging station at home, J.D. Power estimates that the price could be as much as \$50,000 depending on labor and existing electric wiring.⁴⁶ Focusing on charging equipment specifically, Level 2 chargers are the most common at-home EV charging stations and cost an average of \$1,200 to \$2,500 per charger.⁴⁷ Another significant cost of EV ownership is the cost of battery replacement. If not covered under warranty, consumers would have to pay between \$5,000 and \$20,000 to replace an EV battery.⁴⁸

ELECTRIC VEHICLE FUNCTIONALITY

There is also the issue of vehicle range and functionality. An EV’s driving range and electric car mileage per charge varies, but typically drivers can expect the median of 234 miles in a single charge—factors that can affect an EV’s range, including weather, battery size, and towing weight.⁴⁹ Conversely, the median range of gasoline vehicles in the United States is 403 miles per fill-up. The Subcommittee on Environment, Manufacturing, and Critical Mate-

⁴² See “*Some Cars Cheaper to Fuel with Gas than Electric in 2023*,” Anderson Economic Group, August 1, 2023.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See “*How Much Does It Cost to Install an EV Charger?*” J.D. Power, December 11, 2022.

⁴⁷ *Id.*

⁴⁸ See “*Updated: Electric Car Battery Replacement Costs*,” Recurrent Auto, March 26, 2023.

⁴⁹ See “*FOTW #1221, January 17, 2022: Year 2021 All-Electric Vehicles Had a Median Driving Range about 60% of Gasoline Powered Vehicles*,” Vehicles Technology Office, Department of Energy, January 12, 2022.

rials received testimony from the President of the Minnesota Automobile Dealers Association (MADA) that in colder weather areas the “need to defrost and heat a vehicle can reduce the batteries range by as much as 40%”,⁵⁰ citing a study by JD Power and Plugshare that found “cold places that receive nasty winter weather...can experience significant declines in [vehicle] satisfaction.”⁵¹ The head of MADA also testified EVs having a limited towing capability—a significant problem for contractors, farmers, loggers and miners, stating “[t]owing anything with any weight to it dramatically reduces the potential vehicle range even in ideal weather conditions.”⁵² Also, there are 55,509 EV charging stations in the United States⁵³—with clusters of them around more populous areas—while the National Association of Convenience Stores reports that there are more than 150,174 fueling stations across the United States.⁵⁴

CONSUMER PREFERENCES

Echoing the testimony received by the Committee from Mr. Lambert of the Minnesota Auto Dealers Association—who stated EVs sell well to certain segments in metropolitan areas but not well outside of them—data from a study by Cox Automotive noted that consumer interest in EVs is not translating into purchases of EVs. Cox’s report found the unsold inventory of EVs in the United States grew from Memorial Day Weekend 2023 to June 26, 2023, with most EV models at more than a 100 days’ supply, which was more than twice the rate of gas-powered and hybrid vehicles.⁵⁵ The unsold inventory was 171 percent higher than what is considered “normal and ideal” for auto dealers.⁵⁶ Specifically, 90,953 EVs were sitting on dealership lots across the country during that 30-day period.⁵⁷

COMMITTEE ACTION

On June 22, 2023, the Subcommittee on Environment, Manufacturing, and Critical Materials held a hearing on H.R. 4468. The title of the hearing was “Driving Affordability: Preserving People’s Freedom to Buy Affordable Vehicles and Fuel.” The Subcommittee received testimony from:

- Joseph Goffman, Principal Deputy Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency;
- Chet Thompson, President and CEO, American Fuel and Petrochemical Manufacturers;
- Neil Caskey, CEO, National Corn Growers Association;
- Scott Lambert, President, Minnesota Auto Dealers Association; and,
- Genevieve Cullen, President, Electric Drive Transportation Association.

⁵⁰ See *Written Testimony of Scott Lambert*, President, Minnesota Automobile Dealers Association, before the Committee on Energy and Commerce, June 22, 2023.

⁵¹ *Id.*

⁵² *Id.*

⁵³ See “*Electric Vehicle Charging Station Locations*,” Office of Energy Efficiency and Renewable Energy, Department of Energy, August 21, 2023.

⁵⁴ See “*U.S. Convenient Store Count*,” National Association of Convenience Stores, February 2023.

⁵⁵ See “*Path to EV Adoption: Consumer and Dealer Perspectives*,” Cox Automotive, June 2023.

⁵⁶ *Id.*

⁵⁷ *Id.*

On July 12, 2023, the Subcommittee on Environment, Manufacturing, and Critical Materials met in open markup session and forwarded H.R. 4468, without amendment, to the full Committee by a record vote of 12 yeas and 7 nays.

On July 27, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 4468, without amendment, favorably reported to the House by a record vote of 27 yeas and 23 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 7

BILL: H.R. 4468, the Choice in Automobile Retail Sales Act of 2023

AMENDMENT: An amendment, offered by Rep. Clarke, No. 1, would condition the effective date upon certifying that the Act will not harm public health.

DISPOSITION: NOT AGREED TO, by a roll call vote of 23 yeas to 25 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers		X		Rep. Pallone	X		
Rep. Burgess		X		Rep. Eshoo	X		
Rep. Latta		X		Rep. DeGette	X		
Rep. Guthrie		X		Rep. Schakowsky	X		
Rep. Griffith		X		Rep. Matsui	X		
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes	X		
Rep. Bucshon		X		Rep. Tonko	X		
Rep. Hudson				Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter				Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer		X		Rep. Dingell	X		
Rep. Dunn		X		Rep. Veasey	X		
Rep. Curtis		X		Rep. Kuster	X		
Rep. Lesko		X		Rep. Kelly	X		
Rep. Pence		X		Rep. Barragán	X		
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto	X		
Rep. Armstrong		X		Rep. Craig	X		
Rep. Weber		X		Rep. Schrier	X		
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher	X		
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeke							
Rep. Cammack		X					
Rep. Obernolte							

COMMITTEE ON ENERGY AND COMMERCE
 118TH CONGRESS
 ROLL CALL VOTE # 8

BILL: H.R. 4468, the Choice in Automobile Retail Sales Act of 2023

AMENDMENT: An amendment, offered by Rep. Dingell, No. 2, would strike the limited availability provision.

