

September 22, 2025

Lee M. Zeldin, Administrator
United States Environmental Protection Agency
Washington, DC 20406

Re: Docket ID No. EPA-HQ-OAR-2025-0194,
Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards

Via the Federal eRulemaking Portal: <http://www.regulations.gov>

To the Administrator:

Please be advised that I write on behalf of the Chicago Environmental Justice Network (CEJN) and Respiratory Health Association (RHA) to comment on the Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards (Proposed Endangerment Finding Recission).

CEJN is an alliance of community-based environmental justice organizations located on the south and west sides of Chicago. CEJN serves communities that face disproportionate environmental and health impacts from climate change. Member organizations include the Little Village Environmental Justice Organization,¹ People for Community Recovery,² the Southeast Environmental Task Force,³ Neighbors for Environmental Justice,⁴ and Blacks in Green.⁵ CEJN's mission to secure cleaner air, safer housing, and healthier neighborhoods is directly undermined by policies that allow for increased greenhouse gas emissions and accelerate climate-driven hazards such as extreme heat, flooding, and poor air quality.⁶

RHA's efforts to protect respiratory health are inextricably linked to strong climate protections. RHA was founded in 1906 and since that point has been a local public health leader in the Chicagoland area.⁷ RHA's mission is to prevent lung disease, promote clean air, and help people live better through education, research, and policy change. Weakening vehicle emissions standards would both increase harmful pollutants and exacerbate climate-related respiratory risks, directly threatening the populations RHA serves.

In furtherance of their broader organizational missions, both CEJN and RHA are petitioners in an ongoing state rulemaking process in Illinois that asks the state to adopt California's more protective light-duty and medium-/heavy-duty vehicle emissions standards

¹ Little Village Environmental Justice Organization, <http://lvejo.org/>.

² People for Community Recovery, <http://www.peopleforcommunityrecovery.org/>.

³ Southeast Environmental Task Force, <https://anthropocenealliance.org/southeast-environmental-task-force/>.

⁴ N4EJ, <https://n4ej.org/>.

⁵ Blacks in Green, <https://www.blacksingreen.org/>.

⁶ Respiratory Health Association, <https://resphealth.org/about-us/our-mission/>.

⁷ *Id.*

pursuant to § 209 of the Clean Air Act (CAA), 42 U.S.C. § 7521.⁸ Recent actions by the federal government have purported to revoke the waivers that EPA has previously issued to California under CAA § 209 and that are necessary for Illinois to adopt California's stronger standards. Those federal actions are the subject of an ongoing judicial challenge, but however that litigation plays out, the Proposed Endangerment Finding Rescission here would doubly harm Illinois because it would (1) dismantle the underlying federal mobile source emissions standards that though currently inadequate to protect Illinois provide at least some emissions limits, and (2) still purport to preempt state-level efforts to address greenhouse gases through means other than adoption of California vehicle standards. Indeed, as addressed below, the petition filed by CEJN and RHA is based on Illinois state statutory authority that authorizes Illinois regulators to issue Illinois rules to prevent health and environmental harms from greenhouse gas (GHG) pollution upon the people of Illinois.⁹ The Proposed Endangerment Finding Rescission could be cited in efforts to undermine Illinois' exercise of this separate state statutory authority, which has provisions specifically authorizing regulation of motor vehicles as well as other types of air pollution source.¹⁰ This puts CEJN and RHA in a unique position to underscore the inconsistency of EPA's instant proposal, in which the agency claims that GHG regulation by states and local governments should be preempted by federal law, while simultaneously proposing to erase any federal baseline standards for GHGs altogether.

The Proposed Endangerment Finding Rescission is based on legal errors, flawed science, and ignoring serious public health and equity concerns. First, EPA relies on an incorrect reading of the Clean Air Act as its legal basis for the Proposed Endangerment Finding Rescission. EPA misreads the meaning of the term "contribute," ignores the CAA's precautionary approach and two-step regulatory process, would read a cost effectiveness requirement into the statutory standard for endangerment that is not rooted in the statutory text, improperly invokes the major questions doctrine, and erroneously applies *Loper Bright Enterprises v. Raimondo*.¹¹ Second, EPA doubles down on its misreading of the CAA by claiming that GHG regulation by states would still be preempted despite its novel misreading of the CAA. If EPA renounces authority to regulate GHGs, then there will be no federal scheme that regulates GHGs, leaving nothing at the federal level to preempt state efforts. Third, the science behind the Proposed Endangerment Finding Rescission is flawed. EPA's sole technical basis for its decision is a recent Department of Energy (DOE) report that has been criticized by mainstream scientists for cherry picking and misinterpreting data. Fourth, EPA's Proposed Endangerment Finding Rescission overlooks the disproportionate burdens that both climate change and dismantled emission standards will have

⁸ Rule Proponents, *Proposed Clean Car and Truck Standards*: 35 Ill. Admin. Code Part 242, R2024-017 (Ill. Pollution Control Bd. filed June 27, 2024), available at <https://pcb.illinois.gov/documents/dsweb/Get/Document-110497>.

⁹ *Id.*

¹⁰ Federal Register, *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 Fed. Reg. 36288 (proposed Aug. 1, 2025), <https://www.federalregister.gov/documents/2025/08/01/2025-14572/reconsideration-of-2009-endangerment-finding-and-greenhouse-gas-vehicle-standards>. [hereinafter *Proposed Endangerment Finding Rescission*].

¹¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 392 (2024).

on vulnerable communities in Illinois and around the country, a fundamental flaw in the Regulatory Impact Analysis upon which EPA relies to support its proposed action. And fifth, the Proposed Endangerment Finding Recission will worsen respiratory health issues amongst Chicago residents, especially in low-income communities and communities of color, impacts again ignored in EPA's Regulatory Impact Analysis.

CEJN and RHA urge the U.S. Environmental Protection Agency (EPA) to forgo promulgating the Proposed Endangerment Finding Recission as a final rule. The 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases under § 202(a) of the Clean Air Act (2009 Findings), and the vehicle greenhouse gas standards that followed, reflect sounder policy and firmer legal reasoning than EPA's 2025 Proposed Endangerment Finding Recission. Repealing the 2009 Findings will significantly increase emissions of atmosphere-warming carbon nationwide, accelerating climate change and its negative impacts on human health and the environment. It is estimated that the repeal of the 2009 Findings would result in the addition of seven billion metric tons of CO₂ and other GHGs over the next thirty years, which would lead to severe climate impacts in Illinois and elsewhere.¹² EPA must protect Americans – including the most vulnerable Americans – from the dire impacts of climate change that is driven significantly by domestic GHG emissions, including those from mobile sources. If the agency is to live up to its core mission of protecting people from pollution, EPA must reject the Proposed Endangerment Finding Recission and instead reaffirm the 2009 Findings and vehicle standards.

I. Comment: EPA relies on an incorrect reading of the Clean Air Act as its legal basis for the Proposed Endangerment Finding Recission.

EPA's legal analysis proposing to repeal the 2009 Findings is incorrect and foreclosed by the plain text of the statute. To justify its reversal of the 2009 Findings, EPA proposes to make a finding that "the EPA lacks the 'clear congressional authorization' required for the novel approach taken in the Endangerment Finding and resulting GHG emission standards."¹³ CAA § 202(a) requires EPA to regulate air pollution from motor vehicles if the agency finds that they "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."¹⁴ EPA misreads this provision in at least the following ways:

- EPA misreads the statute by inventing a requirement that air pollution impacts must be localized in some unspecified way, by misreading the term "contribute," and fundamentally misconstruing *Massachusetts v. Environmental Protection Agency*.¹⁵
- EPA seeks to inject a cost effectiveness requirement into CAA § 202 that lacks textual basis and ignores the statutory structure.

¹² Environmental Protection Agency, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 89 Fed. Reg. 27842, 27860 (2024).

