

United States Senate
WASHINGTON, DC 20510

June 23, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency

Dear Administrator Regan:

In May 2023, the Environmental Protection Agency (EPA) proposed a rule imposing new vehicular emissions standards for criteria pollutants and greenhouse gases.¹ These new standards extend the EPA's existing emissions standards for passenger cars and light trucks for model years 2023 through 2026.² The EPA expects that by 2030, compliance with these new standards will result in at least 60% of new passenger vehicles sold in the U.S. being electric vehicles.³

The EPA's proposed rule will cause a greater need for lithium-ion batteries, which power electric vehicles.⁴ These batteries require several minerals for production such as "lithium, nickel, manganese, and cobalt."⁵ The majority of the mines for these materials are found abroad.⁶ For example, the Congo and the Democratic Republic of the Congo (DRC) host a massive deposit of cobalt that is consistently exploited.⁷

The DRC is the second poorest economy in the world⁸ and has been weakened by violent ethnic conflict, Ebola, and high levels of corruption for decades.⁹ Riddled with instability, the DRC has failed to create legitimate, large-scale industrial mining projects, despite producing two-

¹ Multi-Pollutant Emissions Standards for Model Years 2017 and Late Light-Duty and Medium-Duty Vehicles, 88 Fed. Reg. 87 (proposed May 5, 2023) (to be codified at 40 C.F.R. pt. 19, 86, 523, 600, 1066, and 1867).

² These new standards pertain to light-duty vehicles and Class 2b and 3 ("medium-duty") vehicles. The proposed standards would phase-in over model years 2027 through 2032. *Id.*

³ *White House Proposes Strict New Auto Emission Limits To Boost Electric Vehicle Sales*, CBS NEWS, (Apr. 12, 2023), <https://www.cbsnews.com/news/auto-emission-limits-epa-electric-vehicle-sales-biden-administration>.

⁴ Ivan Penn & Eric Lipton, *The Lithium Gold Rush: Inside the Race to Power Electric Vehicles*, THE NEW YORK TIMES, (May 6, 2021), <https://www.nytimes.com/2021/05/06/business/lithium-mining-race.html>.

⁵ *Human Rights in the Mineral Supply Chains of Electric Vehicles*, BUSINESS & HUMAN RIGHTS RESOURCE CENTER, (Accessed June 13, 2023), <https://www.business-humanrights.org/en/from-us/briefings/transition-minerals-sector-case-studies/human-rights-in-the-mineral-supply-chains-of-electric-vehicles>.

⁶ Penn & Lipton, *supra* note 5.

⁷ Reportedly, "60 percent of the world's cobalt originates in Congo." Todd C. Frankel, *The Cobalt Pipeline*, THE WASHINGTON POST, (Sep. 30, 2016), https://www.washingtonpost.com/graphics/business/batteries/congo-cobalt-mining-for-lithium-ion-battery/?tid=a_inl.

⁸ Hermes, *Modern Slavery: The True Cost of Cobalt Mining*, HUMAN TRAFFICKING SEARCH, (2017), <https://humantraffickingsearch.org/resource/modern-slavery-the-true-cost-of-cobalt-mining/>.

⁹ John Campbell, *Why Cobalt Mining in the DRC Needs Urgent Attention*, COUNCIL ON FOREIGN RELATIONS, (Oct. 29, 2020), <https://www.cfr.org/blog/why-cobalt-mining-drc-needs-urgent-attention>.

thirds of the world's cobalt.¹⁰ The EPA's proposed rule will increase demand for these batteries and, in turn, increase production in these mines.

The materials from these mines can come at a great humanitarian cost. Cobalt alone has a sinister path from mine to vehicle. UNICEF, in 2014, found that 40,000 children were forced to work in the mines in the DRC. These children work up to twelve-hour shifts, while carrying heavy loads, and earning between one and two dollars a day.¹¹ Many of the children are being trafficked and abducted through local militia networks and forced to work in the mines.¹² The EPA's proposed rule will increase production in mines where children as young as four years old are forced to work.¹³

Additionally, this proposed rule raises concerns for our energy independence because it would increase our reliance on China, which "controls the bulk of the global cobalt supply."¹⁴ China produces 77% of the world's batteries.¹⁵ This affects our supply chain security and national security.¹⁶

For Congress to better understand how the EPA plans to address these concerns, please provide answers to the following questions by July 10, 2023:

1. What steps has the EPA taken to ensure its proposed rule doesn't facilitate child labor?
2. What steps has the EPA taken to ensure energy independence when this proposed rule would cause the U.S. to rely more on foreign countries for lithium-ion batteries, namely, China?
3. What is the EPA's constitutional and legal authority with respect to the proposed rule?

Thank you for your prompt attention to this matter. Should you have any questions, please contact my Committee staff at (202) 224-0642.

¹⁰ Zachary Skidmore, *The Future of Artisanal Mining in the DRC*, MINING TECHNOLOGY, (Sep. 4, 2021), <https://www.mining-technology.com/features/artisanal-mining-drc/>.

¹¹ *Exposed: Child Labour Behind Smart Phones and Electric Car Batteries*, AMNESTY INTERNATIONAL, (Jan. 19, 2016), <https://www.amnesty.org/en/latest/news/2016/01/child-labour-behind-smart-phone-and-electric-car-batteries/>.

¹² Terry Gross, *How 'Modern-Day Slavery' in the Congo Powers the Rechargeable Battery Economy*, NPR, (Feb. 1, 2023), <https://www.npr.org/sections/goatsandsoda/2023/02/01/1152893248/red-cobalt-congo-drc-mining-siddharth-kara>.

¹³ *The Toll of the Cobalt Mining Industry On Health and the Environment*, CBS NEWS, (Mar. 6, 2018), <https://www.cbsnews.com/news/the-toll-of-the-cobalt-mining-industry-congo/>.

¹⁴ Sean Carberry, *United States Seeking Alternatives to Chinese Cobalt*, NATIONAL DEFENSE, (Aug. 3, 2022), <https://www.nationaldefensemagazine.org/articles/2022/8/3/united-states-seeking-alternatives-to-chinese-cobalt>.

¹⁵ Govind Bhutada, *Visualizing China's Dominance in Battery Manufacturing (2022-2027)*, ELEMENTS, (Jan. 18, 2023), <https://elements.visualcapitalist.com/chinas-dominance-in-battery-manufacturing/>.

¹⁶ Carberry, *supra* note 23, (quoting Brad Martin, Director of RAND Corp.'s Institute for Supply Chain Security).

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Budget