DISPOSITION: NOT AGREED TO, by a roll call vote of 23 yeas to 27 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers		X		Rep. Pallone	X		
Rep. Burgess		X		Rep. Eshoo	X		
Rep. Latta		X		Rep. DeGette	X		
Rep. Guthrie		X		Rep. Schakowsky	X		
Rep. Griffith		X		Rep. Matsui	X		
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes	X		
Rep. Bucshon		X		Rep. Tonko	X		
Rep. Hudson				Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter		X		Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer		X		Rep. Dingell	X		
Rep. Dunn		X		Rep. Veasey	X		
Rep. Curtis		X		Rep. Kuster	X		
Rep. Lesko		X		Rep. Kelly	X		
Rep. Pence		X		Rep. Barragán	X		
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto	X		
Rep. Armstrong		X		Rep. Craig	X		
Rep. Weber		X		Rep. Schrier	X		
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher	X		
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeks							
Rep. Cammack		X					
Rep. Obernolte		X					

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 9

BILL: H.R. 4468, the Choice in Automobile Retail Sales Act of 2023

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 4468 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: **AGREED TO**, by a roll call vote of 27 yeas to 23 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson				Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn	X			Rep. Veasey		X	
Rep. Curtis	X			Rep. Kuster		X	
Rep. Lesko	X			Rep. Kelly		X	
Rep. Pence	X			Rep. Barragán		X	
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce	X			Rep. Soto		X	
Rep. Armstrong	X			Rep. Craig		X	
Rep. Weber	X			Rep. Schrier		X	
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher		X	
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks							
Rep. Cammack	X						
Rep. Obenolte	X						

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 4468 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to prohibit the Administrator of EPA from finalizing, implementing, or enforcing a regulation with respect to emissions from light-duty and medium-duty vehicles starting with model year 2027; to prevent EPA from mandating the use of a specific technology in new motor vehicles or issuing rules that result in limited availability of vehicles to end-use consumers based upon the engine in that vehicle; and to preserve American automobile manufacturing and protect access for American consumers to choose affordable, reliable, and functional automobiles for their needs.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 4468 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII,
(1) the following related hearing was used to develop or consider H.R. 4468:

- On June 22, 2023, the Subcommittee on Environment, Manufacturing, and Critical Materials held a hearing on H.R. 4468. The title of the hearing is “Driving Affordability: Preserving People’s Freedom to Buy Affordable Vehicles and Fuel.” The Subcommittee received testimony from:

- Joseph Goffman, Principal Deputy Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency;
 - Chet Thompson, President and CEO, American Fuel and Petrochemical Manufacturers;
 - Neil Caskey, CEO, National Corn Growers Association;
 - Scott Lambert, President, Minnesota Auto Dealers Association; and,
 - Genevieve Cullen, President, Electric Drive Transportation Association.
- (2) The following related hearing was held:
- On April 26, 2023, the Subcommittee on Environment, Manufacturing, and Critical Materials held a hearing entitled, “Exposing the Environmental, Human Rights, and National Security Risks of the Biden Administration’s Rush to Green Policies.” The Subcommittee received testimony from:
 - Mark Mills, Senior Fellow, Manhattan Institute;
 - Ashley Nunes, Director of Federal Policy, Climate, and Energy, Breakthrough Institute;
 - Daniel Simmons, Vice President for Policy, Institute for Energy Research; and,
 - Trevor Higgins, Senior Vice President, Energy and Environment, Center for American Progress.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4468 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides the short title of the “Choice in Automobile Retail Sales Act of 2023.”

Section 2. Prohibition against finalizing, implementing, or enforcing a proposed rule with respect to emissions from vehicles

Section 2 prohibits the EPA from finalizing, implementing, or enforcing its proposed rule titled “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles” that was published in the Federal Register on May 5, 2023.

Section 3. Ensuring tailpipe regulations do not limit the availability of new motor vehicles.

Section 3(a) amends CAA section 202(a)(2) to prevent any regulations issued under Clean Air Act section 202(a)(1), including those promulgated prior to the date of enactment of H.R. 4468, from mandating the use of any specific technology. While the term “mandate” is not defined by H.R. 4468, the Committee adopts the bill sponsor’s view that mandate means to make something necessary or officially require someone to do something. During the full committee markup, the bill’s sponsor stated he believed this prohibition included “drafting a standard in such a way that [it] knows only one technology can meet it.” Based upon this intent, a rule like EPA’s “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles” is a mandate to sell electric vehicles. In addition, the Committee acknowledges that the term “technology” is both singular and plural and the use of the term “specific” narrows the broadness of the type of technology subject to the ban or prohibition.

Section 3(a) also prevents EPA from issuing regulations under CAA section 202(a)(1) that result in the limited availability of new motor vehicles based on that vehicle’s engine type. The Committee intends that “limited availability” is specific to the ultimate consumer of the vehicle whose choice in vehicle is most impacted by this limited availability. The Committee does not believe that regulations resulting in the availability of unaffordable or unreliable vehicles or vehicles lacking functionality for the ultimate consumer’s needs satisfactorily meets the requirement to avoid creating an environment with limited availability.

The Committee believes that the two prohibitions in section 3(a) will reinforce American automobile consumers’ ability to have access to affordable, reliable, and functional vehicles that meet their needs. The Committee does not believe these requirements on EPA authority prevent EPA from controlling air pollution from vehicles that endangers public health or welfare, but rather cabins any impulse by government to control the commercial marketplace for ideological reasons. The free-enterprise system in the United States has not only been a tremendous engine for domestic innovation and American leadership in new products, but it is also predicated on consumers’ needs being willingly met; the Committee does not wish those benefits to be curtailed.