¹³ *Proposed Endangerment Finding Recission* at 36305.

¹⁴ 42 U.S.C. § 7521(a) (2025).

¹⁵ *Massachusetts v. E.P.A.*, 549 U.S. 497, 528 (2007).

- EPA ignores that none of the U.S. Supreme Court cases addressing GHG regulations since 2009 have questioned the basis for the 2009 Findings and there have been no court decisions or legislative actions requiring or even suggesting that EPA should pursue current proposal to comply with the Clean Air Act.

Alone, each of these legal reasoning flaws undermine the basis for the Proposed Endangerment Finding Recission; viewed together they reveal EPA's proposed action as fundamentally arbitrary and capricious, a bald abuse of discretion, and wildly out of accord with the law.

A. EPA's Novel Misinterpretation of § 202 Ignores the Text of § 202.

The first fundamental flaw in EPA's legal rationale is that it ignores the relevant statutory text and does so in four ways. First, EPA misinterprets the term "contribute" as used in CAA § 202 to impose both an unspecified significance threshold and an unwarranted requirement that air pollution only have localized effects. Neither rationale has any basis in statutory text. Second, to support its novel geographic limitation on § 202(a)(1), EPA misconstrues definitions in CAA § 302 to artificially narrow the definition of "air pollutant" when applied to mobile source regulation. Third, even if EPA's geographic limitation had a statutory basis, its proposed action would be logically incoherent because the global climate change caused by GHG emissions has dire national, regional, and local impacts. Fourth, EPA attempts to circumvent the holding in *Massachusetts v. EPA* through selective misinterpretation of key aspects of that decision.

The primary statutory text at issue here requires an inquiry in two distinct steps: (1) an assessment of whether a class of new motor vehicles or engines "contributes" air pollution emissions of a kind that endangers public health or welfare in § 202(a)(1), and then (2) a determination of how to regulate that class of motor vehicles governed by § 202(a)(2).¹⁶ EPA's novel reading of that provision – specifically part (a)(1) – ignores both the specific words and specific structure.

First, EPA attempts to read into that first step limitations that have no basis in the text of § 202(a)(1), simply asserting that GHG emissions from motor vehicles do not endanger public health and welfare because of the existence of other sources of GHGs,¹⁷ and claiming that the statute does not authorize regulation of a pollutant with global impacts. Section 202, however, does not suggest, much less require as a predicate to regulation, an inquiry into the location relative to political borders of impacts that different types of air pollutants may have. Moreover, EPA's misreading of the statute ignores the purpose of the "contributes" language, which is to identify categories of sources of pollution of a type that cause harms to health and the environment and then to trigger specific, tailored regulation of that category of source. EPA now

¹⁶ 42 U.S.C. § 7521(a)(1) (2025).

¹⁷ *Proposed Endangerment Finding Recission* at 36290, 36304.

criticizes the 2009 Endangerment Finding for “sever[ing] the analysis of endangerment from the analysis of contribution,” but that is precisely how the statute is written.¹⁸ Ironically, EPA seeks support for its reinterpretation from a distinct section of the CAA that imposes a threshold inquiry to determine if a pollutant “significantly contributes” to air pollution dangers, without addressing the fact that §202(a)(1) does not use the word “significant.”¹⁹ Rather than read the plain language of the actual statutory provision before it, EPA raises the “contribution” bar to some unspecified and more “significant” threshold without justification and imposes a novel criteria of assessing the locality of health and environmental impacts.

Reading § 202(a)(1) as requiring some unspecified level of “contribution” to impacts that are also geographically confined to local or national borders prior to making an endangerment finding would be catastrophic and irrational. EPA would read the statute as requiring it to sit back and observe a societal “death by a thousand cuts” even though the text says no such thing. It would effectively prevent the regulation of any air pollutant if it could not be proactively demonstrated that such regulation would have an immediate beneficial impact upon a defined regional or local area. And, it would mean regulation would only be warranted when it was proactively shown that regulating the source of pollutants would prevent, in and of itself, specific harms from coming to fruition, preventing regulation where there are multiple types of contributors to a common air pollution problem. In turn, this would permit the EPA to ignore issues that have a broader impact on public health and welfare, despite the protection of these issues being the primary purpose of the CAA.

Second, in reversing EPA’s long held judgment on this question, the Agency seeks support for its new requirement of an unspecified level of local or regional harm from the CAA’s definitions sections.²⁰ Those statutory definitions, however, say no such thing. EPA proposes that “global climate change concerns cannot satisfy the statutory standard for regulation under CAA section 202(a)” because of definitions in CAA § 302(g) and (h).²¹ CAA § 302(g) defines “air pollutant” as “any air pollution agent . . . which is emitted into . . . the ambient air,”²² while CAA § 302(h) refines this definition by providing that “all language referring to effects on welfare includes, **but is not limited** to, effects on” the environment, property, transportation hazards, and “on economic values and on personal comfort and well-being.”²³ EPA concludes that the “statutory language is best read as authorizing the Agency to identify and regulate . . . air pollutants that cause or contribute to air pollution that endangers public health and welfare through local or regional exposure.”²⁴ While this reading has no basis in the text of § 202(a)(1),²⁵ it also has no basis in § 302 either. Section 302(g) includes no word that can be

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Proposed Endangerment Finding Recission* at 36296.

²¹ *Id.*

²² 42 U.S.C. § 7602(g) (2025).

²³ 42 U.S.C. § 7602(h) (2025) (emphasis added).

²⁴ *Proposed Endangerment Finding Recission* at 36300.

²⁵ 42 U.S.C. § 7521(a)(1) (2025).

read as creating a geographic limit to the United States – indeed, it refers to “climate” as a specific example of what a pollutant may effect – and it’s description of “language referring to effects on welfare” ends with examples that are preceded by the phrase “include[d], but is not limited to.”²⁶ Taken in conjunction with the word “any” in § 302(g) it is clear that there is no limitation to an air pollutant based on the locality of harm.²⁷ Moreover, none of those examples are geographically limited themselves. Additionally, *Massachusetts* clarifies that CAA § 302(g) “embraces all airborne compounds of whatever stripes” when used to consider regulating GHGs from new motor vehicles.²⁸

Beyond lacking connection to the statutory text, EPA’s argument is logically incoherent: just because a pollutant has global effects does not mean it does not have impacts within the United States. There are mountains of scientific evidence specifically assessing the impacts to the United States caused by climate change, including the voluminous evidence provided below as to the impacts on the people of Illinois and, in particular, on the most vulnerable and overburdened residents of Chicago. Moreover, even applying EPA’s misplaced concern with the efficacy of potential regulation to the first statutory step of assessing endangerment, there is ample evidence that GHG regulations also produce localized and regional benefits, as seen by the estimated \$240 billion in health savings due to reduction of particulate matter and smog.²⁹ The presence of regional and local impacts forces the EPA, by their own definition, to maintain the endangerment finding to prevent this harm.

Finally, EPA’s reading of § 202 is contrary to the decision in *Massachusetts v. EPA*, as the Supreme Court held that GHGs clearly met the “contribute” standard found in CAA § 202(a).³⁰ In fact, the Supreme Court held that “judged by any standard, U.S. motor-vehicle emissions make a meaningful contribution to greenhouse gas concentrations and hence . . . to global warming.”³¹ The Supreme Court did not delineate between global, regional, and local impacts of air pollutants, but read the plain language of § 202(a)(1) as directing EPA to assess “contribution” practically and without regard for political borders.³² In attempting to circumvent *Massachusetts*, EPA relies on cases that were either considered and rejected in *Massachusetts* or came later and declined to overrule *Massachusetts*, demonstrating that EPA’s reliance on this cases to undo the explicit findings of *Massachusetts* is legally unsound.³³

Beyond ignoring the Supreme Court’s explicit statement that GHGs from motor vehicles do, in fact, “contribute” to global climate change, EPA’s newfound interpretation of § 202(a)(1)

²⁶ 42 U.S.C. § 7602(h) (2025).

