

**Opening Statement of Joseph Goffman
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**HEC Legislative Hearing on
“Choice in Automobile Retail Sales Act of 2023,”
“Preserving Choice in Vehicle Purchases Act,”
“No Fuel Credits for Batteries Act of 2023,
and “Fuels Parity Act”**

**U.S. House Committee on Energy and Commerce
Subcommittee on Environment, Manufacturing, and Critical
Materials**

June 22, 2023

Chair McMorris Rodgers, Ranking Member Pallone, Chair Johnson, Ranking Member Tonko, and Members of the Subcommittee, thank you for inviting me to testify today. Although the Administration does not have an official position on the bills before this subcommittee today, I would like to make several points that I hope will assist the committee in its consideration of the bills.

Choice in Automobile Retail Sales Act of 2023

On April 12, 2023, EPA proposed light and medium-duty vehicle standards that would significantly reduce emissions of CO₂, hydrocarbons, NO_x, and particulate matter resulting in widespread reductions in air pollution.

The *Choice in Automobile Retail Sales Act of 2023* that is before this subcommittee today, if enacted, would not allow EPA to finalize, implement, or enforce the Light- and Medium-Duty Vehicle 2027+ proposed rule. It would also amend section 202(a)(2) of the

Clean Air Act to preclude EPA from issuing any emission standards that mandate the use of any specific technology or result in limited availability of internal combustion engine vehicles.

Legislation that prevents EPA from finalizing, implementing, or enforcing the Light- Medium-Duty Vehicle 2027+ proposed rule means that harmful pollutants would continue to blight Americans' quality of life by subjecting them to more hospital visits, more respiratory and cardiovascular illnesses, and more health implications from nonfatal heart attacks, aggravated asthma, and decreased lung function. It means that drivers would be denied the chance to save on fuel costs and that American society would not see the \$850 billion to \$1.6 trillion in net benefits these standards would achieve.

EPA developed the vehicle proposals recognizing the significant investments both Congress and industry have made in clean vehicle technologies through the Inflation Reduction Act and the Bipartisan Infrastructure Law, as well as responses to market shifts, technology innovation, and increasing consumer interest in electric vehicles.

The proposed standards align with commitments already made by automakers and U.S. states as they plan to accelerate clean vehicle technologies in the light- and medium-duty fleets in the next 10 to 15 years. Car and truck companies are moving to include electric vehicles as an integral and growing part of current and future product lines, leading to an increasing diversity of clean vehicles—and choices—for consumers.

Because the proposed standards are performance-based emissions standards, it is the car companies who would choose the mix of technologies they believe would be best suited for their fleet to meet the standards. The proposal is not a national electric vehicle mandate or an internal combustion engine ban. EPA

projects that over the proposed phase-in of the program from 2027 through 2032, approximately 42 million to 48 million internal combustion engine vehicles would continue to be sold, with about 5-6 million new internal combustion engine vehicles still being sold annually in 2032 and beyond.

We know that Americans need and want flexibility in the type of vehicles they drive, and our proposed light- and medium-duty vehicles rule will help consumers have more choices not fewer.

I want to emphasize that EPA is in the proposal stage of our rulemaking, and that our notice of proposed rulemaking included several different alternative approaches for the public and stakeholders to consider and comment on. EPA held 3 days of public hearings on the proposal in May and heard from more than 200 testifiers. The public comment period for this proposal is open until July 5th, so we encourage any interested stakeholders to continue to share their input by submitting comments to the rulemaking docket. We look forward to reviewing the ample feedback we know we will receive on this proposal, and we will consider those comments as we work to finalize the rulemaking.

Preserving Choice in Vehicle Purchases Act

The Clean Air Act forges a partnership between states and the federal government in reducing air pollution, improving air quality, and protecting public health. The Clean Air Act explicitly requires that control of air pollution be primarily the responsibility of states and local governments. The regulation of new motor vehicle emissions, which has been principally a federal project, is an exception to this design—but even here Congress made another exception in California’s long-standing authority to set separate, higher standards.