Section 3(b) gives EPA two years to update any regulations issued, before the date of enactment of H.R. 4468, under CAA section 202(a)(1), to remove mandates on the use of a specific technology or correct rules that result in the limited availability of new vehicles based upon that vehicle’s engine.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CLEAN AIR ACT

* * * * *

TITLE II—EMISSION STANDARDS FOR MOVING SOURCES

* * * * *

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

ESTABLISHMENT OF STANDARDS

SEC. 202. (a) Except as otherwise provided in subsection (b)—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d), relating to useful life of vehicles for purposes of certification), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

[(2) Any regulation] (2) (A) *Any regulation* prescribed under paragraph (1) of this subsection (and any revision thereof) shall take effect 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.

(B) *Effective beginning on the date of enactment of this subparagraph, any regulation prescribed under paragraph (1) (and any revision thereof), including any such regulation or revision prescribed before the date of enactment of this subparagraph, shall not—*

(i) mandate the use of any specific technology; or

(ii) result in limited availability of new motor vehicles based on the type of new motor vehicle engine in such new motor vehicles.

(3)(A) IN GENERAL—(i) Unless the standard is changed as provided in subparagraph (B), regulations under paragraph (1) of this subsection applicable to emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter from classes or categories of heavy-duty vehicles or engines manufactured during or after model year 1983 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Ad-

ministrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.

(ii) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, type of fuel used or other appropriate factors.

(B) REVISED STANDARDS FOR HEAVY DUTY TRUCKS.—(i) On the basis of information available to the Administrator concerning the effects of air pollutants emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare, and taking costs into account, the Administrator may promulgate regulations under paragraph (1) of this subsection revising any standard promulgated under, or before the date of, the enactment of the Clean Air Act Amendments of 1990 (or previously revised under this subparagraph) and applicable to classes or categories of heavy-duty vehicles or engines.

(ii) Effective for the model year 1998 and thereafter, the regulations under paragraph (1) of this subsection applicable to emissions of oxides of nitrogen (NO_x) from gasoline and diesel-fueled heavy duty trucks shall contain standards which provide that such emissions may not exceed 4.0 grams per brake horsepower hour (gbh).

(C) LEAD TIME AND STABILITY.—Any standard promulgated or revised under this paragraph and applicable to classes or categories of heavy-duty vehicles or engines shall apply for a period of no less than 3 model years beginning no earlier than the model year commencing 4 years after such revised standard is promulgated.

(D) REBUILDING PRACTICES.—The Administrator shall study the practice of rebuilding heavy-duty engines and the impact rebuilding has on engine emissions. On the basis of that study and other information available to the Administrator, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past its statutory useful life), which in the Administrator's judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account. Any regulation shall take effect after a period the Administrator finds necessary to permit the development and application of the requisite control measures, giving appropriate consideration to the cost of compliance within the period and energy and safety factors.

(E) MOTORCYCLES.—For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines (except as otherwise permitted under section 206(f)(1)) unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants

from motorcycles as a separate class or category. In any case in which such standards are promulgated for such emissions from motorcycles as a separate class or category, the Administrator, in promulgating such standards, shall consider the need to achieve equivalency of emission reductions between motorcycles and other motor vehicles to the maximum extent practicable.

(4)(A) Effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with requirements prescribed under this title if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to requirements prescribed under this title without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.

(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall, after consultation with the Secretary of Transportation with respect to motor vehicle safety, prescribe, by regulation, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which the Administrator determines may be required to comply with such vapor recovery regulations. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum pipe or nozzle insertion angle, and such other factors as he deems pertinent.

(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate leadtime for design and production.

(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configu-

ration, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

(D) For the purpose of this paragraph, the term "fill pipe" shall include the fuel tank fill pipe, fill neck, fill inlet, and closure.

(6) ONBOARD VAPOR RECOVERY.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, after consultation with the Secretary of Transportation regarding the safety of vehicle-based ("on-board") systems for the control of vehicle refueling emissions, promulgate standards under this section requiring that new light-duty vehicles manufactured beginning in the fourth model year after the model year in which the standards are promulgated and thereafter shall be equipped with such systems. The standards required under this paragraph shall apply to a percentage of each manufacturer's fleet of new light-duty vehicles beginning with the fourth model year after the model year in which the standards are promulgated. The percentage shall be as specified in the following table:

IMPLEMENTATION SCHEDULE FOR ONBOARD VAPOR RECOVERY REQUIREMENTS

Model year commencing after standards promulgated	Percentage *
Fourth	40
Fifth	80
After Fifth	100

*Percentages in the table refer to a percentage of the manufacturer's sales volume.

The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent. The requirements of section 182(b)(3) (relating to stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards and the Administrator may, by rule, revise or waive the application of the requirements of such section 182(b)(3) for areas classified under section 181 as Serious, Severe, or Extreme for ozone, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this paragraph are in widespread use throughout the motor vehicle fleet.

(b)(1)(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15.0 grams per vehicle mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during the model year 1980 shall contain standards which provide that such emissions may not exceed 7.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 percent from emis-

sions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970. Unless waived as provided in paragraph (5), regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during or after the model year 1981 shall contain standards which require a reduction of at least 90 percent from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during the model year 1981 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 gram per vehicle mile. The Administrator shall prescribe standards in lieu of those required by the preceding sentence which provide that emissions of oxides of nitrogen may not exceed 2.0 grams per vehicle mile for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer whose production, by corporate identity, for calendar year 1976 was less than three hundred thousand light-duty motor vehicles worldwide if the Administrator determines that—

(i) the ability of such manufacturer to meet emission standards in the 1975 and subsequent model years was, and is, primarily dependent upon technology developed by other manufacturers and purchased from such manufacturers; and

(ii) such manufacturer lacks the financial resources and technological ability to develop such technology.