²⁷ 42 U.S.C. § 7602(g) (2025).

²⁸ *Supra* note 15 at 500.

²⁹ EPA, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 89 Fed. Reg. 27842, 27860 (table 8) (2024).

³⁰ *Supra* note 15.

³¹ *Id.* at 525

³² *Id.* at 528

³³ *Proposed Endangerment Finding Recission* at 36292.

is more broadly foreclosed by the Court's instructions to EPA on remand in *Massachusetts*. The Court stated that EPA "has the statutory authority to regulate the emission of [GHGs] from new motor vehicles [emphasis added]." ³⁴ The 2009 Findings were teed up by the Court's statement that it "need not and do[es] not reach the question whether on remand EPA must make an endangerment finding." ³⁵ And in its current proposed action, EPA ignores the most important constraint on EPA's discretion to make an endangerment finding, as the Court stated that "EPA must ground its reasons for action or inaction in the statute [emphasis added]." ³⁶ And yet, as explained above, EPA's present rationale is unhinged from the statutory text in § 202(a)(1).

B. EPA's Novel Misinterpretation of § 202 Injects a Cost Effectiveness Standard That Has No Basis in the Text of § 202.

The second fundamental flaw is EPA imposing a cost effectiveness requirement to the § 202(a)(1) endangerment finding, effectively emphasizing a rationale that has no basis in the text, while ignoring the precautionary approach that the statute requires. In describing its current effort to determine the "meaning of CAA § 202(a)," EPA cites as a primary factor its "assess[ment] of costs and non-cost adverse impacts of [] GHG emission standards." ³⁷ But EPA nowhere explains why consideration of compliance costs is relevant to making an endangerment finding for GHG emissions. Under the plain text of § 202(a)(1), it is not.

The endangerment finding is governed by § 202(a)(1), which creates a test for determining *whether* an air pollutant from motor vehicles should be regulated. The question of *how* to regulate is posed in § 202(a)(2), which provides that "[a]ny regulation prescribed under paragraph (1) of this subsection . . . 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 [emphasis added]." ³⁸

There is no mention of compliance costs in the plain text of § 202(a)(1) and no term there best read as implicating costs. Only once that question is answered in the affirmative must EPA move to the question of *how* to regulate such pollutants, a question where the statute does provide for the consideration of compliance costs. Indeed, this two-step process is fundamental to the structure of the CAA, and the Supreme Court has, as a matter of plain text statutory interpretation, read similar provisions to similarly exclude cost considerations from similar first steps where EPA is determining *whether* to regulate. This is demonstrated in *Whitman v. American Trucking Associations, Inc.*, where the Supreme Court rejected arguments that EPA should consider costs when promulgating regulations under CAA § 109(b). ³⁹ Although CAA

³⁴ *Supra* note 15 at 532

³⁵ *Id.* at 534 (emphasis added).

³⁶ *Id.* (emphasis added).

³⁷ *Proposed Endangerment Finding Recission* at 36292.

³⁸ 42 U.S.C. § 7521(a)(2) (2025); *Proposed Endangerment Finding Recission* at 36303.

³⁹ *Whitman v. American Trucking Associations*, 531 U.S. 457, 468-469 (2001).

§ 202(a) contains different language than § 109(b), the ruling is relevant as both sections are concerned with triggering whether to regulate pollutants that create harm to the public. EPA, when making its 2009 Findings, came to a similar conclusion and decided that the endangerment finding step should not consider costs.⁴⁰

It is important to note that even if EPA could consider costs when making an endangerment finding, EPA's proposed decision here would be arbitrary because the proposed benefits of reversing the 2009 Findings, as expressed in compliance costs savings, do not outweigh the massive costs in the form of foregone public benefits. In 2023, EPA found that CO₂ reductions are worth \$120 to \$600 per metric ton, which likely represented an underestimate due to the partial accounting of climate change impacts.⁴¹ In the 2024 Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles standards, (LMDV standards) EPA estimated that the 2009 Findings would generate about \$2.64 trillion in benefits over 30 years, including \$1.6 trillion from avoided climate harms, \$800 billion in fuel savings, and \$240 billion in health improvements from reduced pollution.⁴² The draft regulatory impact analysis that accompanies the Proposed Endangerment Finding Recission asserts that the proposed action would result in \$157 to \$444 billion annually of benefits.⁴³ In other words, the benefits of regulating are an order of magnitude larger than the compliance cost savings benefit of failing to regulate.⁴⁴ Therefore, EPA's choice to eliminate \$2.64 trillion in benefits to the public still renders the Proposed Endangerment Finding Recission arbitrary and capricious even under EPA's erroneous view that weighing the costs of regulation is permissible under § 202(a)(1).

C. Recent Supreme Court Cases Addressing GHG Regulation Have Not Suggested Any Legal Infirmary in the 2009 Findings.

EPA, as an alternate rationale, invokes the major question doctrine and claims that recent cases, such as *West Virginia v. EPA*,⁴⁵ *Michigan v. EPA*,⁴⁶ and *Utility Air Regulatory Group v. EPA*,⁴⁷ have demonstrated that EPA has no ability to regulate GHGs because it has not been

⁴⁰ Federal Register, *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, https://www.epa.gov/sites/default/files/2021-05/documents/federal_register-epa-hq-oar-2009-0171-dec.15-09.pdf.

⁴¹ EPA, *EPA Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances*, (November 2023), https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf.

⁴² EPA, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 89 Fed. Reg. 27842, 27860 (table 8) (2024).

⁴³ Environmental Protection Agency, *Reconsideration of 2009 Finding and Greenhouse Gas Vehicle Standards: Draft Regulatory Impact Analysis*, 37, (July 2025), <https://www.epa.gov/system/files/documents/2025-07/420d25003.pdf> [hereinafter *RIA*].

⁴⁴ *RIA* (Moreover, these numbers do not even consider costs associated with global impacts, which were a significant portion of the benefits in the 2024 LMDV revision).

⁴⁵ *West Virginia v. E.P.A.*, 597 U.S. 697 (2022).

⁴⁶ *Michigan v. E.P.A.*, 576 U.S. 743 (2015).

⁴⁷ *Util. Air Regul. Grp. v. E.P.A.*, 573 U.S. 302 (2014).

specifically instructed to do so by Congress.⁴⁸ But these cases primarily reviewed EPA decisions about *how* to regulate GHGs—not *whether* to regulate them—and found EPA’s proposed approaches to regulation to be beyond what was clearly authorized in the specific statutory provisions at issue. In *West Virginia v. EPA*, when referring to the ability for the EPA to enact a cap and trade scheme under CAA § 111, the Court held that “it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d).”⁴⁹ *Michigan v. EPA* did concern EPA’s decision whether to regulate GHGs from power plants under §7412 was unreasonable.⁵⁰ However, the Court specifically distinguished the power plant CAA provision from Congress’s “narrow standards for EPA to apply when deciding whether to regulate other sources,” and read the power plant provision requiring the study of “alternative control strategies for emissions” as part of weighing whether it was “appropriate” to regulate power plants as making unreasonable to “deem[] cost irrelevant to the decision to regulate power plants.”⁵¹ Finally, *Utility Air Regulatory Group* discussed whether EPA could determine that its motor-vehicle GHG regulations automatically triggered permitting requirements under the Act for stationary sources that emit GHGs.⁵² The Court decided that, “the Agency may not treat greenhouse gases as a pollutant for purposes of defining a “major emitting facility” (or a “modification” thereof) in the PSD context or a “major source” in the Title V context.”⁵³ The statutory provisions governing the regulation of air pollutants in the PSD or Title V context are importantly distinct from the regulation of mobile sources as EPA has “interpreted ‘air pollutant’ in the PSD permitting trigger as limited to regulated air pollutants . . . a class much narrower than *Massachusetts*’ ‘all airborne compounds of whatever stripe,’”⁵⁴ which specifically applies to motor vehicles.⁵⁵ These cases all address the ability of EPA to take specific regulatory actions under other parts of the CAA,⁵⁶ not about *whether* EPA has general authority to regulate GHGs, which is still governed by *Massachusetts v. EPA*.⁵⁷ In fact, *Utility Air Regulatory Group* reaffirmed EPA’s right to regulate GHGs by stating that “*Massachusetts*’ rejected EPA’s categorical contention that greenhouse gases *could not* be ‘air pollutants’ for any purposes of the Act.”⁵⁸

In sum, EPA’s approach to § 202(a)(1) is unhinged from the text and dismissive of binding Supreme Court precedent. Interestingly, EPA seeks support for its non-textual approach

⁴⁸ *Proposed Endangerment Finding Recission* at 36290-91.