Title II of the Clean Air Act preempts state emission standards for new motor vehicles but stipulates under section 209 that the EPA Administrator shall waive this preemption for California unless specified criteria are met.

EPA shall grant a waiver unless the Administrator finds that California: was arbitrary and capricious in its finding that its standards are at least as protective to public health and welfare as federal standards; does not need such standards to meet compelling and extraordinary conditions; or such standards and enforcement are not consistent with section 202(a) of the CAA.

The Preserving Choice in Vehicle Purchases Act that is before this subcommittee today, if enacted, would amend section 209(b) of the Clean Air Act to preclude EPA from issuing state waivers that directly or indirectly limit the sale or use of new motor vehicles with internal combustion engines. If enacted, the EPA Administrator would also need to revoke any waiver granted under section 209(b) from January 2022 to the date of enactment of the bill that does not comply with this requirement. Congress granted California the authority to regulate emissions from vehicles over 50 years ago and continually re-enacted that authority through periodic re-authorizations of the Clean Air Act. Congress sought to give the state the power to address its unique and ongoing air quality challenges and to give other states the option to adopt the innovative clean car and truck technologies California pioneered.

No Fuel Credits for Batteries Act of 2023

With respect to the legislation: if enacted, the No Fuel Credits for Batteries Act of 2023 would amend the Clean Air Act to prohibit the EPA from requiring or otherwise promoting the generation, use, or transfer of Renewable Identification Numbers, or “RINs, for the creation of electricity for use as a transportation fuel in the Renewable Fuel Standard program. The compliance credit under the RFS program is called a “renewable identification number,” or

“RIN,” and so we refer to credits generated from biogas electricity as eRINs.

EPA proposed the Renewable Fuel Standard “Set rule” on November 30, 2022. In addition to proposing required renewable fuel volumes for 2023 to 2025, the proposal included new regulations that would enable renewable electricity generated from biogas to receive credit under the program. The eRIN proposal laid out a detailed approach for how a new program might work under the RFS. I note that EPA has never registered any party to generate eRINs under the RFS program.

Following the proposal of our eRIN regulations, EPA received extensive feedback from stakeholders on the merits of the proposed program design, and its proposed scope. Given the volume and complexity of feedback, as well as the need to finalize the Set rule by a June 21 deadline—yesterday—EPA announced that we chose not to finalize eRIN provisions at this time. EPA will continue to engage with stakeholders across multiple sectors on this topic.

Fuels Parity Act

The Clean Air Act sets lifecycle greenhouse gas emissions thresholds for each of the four categories under the RFS program, relative to a statutory 2005 petroleum baseline. Renewable fuel must achieve at least a 20% emissions reduction relative to that baseline, advanced biofuel and biomass-based diesel must achieve 50%, and cellulosic biofuel must achieve 60%.

Corn starch ethanol does not currently qualify as an advanced biofuel because it is specifically excluded by the current statute. In addition, EPA has found that corn starch ethanol does not meet the 50% lifecycle analysis threshold required to be considered advanced biofuel. If enacted, the Fuels Parity Act would revise the

statute to no longer preclude corn starch ethanol as an advanced biofuel. In addition, the bill would require EPA to update the lifecycle analysis methodology used for the Renewable Fuel Standard program for corn starch ethanol and biomass-based diesel.

EPA has just finalized a rule requiring the highest-ever volumes of renewable fuels under the RFS program. This rule lays a solid foundation for stability and growth in the program in coming years.

The bill before this subcommittee imposes a requirement about methodologies and technical matters that in the Agency's experience we have left in the hands of the scientists and technical experts who have the advantage of being able to observe ongoing and sometimes rapid changes in science and to address and adopt methodologies to reflect those changes.

I appreciate the opportunity to provide EPA's perspective on the bills before this subcommittee today.

I look forward to your questions.