(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare, taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard. It is the intent of Congress that the numerical emission standards specified in subsections (a)(3)(B)(ii), (g), (h), and (i) shall not be modified by the Administrator after the enactment of the Clean Air Act Amendments of 1990 for any model year before the model year 2004.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of the enactment of the Clean Air Act Amendments of 1990), shall be promulgated by regulation within 180 days after such date.

(3) For purposes of this part—

(A)(i) The term “model year” with reference to any specific calendar year means the manufacturer’s annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no an-

nual production period, the term "model year" shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining "model year" otherwise than as provided in clause (i).

(C) The term "heavy duty vehicle" means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.

(3) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles or engines manufactured by such manufacturer during any period of up to four model years beginning after the model year 1980 if the manufacturer demonstrates that such waiver is necessary to permit the use of an innovative power train technology, or innovative emission control device or system, in such class or category of vehicles or engines and that such technology or system was not utilized by more than 1 percent of the light-duty vehicles sold in the United States in the 1975 model year. Such waiver may be granted only if the Administrator determines—

(A) that such waiver would not endanger public health,

(B) that there is a substantial likelihood that the vehicles or engines will be able to comply with the applicable standard under this section at the expiration of the waiver, and

(C) that the technology or system has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act upon the expiration of the waiver.

No waiver under this subparagraph granted to any manufacturer shall apply to more than 5 percent of such manufacturer's production or more than fifty thousand vehicles or engines, whichever is greater.

(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized

by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 207. Such regulations shall provide that except where a different useful life period is specified in this title useful life shall—

(1) in the case of light duty vehicles and light duty vehicle engines and light-duty trucks up to 3,750 lbs. LVW and up to 6,000 lbs. GVWR, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs, except that in the case of any requirement of this section which first becomes applicable after the enactment of the Clean Air Act Amendments of 1990 where the useful life period is not otherwise specified for such vehicles and engines, the period shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs, with testing for purposes of in-use compliance under section 207 up to (but not beyond) 7 years or 75,000 miles (or the equivalent), whichever first occurs;

(2) in the case of any other motor vehicle or motor vehicle engine (other than motorcycles or motorcycle engines) be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate; and

(3) in the case of any motorcycle or motorcycle engine, be a period of use the Administrator shall determine.

(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which in his judgment cause or contribute to, air pollution which may reasonably be anticipated to endanger the public health or welfare but for which standards have not been prescribed under subsection (a).

(f)(1) The high altitude regulation in effect with respect to model year 1977 motor vehicles shall not apply to the manufacture, distribution, or sale of 1978 and later model year motor vehicles. Any future regulation affecting the sale or distribution of motor vehicles or engines manufactured before the model year 1984 in high altitude areas of the country shall take effect no earlier than model year 1981.

(2) Any such future regulation applicable to high altitude vehicles or engines shall not require a percentage of reduction in the emissions of such vehicles which is greater than the required percentage of reduction in emissions from motor vehicles as set forth in section 202(b). This percentage reduction shall be determined by comparing any proposed high altitude emission standards to high altitude emissions from vehicles manufactured during model year 1970. In no event shall regulations applicable to high altitude vehicles manufactured before the model year 1984 establish a numerical standard which is more stringent than that applicable to vehicles certified under non-high altitude conditions.

(3) Section 307(d) shall apply to any high altitude regulation referred to in paragraph (2) and before promulgating any such regulation, the Administrator shall consider and make a finding with respect to—

(A) the economic impact upon consumers, individual high altitude dealers, and the automobile industry of any such regulation, including the economic impact which was experienced as a result of the regulation imposed during model year 1977 with respect to high altitude certification requirements;

(B) the present and future availability of emission control technology capable of meeting the applicable vehicle and engine emission requirements without reducing model availability; and

(C) the likelihood that the adoption of such a high altitude regulation will result in any significant improvement in air quality in any area to which it shall apply.

(f) MODEL YEARS AFTER 1990.—For model years prior to model year 1994, the regulations under section 202(a) applicable to buses other than those subject to standards under section 219 shall contain a standard which provides that emissions of particulate matter (PM) from such buses may not exceed the standards set forth in the following table:

PM STANDARD FOR BUSES	
Model year	Standard *
1991	0.25
1992	0.25
1993 and thereafter	0.10

*Standards are expressed in grams per brake horsepower hour (g/bhp/hr).

(g) LIGHT-DUTY TRUCKS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES; STANDARDS FOR MODEL YEARS AFTER 1993.—

(1) NMHC, CO, AND NO_x.—Effective with respect to the model year 1994 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), carbon monoxide (CO), and oxides of nitrogen (NO_x) from light-duty trucks (LDTs) of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles (LDVs) shall contain standards which provide that emissions from a percentage of each manufacturer's sales volume of such vehicles and trucks shall comply with the levels specified in table G. The percentage shall be as specified in the implementation schedule below:

TABLE G—EMISSION STANDARDS FOR NMHC, CO, AND NO_x FROM LIGHT-DUTY TRUCKS OF UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Vehicle type	Column A			Column B		
	(5 yrs/50,000 mi)			(10 yrs/100,000 mi)		
	NMHC	CO	NO _x	NMHC	CO	NO _x
LDTs (0–3,750 lbs. LVW) and light-duty vehicles	0.25	3.4	0.4*	0.31	4.2	0.6*
LDTs (3,751–5,750 lbs. LVW)	0.32	4.4	0.7**	0.40	5.5	0.97

Standards are expressed in grams per mile (gpm).

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs.

*In the case of diesel-fueled LDTs (0–3,750 LVW) and light-duty vehicles, before the model year 2004, in lieu of the 0.4 and 0.6 standards for NO_x, the applicable standards for NO_x shall be 1.0 gpm for a useful life of 5 years or 50,000 miles (or the equivalent), whichever first occurs, and 1.25 gpm for a useful life of 10 years or 100,000 miles (or the equivalent) whichever first occurs.