⁴⁹ *West Virginia v. E.P.A.*, 597 U.S. 697, 735 (2022).

⁵⁰ *Michigan v. E.P.A.*, 576 U.S. 743, 747 (2015).

⁵¹ *Id.* at 760.

⁵² *Util. Air Regul. Grp. v. E.P.A.*, 573 U.S. 302, 314 (2014).

⁵³ *Id.* at 316.

⁵⁴ *Id.*

⁵⁵ *Supra* note 15 at 532.

⁵⁶ *Michigan v. E.P.A.*, 576 U.S. 743, 750 (2015) (holding EPA rule limiting mercury was not compliant for not considering compliance costs); *Util. Air Regul. Grp. v. E.P.A.*, 573 U.S. 302, 333-34 (2014) (holding EPA exceeded statutory in requiring PSD and Title V permitting for stationary sources); *West Virginia v. E.P.A.*, 597 U.S. 697, 724 (2022) (holding EPA attempt to regulate power plants was beyond authority conferred by CAA).

⁵⁷ *Supra* note 15.

⁵⁸ *Supra* note 47 at 319.

from *Loper Bright v. Raimondo*.⁵⁹ EPA asserts that *Loper Bright* “confirms that the EPA can no longer rely on statutory silence or ambiguity to imply authorities and discretion not expressly conferred by statute.”⁶⁰ In other words, EPA is asserting that clear congressional endorsement of a statutory reading is required to issue an endangerment finding for GHGs. Even if clear congressional approval of an expansive reading of an agency’s statutory authority was the primary takeaway from *Loper Bright*, the recently passed Inflation Reduction Act (IRA) demonstrates Congress’s understanding that the 2009 Findings were grounded in the proper reading of the text of § 202(a)(1), as it specifically included a provision that affirmed that GHGs are pollutants subject to CAA regulation.⁶¹ In any event, the central holding of *Loper Bright* was to eliminate *Chevron* deference to agency interpretations of ambiguous statutory provisions; as such *Loper Bright* merely confirms that EPA’s new interpretation of § 202(a)(1) cannot stand. Even if EPA’s new reading of § 202(a)(1) were a reasonable construction of ambiguous language – which, to be clear, it is most certainly not – there is still no way it could be considered the *best* reading of the statute. And *Loper Bright* requires that it is the best reading of a statute that controls, regardless of the preferred reading of an administrative agency.⁶²

Because the Proposed Endangerment Finding Recission is based on a patently incorrect interpretation of the underlying statute, it lacks sufficient legal justification, constitutes an arbitrary and capricious reversal of the 2009 Findings, and should not be adopted.

II. Comment: EPA’s assertion that the Proposed Endangerment Finding Recission would not affect federal preemption of state and local GHG emissions regulations is legally wrong and will amplify harm to the public if EPA proceeds with this proposal.

The Proposed Endangerment Finding Recission is also legally flawed in its position on the effect that rescinding the 2009 Findings would have on federal preemption of state and local efforts to reduce GHG emissions from motor vehicles. EPA proposes to simultaneously read the CAA as not authorizing federal regulation of GHGs, while asserting that “the proposed repeal would not impact Federal preemption under EPCA [Energy Policy and Conservation Act] . . . related to fuel economy standards.”⁶³ While EPA does not articulate a precise explanation of what sorts of state or local regulations would remain preempted, it is crucial to clarify that the proposed action here would necessarily re-open the field to state and local regulation of GHG emissions through means other than the sorts of fuel economy standards promulgated at the federal level under EPCA.

⁵⁹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 392 (2024)

⁶⁰ *Proposed Endangerment Finding Recission* at 36310.

⁶¹ Cong. Rsch. Serv., R47262, *Inflation Reduction Act of 2022 (IRA): Provisions Related to Climate Change*, (2023).

⁶² *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 392 (2024) (holding court is responsible to decide whether law means what agency says).

⁶³ *Proposed Endangerment Finding Recission* at 36314.

EPA cannot have it both ways. It cannot be the case that GHG emissions are both outside of the CAA's reach and that regulation of motor vehicles GHG emissions is still broadly preempted. This is again revealed by looking at the fundamental two-step process set forth in the statute, which asks first *whether* a pollutant may be regulated under the Act and then *how*. If EPA were proposing to retain the Endangerment Finding but to replace the means of regulating GHGs from motor vehicles, such a proposal might very well present a relatively unchanged preemption analysis from that applied in *American Electric Power Co. v. Connecticut*.⁶⁴ However, the Proposed Endangerment Finding Recission, in the EPA's own words, "repeal[s] **all** regulatory provisions relating to our GHG emission programs for . . . vehicles [emphasis added]."⁶⁵ By repealing all regulatory provisions to GHG emissions EPA must return the power to regulate this area to the states, as it is ceding its authority in that field.

As the Court made clear in *American Elec. Power Co. v. Connecticut (AEP)*, "[t]he test for whether congressional legislation excludes the declaration of federal common law is simply whether the statute 'speak[s] directly to [the] question' at issue."⁶⁶ In other words, displacement occurs only when Congress, through the Clean Air Act, has clearly spoken and delegated authority to EPA to regulate greenhouse gas emissions. The Court emphasized that this delegation of regulatory power is what preempts federal common law claims.⁶⁷

The Court declined to decide whether the CAA also preempts state common law claims, explaining that "the availability vel non of a state lawsuit depends, inter alia, on the preemptive effect of the federal Act," and leaving "the matter open for consideration on remand."⁶⁸ Although the Court did not decide this question in *AEP*, several courts of appeals have. Circuits have consistently found that the CAA generally does **not** preempt state tort claims or state regulatory enforcement.⁶⁹ For example, the Third Circuit, in *Bell v. Cheswick Generating Station*, and the Sixth Circuit, in *Merrick v. Diageo Americas Supply, Inc.*, have emphasized that the CAA's savings clause preserve state common law claims.⁷⁰ As the Sixth Circuit noted in *Her Majesty the Queen in Right of Province of Ontario v. City of Detroit*, "the [Clean Air Act] displaces state law only to the extent that state law is not as strict as emission limitations established in the federal statute."⁷¹ The First Circuit, in *Rhode Island v. Shell Oil Prods. Co., L.L.C.*, the Ninth Circuit, in *City of Oakland v. BP PLC*, and the Tenth Circuit, in *Bd. of Cty. Comm'rs of Boulder Cty. v. Suncor Energy*, similarly recognized that the CAA establishes a regulatory floor rather than a ceiling, allowing states to adopt stricter standards and pursue

⁶⁴ *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410 (2011).

⁶⁵ *Proposed Endangerment Finding Recission* at 36314.

⁶⁶ *AEP*, 564 U.S. at 424 (quoting *Mobil Oil Corp. v. Higginbotham*, 436 U.S. 618, 625 (1978)).

⁶⁷ *Id.* at 426.

⁶⁸ *Id.* at 429.

⁶⁹ *Fenner v. GM, LLC*, 113 F.4th 585, 603 (6th Cir. 2024); *Mayor & City Council of Balt. v. BP P.L.C.*, 31 F.4th 178, 216 (4th Cir. 2022).

⁷⁰ *Merrick v. Diageo Ams. Supply, Inc.*, 805 F.3d 685, 690 (6th Cir. 2015); *Bell v. Cheswick Generating Station*, 734 F.3d 188, 196 (3d Cir. 2013).

⁷¹ *Her Majesty the Queen in Right of Province of Ontario v. City of Detroit*, 874 F.2d 332, 342 (6th Cir. 1989).

enforcement actions under state law.⁷² As *City of Oakland* noted, “[w]hen a federal statute has a saving clause of this sort, Congress did not intend complete preemption, because there would be nothing to save if Congress intended to preempt every state cause of action within the scope of the statute.”⁷³ If EPA were to assert regulatory authority over GHG emissions in a comprehensive manner, the Act could preempt certain state claims via the doctrines of field preemption or obstacle preemption.⁷⁴ EPA, however, is now proposing that it has no such power to assert.

If EPA is correct that it lacks authority to regulate GHGs from mobile sources, then there is no federal scheme speaking directly to the regulation of GHGs from motor vehicles. In that circumstance, the logic of *AEP* dictates that state authority remains intact, because displacement (and by extension, preemption) applies only where federal law actually governs a field. Put more simply: if EPA says Congress gave it no power to regulate GHGs, then EPA’s reading means Congress has not barred states from acting. This interpretation is reinforced by *Wyeth v. Levine*, in which the Court stated that “we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.”⁷⁵ Indeed, if one were to accept EPA’s claim elsewhere that it “lacks the ‘clear congressional authorization’ . . . to decide the Nation’s response to global climate change concerns,” then clearly the same statutory language could not represent a “clear and manifest purpose of Congress” to preempt state regulation.⁷⁶

The experience of CEJN and RHA is particularly instructive to consider in terms of the way EPA’s position on preemption requires significant clarification. As described above, CEJN and RHA have petitioned the Illinois Pollution Control Board (Board) to address GHG pollution from motor vehicles through adoption of California’s emissions standards.⁷⁷ That proceeding asks the Illinois regulator to promulgate rules under its state statutory authority.⁷⁸

Illinois law authorizes regulations on motor vehicles using a similar structure as the federal Clean Air Act.⁷⁹ Section 10 of the Illinois Environmental Protection Act grants the Board broad power to set “standards and conditions regarding the sale, offer, or use of any fuel,

⁷² *Bd. of Cty. Comm’rs of Boulder Cty. v. Suncor Energy (U.S.A.) Inc.*, 25 F.4th 1238, 1263 (10th Cir. 2022); *Rhode Island v. Shell Oil Prods. Co., L.L.C.*, 35 F.4th 44, 58 (1st Cir. 2022); *City of Oakland v. BP Pub. Ltd. Co.*, 960 F.3d 570, 575 (9th Cir. 2020).

⁷³ *City of Oakland*, 960 F.3d at 575.

⁷⁴ See *In re Bd. of Cty. Comm’rs of Boulder Cty v. Suncor Energy (U.S.A.) Inc.*, 2025 CO 21, 025 WL 1363355, ¶¶ 39-48 (May 12, 2025).

⁷⁵ *Wyeth v. Levine*, 555 U.S. 555, 565 (2009).

⁷⁶ *Proposed Endangerment Finding Recission* at 36306.

⁷⁷ *Sierra Club, Sign Petition for Clean Vehicle Standards*, (June 14, 2024),

<https://www.sierraclub.org/illinois/woods-wetlands/blog/2024/06/sign-petition-clean-vehicle-standards>

⁷⁸ Rule Proponents, *Proposed Clean Car and Truck Standards: 35 Ill. Admin. Code Part 242*, R2024-017 (Ill. Pollution Control Bd. filed June 27, 2024).

⁷⁹ 415 Ill. Comp. Stat. 5/10(a)(d) (2024).

vehicle, or other article determined by the Board to constitute an air-pollution hazard.”⁸⁰ The state legislature has also repealed past limits on the Board’s authority to regulate GHGs, affirmatively restoring its jurisdiction over GHGs from the transportation sector.⁸¹ In other words, under Illinois statutory law, GHGs are eligible for regulation by Illinois agencies, subject, of course, to federal preemption limitations.

Section 10 bears important structural similarities to § 202(a) of the federal CAA.⁸² Both statutes use broad public-health-protective language, delegate rulemaking authority to an expert agency, and provide a mechanism for adopting regulations to limit vehicle emissions.⁸³ But there are also differences: Section 10’s touchstone is whether vehicles constitutes an “air-pollution hazard,” a state-law standard that the Illinois Board interprets in light of state-specific conditions and legislative purposes.⁸⁴ Then, the Board’s general rulemaking authority and standards are triggered. Unlike the CAA § 202(a)(1), Section 10 does not contain a unique second-step inquiry for mobile source regulations and the specific standard it creates to trigger regulation is substantively different, so Section 10 allows the state to reach its own determinations of hazard and act accordingly, independent from the federal administrative decisions and statutory standards at issue here.⁸⁵

That distinction underscores why EPA’s sweeping assertion of preemption is misguided. If EPA’s proposed action is interpreted as meaning that all state action to regulate GHG emissions from mobile sources is foreclosed, then states like Illinois would be forced to ignore their own independent statutory mandates, even where state law expressly authorizes regulation of motor vehicle emissions and empowers regulators to apply their own thresholds for regulation.⁸⁶ Such a result would effectively erase state policymaking authority that remains reserved to the states absent a clear and manifest statement from Congress.⁸⁷

EPA’s suggestion that its own determination not to regulate greenhouse gases preempts state law would subvert federalism. A federal choice to decline regulation cannot be read as a command that states likewise do nothing, especially when state statutes empower them to protect the health and welfare of their own residents under their own standards. Illinois, acting under its Environmental Protection Act, is entitled and empowered to make its own policy judgments about air pollution hazards from vehicles and to implement protective standards where its regulators determine the evidence warrants such action.

⁸⁰ *Id.*

⁸¹ Pub. Act 101-373, § 5 (Ill. 2019) (repealing the Kyoto Protocol Act of 1998, 415 Ill. Comp. Stat. 140/Act rep.).

⁸² 42 U.S.C. § 7521(a).

⁸³ 42 U.S.C. § 7521(a)(1) (2024); 415 Ill. Comp. Stat. 5/10(a)(d) (2024).

⁸⁴ 415 Ill. Comp. Stat. 5/10(d) (2024).

⁸⁵ 42 U.S.C. § 7521(a)(1) (2024); 415 Ill. Comp. Stat. 5/10(a)(d) (2024).

⁸⁶ 415 Ill. Comp. Stat. 5/10(a)(d) (2024).

⁸⁷ *Wyeth*, 555 U.S. at 565.

Given EPA’s misreading of the CAA and its disregard of state authority, CEJN and RHA respectfully urge the Agency to withdraw the Proposed Endangerment Finding Recission or, in the alternative, to specifically clarify that the Proposed Endangerment Finding Recission would result in state and local GHG regulation of mobile sources to be no longer preempted by the newly-interpreted CAA.

III. Comment: The Proposed Endangerment Finding Recission is based on unsound science that will intensify climate harms in vulnerable communities.

A. The Proposed Endangerment Finding Recission relies on flawed scientific data that lead to its patently incorrect assessment of the effects of GHG emissions.