**This standard does not apply to diesel-fueled LDTs (3,751–5,750 lbs. LVW).

IMPLEMENTATION SCHEDULE FOR TABLE G STANDARDS

Model year	Percentage *
1994	40
1995	80
after 1995	100

*Percentages in the table refer to a percentage of each manufacturer’s sales volume.

(2) PM STANDARD.—Effective with respect to model year 1994 and thereafter in the case of light-duty vehicles, and effective with respect to the model year 1995 and thereafter in the case of light-duty trucks (LDTs) of up to 6,000 lbs. gross vehicle weight rating (GVWR), the regulations under subsection (a) applicable to emissions of particulate matter (PM) from such vehicles and trucks shall contain standards which provide that such emissions from a percentage of each manufacturer’s sales volume of such vehicles and trucks shall not exceed the levels specified in the table below. The percentage shall be as specified in the Implementation Schedule below.

PM STANDARD FOR LDTs OF UP TO 6,000 LBS. GVWR

Useful life period	Standard
5/50,000	0.08 gpm
10/100,000	0.10 gpm

The applicable useful life, for purposes of certification under section 206 and for purposes of in-use compliance under section 207, shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs, in the case of the 5/50,000 standard.

The applicable useful life, for purposes of certification under section 206 and for purposes of in-use compliance under section 207, shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs in the case of the 10/100,000 standard.

Model year	Light-duty vehicles	LDTs
1994	40%*	
1995	80%*	40%*
1996	100%*	80%*
after 1996	100%*	100%*

*Percentages in the table refer to a percentage of each manufacturer's sales volume.

(h) LIGHT-DUTY TRUCKS OF MORE THAN 6,000 LBS. GVWR; STANDARDS FOR MODEL YEARS AFTER 1995.—Effective with respect to the model year 1996 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), carbon monoxide (CO), oxides of nitrogen (NO_x), and particulate matter (PM) from light-duty trucks (LDTs) of more than 6,000 lbs. gross vehicle weight rating (GVWR) shall contain standards which provide that emissions from a specified percentage of each manufacturer's sales volume of such trucks shall comply with the levels specified in table H. The specified percentage shall be 50 percent in model year 1996 and 100 percent thereafter.

TABLE H—EMISSION STANDARDS FOR NMHC AND CO FROM GASOLINE AND DIESEL FUELED LIGHT-DUTY TRUCKS OF MORE THAN 6,000 LBS. GVWR

LDT Test weight	Column A			Column B			
	(5 yrs/50,000 mi)			(11 yrs/120,000 mi)			
	NMHC	CO	NO _x	NMHC	CO	NO _x	PM
3,751–5,750 lbs. TW	0.32	4.4	0.7*	0.46	6.4	0.98	0.10
Over 5,750 lbs. TW	0.39	5.0	1.1*	0.56	7.3	1.53	0.12

Standards are expressed in grams per mile (GPM).

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent) whichever first occurs.

For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 11 years or 120,000 miles (or the equivalent), whichever first occurs.

*Not applicable to diesel-fueled LDTs.

(i) PHASE II STUDY FOR CERTAIN LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS.—(1) The Administrator, with the participation of the Office of Technology Assessment, shall study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required pursuant to this title. The study shall consider whether to establish with respect to model years commencing after January 1, 2003, the standards and useful life period for gasoline and diesel-fueled light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less specified in the following table:

TABLE 3—PENDING EMISSION STANDARDS FOR GASOLINE AND DIESEL FUELED LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS 3,750 LBS. LVW OR LESS

Pollutant	Emission level *
NMHC	0.125 GPM
NO _x	0.2 GPM

TABLE 3—PENDING EMISSION STANDARDS FOR GASOLINE AND DIESEL FUELED LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS 3,750 LBS. LVW OR LESS—CONTINUED

Pollutant	Emission level *
CO	1.7 GPM

*Emission levels are expressed in grams per mile (GPM). For vehicles and engines subject to this subsection for purposes of section 202(d) and any reference thereto, the useful life of such vehicles and engines shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs.

Such study shall also consider other standards and useful life periods which are more stringent or less stringent than those set forth in table 3 (but more stringent than those referred to in subsections (g) and (h)).

(2)(A) As part of the study under paragraph (1), the Administrator shall examine the need for further reductions in emissions in order to attain or maintain the national ambient air quality standards, taking into consideration the waiver provisions of section 209(b). As part of such study, the Administrator shall also examine—

(i) the availability of technology (including the costs thereof), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for meeting more stringent emission standards than those provided in subsections (g) and (h) for model years commencing not earlier than after January 1, 2003, and not later than model year 2006, including the lead time and safety and energy impacts of meeting more stringent emission standards; and

(ii) the need for, and cost effectiveness of, obtaining further reductions in emissions from such light-duty vehicles and light-duty trucks, taking into consideration alternative means of attaining or maintaining the national primary ambient air quality standards pursuant to State implementation plans and other requirements of this Act, including their feasibility and cost effectiveness.

(B) The Administrator shall submit a report to Congress no later than June 1, 1997, containing the results of the study under this subsection, including the results of the examination conducted under subparagraph (A). Before submittal of such report the Administrator shall provide a reasonable opportunity for public comment and shall include a summary of such comments in the report to Congress.

(3)(A) Based on the study under paragraph (1) the Administrator shall determine, by rule, within 3 calendar years after the report is submitted to Congress, but not later than December 31, 1999, whether—

(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003 and not

later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii).

The rulemaking under this paragraph shall commence within 3 months after submission of the report to Congress under paragraph (2)(B).