The Proposed Endangerment Finding Recission ignores and misinterprets the scientific foundation of EPA’s 2009 Findings, as well as misrepresenting the even stronger body of peer-reviewed research that has been published in the years since.⁸⁸

EPA’s present findings as to the scientific and technical aspects of the § 202(a)(1) inquiry also fail to properly apply the statutory standard – a distinct legal failure that undercuts any claim the Agency might make to deference on the factual and technical aspects of the § 202(a)(1) analysis. Section 202(a)(1) instructs that EPA “shall” regulate when a pollutant “may reasonably be anticipated to endanger public health or welfare.”⁸⁹ The statute does not require that such endangerment be certain or even more likely than not. Rather, the plain text of § 202(a)(1) indicates that EPA must act proactively and precautionarily if it is “reasonabl[e]” to believe such endangerment could occur in the future.

While ignoring the scientific conclusions of the Intergovernmental Panel on Climate Change (IPCC), U.S. Global Change Research Program (USGCRP), and EPA itself in its 2009 Findings, EPA’s new proposal draws heavily on a single DOE Report entitled “A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate” (DOE Report).⁹⁰ The DOE Report has been widely discredited by the scientific community for misusing and mischaracterizing research.⁹¹ Even if the DOE Report were somehow found to be credible to any degree – which, as addressed below, it should not be – the most that could be said for it is that it might make it “reasonable” to hold a different belief than espoused by the

⁸⁸ 74 Fed. Reg. at 66,497; Hoesung Lee et al., “‘Climate Change 2023’ Synthesis Report,” Intergovernmental Panel on Climate Change, Sixth Assessment Report (AR6), March 17, 2023, https://www.ipcc.ch/site/assets/uploads/2023/03/Doc5_Adopted_AR6_SYR_Longer_Report.pdf; Philip B. Duffy et al., “Strengthened Scientific Support for the Endangerment Finding for Atmospheric Greenhouse Gases,” *Science* 363, no. 6427 (2019): 597, <https://www.science.org/doi/10.1126/science.aat5982>.

⁸⁹ 42 U.S.C. § 7521(a) (2025).

⁹⁰ Julia Simon, *Dozens of Scientists Find Errors in a New Energy Department Climate Report*, NPR (Sept. 2, 2025), <https://www.npr.org/2025/09/02/nx-s1-5521384/energy-report-scientists-climate-change>.

⁹¹ *Id.*

overwhelming majority of global scientific experts and reflected in the 2009 Findings. The DOE Report representing dissenting voices could not, however, make it any less “reasonable” to believe that overwhelming global scientific consensus regarding the likely magnitude and array of climate change harms. So, even credited at face value, which it should not be, the DOE Report would fail to demonstrate that the scientific basis of the 2009 Endangerment Finding should be revisited.

The 2009 Findings were grounded in a comprehensive review of decades of scientific research and peer-reviewed assessment reports.⁹² In its 2009 Findings, EPA concluded that “elevated concentrations of heat-trapping greenhouse gases are the root cause of recently observed climate change,” citing the IPCC 2007 report and the USGCRP 2009 assessment.⁹³ EPA believed these elevated concentrations to be “very likely due to the observed increase in anthropogenic greenhouse gas concentrations.”⁹⁴ EPA found that these increased emissions threaten both public health and welfare by driving more frequent and severe heat waves, degraded air quality and associated respiratory illness, the spread of infectious diseases, sea-level rise, flooding, extreme storms, and other disruptive and damaging impacts.⁹⁵

In the years since, IPCC reports have indicated even stronger scientific evidence that GHG emissions do in fact endanger public health and welfare in the precise ways EPA identified in its 2009 Findings.⁹⁶ The IPCC Sixth Assessment Report, produced from 2015 to 2023, establishes that human actions indisputably affect the climate system and connects greenhouse gas emissions to health risks, stronger storms and weather extremes, sea level rise, and increasingly severe heat waves.⁹⁷ Similarly, the Fifth National Climate Assessment, released in 2023, concludes that every U.S. region is now experiencing the impacts of climate change, with effects becoming more rapid and severe, disproportionately harming marginalized communities and creating significant stress on health care and infrastructure networks.⁹⁸ “Strengthened Scientific Support for the Endangerment Finding for Atmospheric Greenhouse Gases,” published in 2019, asserts human activity has been responsible for almost all global temperature rise since the mid-20th century, emphasizing the established connection between greenhouse gases and

⁹² Natural Resources Defense Council, *EPA's Endangerment Finding* (Aug. 5, 2025), <https://www.nrdc.org/resources/epas-endangerment-finding>.

⁹³ 74 Fed. Reg. at 66,518.

⁹⁴ *Id.*

⁹⁵ Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496 (Dec. 15, 2009); Intergovernmental Panel on Climate Change, *Climate Change 2007: Synthesis Report* (2007), <https://www.ipcc.ch/report/ar4/syr/>; U.S. Global Change Research Program, *Global Climate Change Impacts in the United States* (Thomas R. Karl et al. eds., 2009), <https://science2017.globalchange.gov/>.

⁹⁶ Hoesung Lee et al., “Climate Change 2023’ Synthesis Report,” Intergovernmental Panel on Climate Change, Sixth Assessment Report (AR6), March 17, 2023, https://www.ipcc.ch/site/assets/uploads/2023/03/Doc5_Adopted_AR6_SYR_Longer_Report.pdf.

⁹⁷ *Id.*

⁹⁸ A. R. Crimmins et al., eds., “Fifth National Climate Assessment,” National Oceanic and Atmospheric Administration, 2023, <https://repository.library.noaa.gov/view/noaa/61592>.

climate change.⁹⁹ In Illinois, the 2021 “Climate Action Plan for the Chicago Region” found that average temperatures in the Great Lakes states rose 1.4°F between 1985 and 2016, warning that Illinois faces increasingly frequent and severe extreme heat and flooding events if emissions are not reduced.¹⁰⁰ Moreover, a 2025 report from the National Academies of Sciences, Engineering, and Medicine, undertaken specifically to update the record underlying the 2009 Endangerment Finding, concluded that the evidence linking human-caused greenhouse gas emissions to harms in U.S. climate, health, and welfare has only grown stronger, with new risks identified since 2009 and no remaining scientific basis to dispute the threat.¹⁰¹

While the overwhelming majority of credible scientists have spent the past 15 years collecting additional evidence supporting EPA’s basic findings in 2009, EPA now relies entirely on a single report issued earlier this year by a handful of dissenting voices.¹⁰² The DOE Report was authored by a small group of long-time climate contrarians, including John Christy, Judith Curry, and Steven Koonin, and has been criticized for cherry-picking data, downplaying well-documented risks, and selectively quoting studies in ways that distort their actual findings.¹⁰³ By narrowly focusing on a study that lacked peer review, while omitting or misconstruing broader, peer-reviewed, mainstream research, the DOE Report downplays critical climate impacts which could lead to erroneous judgments about the consequences of greenhouse gas emissions.¹⁰⁴ Multiple scientists cited in the DOE Report, including James Rae, Alexander Gershunov, Sukyoung Lee, Bor-Ting Jong, and Zeke Hausfather, have publicly stated that their research was taken out of context or misrepresented to suggest outcomes contrary to their conclusions.¹⁰⁵ In response to the DOE Report, more than eighty-five climate scientists issued a 400-page line-by-line rebuttal, concluding that the report was not only scientifically flawed but also misleading in its treatment of the underlying research (and much of said research, again, was conducted by the very authors of the report).¹⁰⁶

⁹⁹ Strengthened Scientific Support *supra* note 87.

¹⁰⁰ Makra, Edith & Ned Gardiner, *Climate Action Plan for the Chicago Region 1* (2021) (Metropolitan Mayors Caucus & U.S. National Oceanic & Atmospheric Administration) – NOAA Climate-Smart Communities Series, Vol. 1, <https://doi.org/10.25923/4s3v-9m65>.