(B) If the Administrator determines under subparagraph (A) that—

(i) there is no need for further reductions in emissions as provided in paragraph (2)(A);

(ii) the technology for meeting more stringent emission standards will not be available as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); or

(iii) obtaining further reductions in emissions from such vehicles will not be needed or cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall not promulgate more stringent standards than those in effect pursuant to subsections (g) and (h). Nothing in this paragraph shall prohibit the Administrator from exercising the Administrator's authority under subsection (a) to promulgate more stringent standards for light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less at any other time thereafter in accordance with subsection (a).

(C) If the Administrator determines under subparagraph (A) that—

(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall either promulgate the standards (and useful life periods) set forth in Table 3 in paragraph (1) or promulgate alternative standards (and useful life periods) which are more stringent than those referred to in subsections (g) and (h). Any such standards (or useful life periods) promulgated by the Administrator shall take effect with respect to any such vehicles or engines no earlier than the model year 2003 but not later than model year 2006, as determined by the Administrator in the rule.

(D) Nothing in this paragraph shall be construed by the Administrator or by a court as a presumption that any standards (or useful life period) set forth in Table 3 shall be promulgated in the rulemaking required under this paragraph. The action required of the

Administrator in accordance with this paragraph shall be treated as a nondiscretionary duty for purposes of section 304(a)(2) (relating to citizen suits).

(E) Unless the Administrator determines not to promulgate more stringent standards as provided in subparagraph (B) or to postpone the effective date of standards referred to in Table 3 in paragraph (1) or to establish alternative standards as provided in subparagraph (C), effective with respect to model years commencing after January 1, 2003, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), oxides of nitrogen (NO_x), and carbon monoxide (CO) from motor vehicles and motor vehicle engines in the classes specified in Table 3 in paragraph (1) above shall contain standards which provide that emissions may not exceed the pending emission levels specified in Table 3 in paragraph (1).

(j) COLD CO STANDARD.—

(1) PHASE I.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) of this section applicable to emissions of carbon monoxide from 1994 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. The regulations shall contain standards which provide that emissions of carbon monoxide from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile, and in the case of light-duty trucks, a level comparable in stringency to the standard applicable to light-duty vehicles. The standards shall take effect after model year 1993 according to a phase-in schedule which requires a percentage of each manufacturer's sales volume of light-duty vehicles and light-duty trucks to comply with applicable standards after model year 1993. The percentage shall be as specified in the following table:

PHASE-IN SCHEDULE FOR COLD START STANDARDS

Model Year	Percentage
1994	40
1995	80
1996 and after	100

(2) PHASE II.—(A) Not later than June 1, 1997, the Administrator shall complete a study assessing the need for further reductions in emissions of carbon monoxide and the maximum reductions in such emissions achievable from model year 2001 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit.

(B)(i) If as of June 1, 1997, 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the regulations under subsection (a)(1) of this section applicable to emissions of carbon monoxide from model year 2002 and later model year light-duty vehicles and light-duty trucks shall contain standards which provide that emissions of carbon monoxide from such vehicles and trucks when operated at 20 degrees Fahrenheit may not exceed 3.4 grams per mile (gpm) in the case of light-duty vehicles and 4.4 grams per mile (gpm) in

the case of light-duty trucks up to 6,000 GVWR and a level comparable in stringency in the case of light-duty trucks 6,000 GVWR and above.

(ii) In determining for purposes of this subparagraph whether 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the Administrator shall exclude the areas of Steubenville, Ohio, and Oshkosh, Wisconsin.

(3) USEFUL-LIFE FOR PHASE I AND PHASE II STANDARDS.—In the case of the standards referred to in paragraphs (1) and (2), for purposes of certification under section 206 and in-use compliance under section 207, the applicable useful life period shall be 5 years or 50,000 miles, whichever first occurs, except that the Administrator may extend such useful life period (for purposes of section 206, or section 207, or both) if he determines that it is feasible for vehicles and engines subject to such standards to meet such standards for a longer useful life. If the Administrator extends such useful life period, the Administrator may make an appropriate adjustment of applicable standards for such extended useful life. No such extended useful life shall extend beyond the useful life period provided in regulations under subsection (d).

(4) HEAVY-DUTY VEHICLES AND ENGINES.—The Administrator may also promulgate regulations under subsection (a)(1) applicable to emissions of carbon monoxide from heavy-duty vehicles and engines when operated at cold temperatures.

(k) CONTROL OF EVAPORATIVE EMISSIONS.—The Administrator shall promulgate (and from time to time revise) regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles—

- (1) during operation; and
- (2) over 2 or more days of nonuse;

under ozone-prone summertime conditions (as determined by regulations of the Administrator). The regulations shall take effect as expeditiously as possible and shall require the greatest degree of emission reduction achievable by means reasonably expected to be available for production during any model year to which the regulations apply, giving appropriate consideration to fuel volatility, and to cost, energy, and safety factors associated with the application of the appropriate technology. The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If final regulations are not promulgated under this subsection within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after the expiration of such 18 month deadline.

(l) MOBILE SOURCE-RELATED AIR TOXICS.—

(1) STUDY.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels, and the need for, and feasibility of,

controlling such emissions and the means and measures for such controls. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1, 3 butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

(2) STANDARDS.—Within 54 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on the study under paragraph (1), promulgate (and from time to time revise) regulations under subsection (a)(1) or section 211(c)(1) containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall contain standards for such fuels or vehicles, or both, which the Administrator determines reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors, and lead time. Such regulations shall not be inconsistent with standards under section 202(a). The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.

(m) EMISSIONS CONTROL DIAGNOSTICS.—

(1) REGULATIONS.—Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostics systems capable of—

(A) accurately identifying for the vehicle's useful life as established under this section, emission-related systems deterioration or malfunction, including, at a minimum, the catalytic converter and oxygen sensor, which could cause or result in failure of the vehicles to comply with emission standards established under this section,

(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

(C) storing and retrieving fault codes specified by the Administrator, and

(D) providing access to stored information in a manner specified by the Administrator.