¹⁰¹ National Academies of Sciences, Engineering, and Medicine, *Effects of Human-Caused Greenhouse Gas Emissions on U.S. Climate, Health, and Welfare* (2025), <https://doi.org/10.17226/29239>.

¹⁰² Hana Vizcarra & Marvin C. Brown IV, *A Legal Analysis of the Trump EPA’s Plan to Revoke the Endangerment Finding*, Earthjustice (Aug. 1, 2025), <https://earthjustice.org/experts/hana-vizcarra/a-legal-analysis-of-the-trump-epas-plan-to-revoke-the-endangerment-finding>.

¹⁰³ *Id.*

¹⁰⁴ See Ayesha Tandon, Leo Hickman, Cecilia Keating & Robert McSweeney, Factcheck: Trump’s Climate Report Includes More Than 100 False or Misleading Claims, *Carbon Brief* (Aug. 14, 2025), <https://interactive.carbonbrief.org/doe-factcheck/index.html>.

¹⁰⁵ Anna Kramer, ‘A Serious Misuse of My Research’: Climate Scientists Say New Trump Energy Report Botches Their Work, Notus (July 30, 2025), <https://www.notus.org/climate-environment/scientists-trump-climate-change-report-doe-citations-mischaracterizations>.

¹⁰⁶ Tracy J. Wholf, More Than 85 Climate Experts Say Energy Department Report on Greenhouse Gases Is “Full of Errors,” *CBS News* (Sept. 2, 2025), <https://www.cbsnews.com/news/energy-department-greenhouse-gas-report-climate-experts/>.

Reasons to find the DOE Report unreliable are myriad. In one instance, the DOE Report claimed that rising CO₂ levels may benefit agriculture while omitting evidence of the broader harms associated with extreme heat, drought, and water stress, all caused by rising concentrations of GHGs in the atmosphere.¹⁰⁷ In another, the DOE Report measured “meteorological” droughts solely through rainfall data, using these measurements to claim that droughts have not intensified while ignoring the timing and intensity of rainfall and how it is distributed over time.¹⁰⁸ Experts explain that this is misleading as rising temperatures and increased evaporation can worsen droughts even without changes in precipitation, and numerous studies show climate change is already amplifying drought severity.¹⁰⁹ Furthermore, the DOE Report admits that wildfires have increased in burn area, but asserts this trend stopped in 2007.¹¹⁰ That claim is contradicted when looking at the western United States. The annual area burned by wildfires in the United States has tripled since the early 1980s, with 2020 nearly doubling the prior modern record set in 2012, and 2021 then matching 2020.¹¹¹

With only a thirty-day public review period and no transparent peer review, the DOE Report lacks the independence, rigor, and oversight required of a “Highly Influential Scientific Assessment” and cannot credibly inform policy.¹¹² Andrew Dessler, professor of atmospheric sciences at Texas A&M University, contrasted the DOE Report with climate reports from the IPCC, which “feature the work of hundreds of global scientists and require multiple rounds of peer review.”¹¹³ The DOE Report was internally reviewed in a process described by mainstream scientists as insufficient and lacking transparency.¹¹⁴ Nearly eleven percent of all citations in the DOE Report are self-citations to prior works of the authors themselves, five times higher than the rate of such citations in the IPCC Sixth Assessment Report, raising concerns about bias and limited scientific breadth.¹¹⁵ Furthermore, it is suspect that the federal government has quickly disbanded that group of contrarian authors, thereby foreclosing future efforts to question the authors in an appropriate public forum.¹¹⁶

¹⁰⁷ U.S. Dep’t of Energy, *A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate* (July 2025), <https://www.energy.gov/articles/departments-energy-issues-report-evaluating-impact-greenhouse-gasses-us-climate-invites>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ U.S. Dep’t of Energy, *supra* note 107 at 70.

¹¹¹ *Carbon Brief*, *supra* note 106.

¹¹² Andrew E. Dessler & Robert E. Kopp, eds., *Climate Experts’ Review of the DOE Climate Working Group Report* (Aug. 30, 2025) (submitted as comment to U.S. Dep’t of Energy, Docket No. DOE-HQ-2025-0207); see *Final Information Quality Bulletin for Peer Review*, 70 Fed. Reg. 2664, 2665–66 (Jan. 14, 2005) (defining “Highly Influential Scientific Assessment” (HISA) as a category of scientific report that, due to its potential impact on policy, must undergo rigorous, transparent, and independent peer review, comparable to that conducted by the National Academies).

¹¹³ Dessler, *supra* note 112.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ NPR, *Climate-Change Pollution Report*, Sept. 13, 2025, <https://www.npr.org/2025/09/13/nx-s1-5539294/climate-change-pollution-report>.

This flawed research from DOE has led EPA to flawed conclusions. In its Proposed Endangerment Finding Recission, EPA asserts that anticipated climate harms have not materialized since the 2009 Findings.¹¹⁷ This is both wrong and misguided. It is wrong because it is contradicted by the mainstream scientific record. It is misguided because the full impacts and total danger of climate change cannot be judged within a sixteen-year time frame and § 202(a)(1) does not require such certainty or immediacy in any event: endangerment of the public need only be reasonably anticipated in the future.

To support its presumption that climate harms have not materialized since 2009, EPA claims that sea level rise has been minimal.¹¹⁸ First, that position recognizes sea level rise is happening and EPA does not challenge that sea level rise is a function of GHG emissions – it strains credulity to claim that the oceans swallowing American soil, even if at a slow pace, does not harm public welfare. Moreover, that position is inconsistent with the factual record before EPA. Sea level rise is not only continuing since 2009, but accelerating, with satellite observations tracking closely to IPCC projections rather than falling below them.¹¹⁹ In fact, NOAA and NASA data show U.S. sea level rise has accelerated from 0.3 inches per decade in the 1970s to 1.9 inches per decade in the 2010s.¹²⁰

Again in contradiction to scientific consensus and the lived experience of Americans in every region of our nation, EPA claims that the rate and intensity of extreme weather events have remained stable, including hurricanes, floods, droughts, and other severe events.¹²¹ The IPCC's Sixth Assessment Report finds that extreme events have intensified in line with projections: floods have become more frequent across North America, Asia, and Europe, and the proportion of high-intensity tropical cyclones has likely increased over recent decades.¹²² A record April 2013 rainfall event flooded highways, homes, and railways in Chicago.¹²³ Between 2007 and 2014, insurers paid \$1.8 billion in flood-related claims in the Chicago metro area, and ninety percent of those claims occurred outside the 100-year floodplain.¹²⁴ This demonstrates that flooding in Illinois is not only worsening but also striking far beyond historically projected risk zones. Likewise, heatwaves are becoming longer, hotter, and more frequent, amplifying risks to human health.¹²⁵ The 2012 Midwest drought and heatwave was the hottest and driest summer in Illinois in more than fifty years, causing widespread crop failure and economic damage.¹²⁶ These developments directly undermine the suggestion that anticipated harms have failed to

¹¹⁷ *Proposed Endangerment Finding Recission* at.

¹¹⁸ *Proposed Endangerment Finding Recission* at 36309.

¹¹⁹ *Carbon Brief*, *supra* note 106.

¹²⁰ Dessler, *supra* note 112.

¹²¹ *Proposed Endangerment Finding Recission* at 36309.

¹²² *Carbon Brief*, *supra* note 106.

¹²³ "State of Emergency: Massive Rains Create Widespread Flooding," CBS Chicago (Apr. 18, 2013), <https://www.cbsnews.com/chicago/news/massive-rains-leads-to-widespread-flooding-delays/>.

¹²⁴ *Proposed Clean Car and Truck Standards*, *supra* note 8, at 26.

¹²⁵ *Id.*

¹²⁶ *Id.*

occur since 2009, showing instead that climate change impacts are already unfolding at significant, and in many cases worsening, scales.