The Administrator may, in the Administrator's discretion, promulgate regulations requiring manufacturers to install such onboard diagnostic systems on heavy-duty vehicles and engines.

(2) EFFECTIVE DATE.—The regulations required under paragraph (1) of this subsection shall take effect in model year 1994, except that the Administrator may waive the application of such regulations for model year 1994 or 1995 (or both) with respect to any class or category of motor vehicles if the Administrator determines that it would be infeasible to apply the regulations to that class or category in such model year or years, consistent with corresponding regulations or policies adopted by the California Air Resources Board for such systems.

(3) STATE INSPECTION.—The Administrator shall by regulation require States that have implementation plans containing motor vehicle inspection and maintenance programs to amend their plans within 2 years after promulgation of such regulations to provide for inspection of onboard diagnostics systems (as prescribed by regulations under paragraph (1) of this subsection) and for the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems. Such regulations shall not be inconsistent with the provisions for warranties promulgated under section 207(a) and (b).

(4) SPECIFIC REQUIREMENTS.—In promulgating regulations under this subsection, the Administrator shall require—

(A) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

(B) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

(C) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any unique decoding information or device.

(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require (subject to the provisions of section 208(c) regarding the protection of methods or processes entitled to protection as trade secrets) manufacturers to provide promptly to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, and the Administrator for use by any such persons, with any and all information needed to make use of the emission control diagnostics system prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs. No such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Such information shall also be available to the Administrator, subject to section 208(c), in carrying out the Administrator's responsibilities under this section.

* * * * *

MINORITY VIEWS

We oppose H.R. 4468, legislation to prohibit the Administrator of the Environmental Protection Agency (EPA) from finalizing the proposed rule on Multi-Pollutant Emissions Standards beginning in Model Year 2027.¹ This bill puts in place far-reaching and ill-defined requirements for any future vehicle emissions standard, effectively blocking EPA from ever regulating tailpipe emissions from the transportation sector. H.R. 4468 is a direct attack on the current and expected future success of our domestic vehicle manufacturing industry.

BACKGROUND

The Clean Air Act (CAA) is both explicit and clear in giving EPA the authority and obligation to protect Americans from dangerous pollution, including from the transportation sector. Under Section 202 of the CAA, Congress directed EPA to set vehicle emissions standards for new motor vehicles. These standards were intended to drive technological innovation, which they have historically done. The transportation sector is currently the largest contributor of greenhouse gas (GHG) emissions at 28 percent of total pollution in the United States (US).² The vast majority of this pollution comes from burning fossil fuels for cars, trucks, ships, trains, and planes.

Currently, almost 120 million people across the US live in places with unhealthy levels of ozone or particle pollution, which is more than one-third of Americans, with children, the elderly, low-income communities, and communities of color being disproportionately impacted.³ Health risks associated with exposure to air pollution from roadway traffic include higher rates of asthma onset and aggravation, cardiovascular disease, impaired lung development in children, pre-term and low-birthweight infants, and childhood leukemia.⁴ These health impacts have grave consequences, as air pollution is associated with over 100,000 premature deaths in the US every year, making EPA's ability to adequately control pollution from the transportation even more imperative.⁵

¹ Environmental Protection Agency, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 88 Fed. Reg. 29184 (May 5, 2023) (proposed rule).

² Environmental Protection Agency, *Sources of Greenhouse Gas Emissions* (Aug. 25, 2023) ([www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#:~:text=Transportation%20\(28%25%20of%202021%20greenhouse,ships%2C%20trains%2C%20and%20planes.\)](https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#:~:text=Transportation%20(28%25%20of%202021%20greenhouse,ships%2C%20trains%2C%20and%20planes.))).

³ American Lung Association, *1 in 3 People Breathe Unhealthy Air: New Report Finds* (May 2, 2023) (www.lung.org/blog/sota-report-unhealthy-air#:~:text=The%20report%20finds%20that%2017.6,of%20ozone%20or%20particle%20pollution.).

⁴ Environmental Protection Agency, *Learn About How Mobile Source Pollution Affects Your Health* (May 18, 2023) (www.epa.gov/mobile-source-pollution/learn-about-how-mobile-source-pollution-affects-your-health).

⁵ Proceedings of the National Academy of Sciences, *Fine-Scale Damage Estimates of Particulate Matter Air Pollution Reveal Opportunities for Location-Specific Mitigation of Emissions* (Apr. 8, 2019).

To that end, EPA recently proposed ambitious new standards for light-, medium-, and heavy-duty vehicles that will advance the transition to a clean transportation future.⁶ These standards are achievable, will save consumers money, bolster our economy by promoting American manufacturing, and reduce our dependence on foreign oil. During a Subcommittee on Environment, Manufacturing, and Critical Materials legislative hearing on H.R. 4468, EPA testified that the proposed standards would avoid 7.3 billion tons of carbon dioxide emissions through 2055.⁷ Additionally, between 2027 and 2055, the proposed standards' net benefits are projected to reach up to \$1.6 trillion and would save the average consumer \$12,000 over the lifetime of the vehicle.⁸ The proposed standards are also expected to deliver significant health benefits, including fewer cases of premature death, heart attacks, aggravated asthma, cancer, and heart disease.

The Majority's argument that the standards are a mandate to sell electric vehicles (EVs) is wholly false. As with all previous vehicle rules, EPA's proposed standards are performance based, allowing companies to choose the mix of clean technologies best suited for their fleets. The proposal recognizes significant changes in the US vehicle market, like auto manufactures independently moving production toward EVs because of their increasing popularity with consumers. For instance, Honda has a goal of 100 percent zero emission electrified vehicle sales in North America by 2040 and Rivian is investing \$5 billion, in addition to \$1.5 billion in public funding, to build an EV factory in Georgia.⁹

During consideration of H.R. 4468, the Majority presented several unfounded or misleading anti-EV claims that we seek to correct.

First, EPA's proposed vehicle standards are not part of a scheme for China to control America's automotive future—the reality is quite the opposite. China currently controls a significant portion of the EV market share and of the global EV supply chain, which is precisely why the US must continue to leverage the power of the federal government—like the authority the CAA affords the EPA—to drive innovation, secure supply chains, and expand the domestic vehicle manufacturing industry. This strategy is already working. The Bipartisan Infrastructure Law invested \$7 billion in EV battery components, including critical minerals, which are already creating new, middle-class jobs in American battery manufacturing in the US and reducing our dependence on foreign supply chains.¹⁰ By

⁶Environmental Protection Agency, *Biden-Harris Administration Proposes Strongest-Ever Pollution Standards for Cars and Trucks to Accelerate Transition to a Clean-Transportation Future* (Apr. 12, 2023) (press release).

⁷House Committee on Energy and Commerce, *Hearing on Driving Affordability: Preserving People's Freedom to Buy Affordable Vehicles and Fuel*, 118th Cong. (June 22, 2023).

⁸See note 6.

⁹Honda, *Honda Targets 100% EV Sales in North America by 2040, Makes New Commitments to Advances in Environmental and Safety Technology* (Apr. 23, 2021) (press release); Rivian Announces a New \$5 Billion Electric Vehicle Factory in Georgia, Electrek (Dec. 16, 2021) (electrek.co/2021/12/16/rivian-5-billion-electric-vehicle-factory-georgia/).

¹⁰The White House, *Fact Sheet: Biden-Harris Administration Announces New Standards and Major Progress for a Made-in-America National Network of Electric Vehicle Chargers* (Feb. 15, 2023) (www.whitehouse.gov/briefing-room/statements-releases/2023/02/15/fact-sheet-biden-harris-administration-announces-new-standards-and-major-progress-for-a-made-in-america-national-network-of-electric-vehicle-chargers/#:~:text=President%20Biden's).

trying to legislate away years of innovation in cleaner transportation technologies, the Majority would effectively cede global leadership in the clean transportation sector to China.

The claims that EVs can't travel as far as gasoline-powered vehicles fail to paint the whole picture. Most EVs available for sale or lease today can go 200 miles or more on a single charge. According to Kelley Blue Book, the average driver in the US drives an average of 37 miles per day.¹¹ Thus, the EV driving range is over five times the amount the average driver in the US drives every day. The Majority also cites concern over the cost of EVs and fueling. According to a Clean Energy Group report, EVs deliver significant cost savings to American families by decreasing fueling costs by 50 percent or more and are overall 25 percent less expensive than regular cars.¹² EV prices have declined more than \$5,600 over the last year and electric passenger cars and light-duty trucks are expected to reach cost parity with gasoline-powered vehicles in the next two years, all due to incentives in the Inflation Reduction Act.¹³

Finally, assertions that EVs are worse for the environment than gasoline-powered vehicles are blatantly false. DOE's Argonne National Laboratory found that total greenhouse gas emissions for EVs are significantly lower than gas-powered models, even when accounting for emissions from vehicle manufacturing and end-of-life management.¹⁴ With improvements across the EV manufacturing supply chain, from battery manufacturing to recycling, the difference in lifecycle emissions will continue to increase as EVs get cleaner.

SUMMARY OF H.R. 4468

Section 2 of H.R. 4468 prohibits the EPA Administrator from finalizing, implementing, or enforcing the proposed rule titled "Multi Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles." As outlined above, there are significant environmental, public health, and economic benefits associated with the proposed rule. If enacted, H.R. 4468 would deny these benefits for the American people.

Section 3 of H.R. 4468 amends the CAA to block EPA from ever finalizing vehicle emissions standards that mandate the use of a specific technology or might "result in the limited availability of new motor vehicles" based on the engine type. The section also directs EPA to revise all past regulations to conform with the act. The bill fails to define "limited availability", creating a difficult—if not impossible—threshold for any vehicle emissions standard. This would stifle innovation from vehicle manufacturers, and subsequently limit what types of cars are available for consumers to purchase. The vague language would not only harm the EV mar-

¹⁰ Bipartisan Infrastructure Law, critical minerals and materials.

¹¹ Kelley Blue Book, *Average Miles Driven Per Year: Why it is Important* (May 15, 2023) (www.kbb.com/car-advice/average-miles-driven-per-year/).

¹² Clean Energy Group, *Electric Vehicles and Equity: How EVs Work, Their Pros and Cons, and the Role They Can Play in Making Our Communities Stronger* (June 2023).

¹³ Alliance for Automotive Innovation, *Get Connected: Electric Vehicle Quarterly Report* (2023); Rocky Mountain Institute, *How Policy Actions Can Spur EV Adoption in the United States* (2023).

¹⁴ Argonne National Laboratory, *Assessment of Light-Duty Plug-in Electric Vehicles in the United States, 2010–2021* (Nov. 2022) (ANL–22/71).

ket, but other vehicle types as well, including hybrid, flex fuel, hydrogen fuel cell, and even internal combustion engines. The Majority claims the intent of the bill is to “protect access for American consumers to choose affordable, reliable, and functional automobiles,” yet they are actively limiting consumer choices with H.R. 4468. Furthermore, by preventing EPA from ever finalizing standards to cut GHG pollution from vehicles, the Majority is ignoring EPA’s obligation to protect the public from dangerous air pollution.

CONCLUSION

H.R. 4468 hampers EPA’s ability to address air pollution from vehicles, would limit consumer choice, hurt American global leadership, weaken our ability to compete with China, and deny Americans the immense public health and environmental benefits of the EPA proposed standards.

For the reasons stated above, we dissent from the views contained in the Committee Report.

FRANK PALLONE, Jr.,

Ranking Member, Committee on Energy and Commerce.