Perhaps most strangely, EPA suggests that the 2009 Findings overstated climate change damages by emphasizing certain speculative “benefits” of climate change.¹²⁷ For instance, EPA emphasizes that “even marginal increases in CO₂ concentrations have substantial beneficial impacts on plant growth and agricultural productivity.”¹²⁸ That suggestion, however, ignores entirely the fundamental context of a changing climate. The scientific consensus holds that CO₂-driven warming will harm U.S. agriculture by pushing air temperatures beyond the optimal temperature range for some crops, where yields will instead begin to decline despite more CO₂ being available for plants to use in photosynthesis.¹²⁹

In contrast to the 2009 Findings which relied on mainstream science, current reliance on the DOE Report has led EPA to an assessment of the impacts of GHG emissions that is incomplete, misleading, and inconsistent with the prevailing scientific consensus.¹³⁰ EPA is fundamentally and obviously weighing critical climate impacts, including heat-driven droughts, wildfire risks, and sea-level rise, in a manner that is arbitrary and capricious.¹³¹ EPA is misrepresenting and oversimplifying scientific findings to justify wild underestimates of the dangers of GHG emissions and regulatory decisions that fail to protect public health, ecosystems, and infrastructure. In short, EPA’s proposal is unsupported by substantial evidence in the record growing before the Agency.

B. The Proposed Endangerment Finding Recission will worsen the impacts of extreme heat and flooding on Chicago residents, especially in low-income communities and communities of color.

EPA’s Proposed Endangerment Finding Recission systematically underestimates the climate harms caused by greenhouse gas emissions and fails to account for the public health and equity risks experienced by those most vulnerable. Climate change is already deepening longstanding inequities in Illinois, with extreme heat and flooding hitting low-income neighborhoods and communities of color in Chicago the hardest. Extreme heat, the nation’s deadliest weather hazard, is affecting illness and mortality for residents lacking access to reliable cooling.¹³² At the same time, more intense rainfall and flooding are inflicting the greatest harm on communities historically excluded from investment and protection. These overlapping risks

¹²⁷ See *Proposed Endangerment Finding Recission* at 36309.

¹²⁸ *Proposed Endangerment Finding Recission* at 36309.

¹²⁹ *Carbon Brief*, *supra* note 106.

¹³⁰ See *Carbon Brief*, *supra* note 106.

¹³¹ See Dessler, *supra* note 112.

¹³² Youri Benadjaoud & Bill Hutchinson, “As Much of the U.S. Braces for Extreme Heat, Statistics Show 2,000 Die from It Annually”, ABC NEWS (July 28, 2025), <https://abcnews.go.com/Health/us-braces-extreme-heat-statistics-show-2000-die/story?id=124136576>.

affirm, rather than call into question, EPA’s 2009 determination that GHG pollution threatens public health and welfare.¹³³

Yet neither the 2009 Endangerment Finding nor the 2025 Proposed Endangerment Finding Recission has meaningfully addressed these equity concerns. The 2009 Finding acknowledged that vulnerability varies among different demographics only in general terms, noting that “children, the elderly, and the poor” are more at risk from climate-related health effects.¹³⁴ Furthermore, its Executive Order 12898 review was limited to stating that the action would not have disproportionate effects on minority or low-income populations.¹³⁵ It did not grapple at all with the fact that climate change impacts will be most severe for the people with the fewest resources to respond to those impacts.

The 2025 Proposed Endangerment Finding Recission goes even further to ignore the impacts on vulnerable populations of failing to control GHG emissions by removing that already scant discussion.¹³⁶ The current proposal’s only substantive reference to children’s health recites well-known vulnerabilities – that children have developing respiratory systems, higher ventilation rates, and prenatal exposure risks – but then concludes without explanation or meaningful analysis that repealing GHG standards would have only “marginal and incidental impacts.”¹³⁷ This ignores the substantial risks children face from climate change, including heat stress, ozone formation, and climate-driven respiratory harms.¹³⁸

EPA continues to fail to consider how worsening climate change will impact communities already disproportionately burdened by heat stress. Scientists project that, as global temperatures rise, Chicago will experience longer warm seasons, more frequent extreme heat days, and higher nighttime temperatures.¹³⁹ These risks are amplified by the city’s urban heat island effect, in which dense concentrations of pavement, buildings, and other urban infrastructure trap heat.¹⁴⁰ Sixty-two percent of Chicago residents, approximately 1.7 million people, live in neighborhoods where local development patterns raise temperatures by at least 8°F compared to surrounding areas.¹⁴¹ Meanwhile, extreme heat is already Chicago’s deadliest weather hazard, and by mid-century the city could face up to thirty days above 100°F each year,

¹³³ 74 Fed. Reg. at 66,530-34.

¹³⁴ 74 Fed. Reg. at 66,499.

¹³⁵ 74 Fed. Reg. at 66,542.

¹³⁶ See *Proposed Endangerment Finding Recission* at 36290.

¹³⁷ *Proposed Endangerment Finding Recission* at 36328.

¹³⁸ Marilyn Urrutia-Pereira & Dirceu Solé, Impact of Climate Change and Air Pollution on Childhood Respiratory Health, 101 J. Pediatrics S65 (Supp. 1 2025), <https://doi.org/10.1016/j.jpeds.2024.11.007>.

¹³⁹ City of Chicago, *Chicago Climate Action Plan*, <https://www.chicago.gov/content/dam/city/sites/climate-action-plan/documents/Chicago-CAP-071822.pdf>.

¹⁴⁰ *Id.*

¹⁴¹ Climate Central, *Urban Heat Hot Spots in 65 Cities*, <https://www.climatecentral.org/climate-matters/urban-heat-islands-2024>.

compared to the current average of just one to two.¹⁴² EPA ignores the impacts of GHG-driven heat impacts on urban populations.

EPA's Proposed Endangerment Finding Recission suggests that climate harms identified in 2009 were overstated because the analysis did not project adaptation measures that, in EPA's current view, could reduce potential adverse impacts of GHG emissions.¹⁴³ Yet the Draft Regulatory Impact Analysis contains no effort to quantify the extent of those purported adaptation effects, nor does it monetize the significant costs associated with such measures nor evaluate at how such adaptation efforts would be paid for or by whom.¹⁴⁴ Instead, EPA substitutes assumption for evidence, and then relies on that assumption to rationalize disregarding significant harms.¹⁴⁵ Measures like installing air conditioning, retrofitting housing, expanding cooling centers, or paying higher utility bills impose real and often prohibitive costs on households and local governments.¹⁴⁶ By treating adaptation as if it were costless, EPA both specifically ignores the economic and human burdens borne by vulnerable communities, understating the true harms of climate change, and more generally presents a skewed and unreliable cost-benefit analysis.¹⁴⁷

The inaccuracy of EPA's assumption about adaptation efforts is borne out on the ground in Chicago, where meaningful heat adaptation has not materialized, especially in vulnerable communities. A 2023 study found that eighty percent of un-air-conditioned homes in South and West Side neighborhoods reached 103°F indoors during a heat wave, creating life-threatening conditions, with one home spiking to 120°F.¹⁴⁸ Just a year later, in June 2024, Chicago experienced an all-time daily temperature record that had stood for 137 years.¹⁴⁹ As the experiences of Chicagoans demonstrate, EPA's assumption of costless adaptation ignores present, life-threatening conditions to which society is not adapting and fundamentally distorts its analysis of climate harms.

Nationwide, systemic inequalities, including redlining and discriminatory development practices, have left many communities of color with limited opportunities for climate adaptation

¹⁴² ISWS Climate Models Predict Extreme Heat Waves in Mid- and Late-21st Century, *Prairie Research Institute Blog* (July 13, 2010), <https://blogs.illinois.edu/view/7447/607286>.

¹⁴³ *Proposed Endangerment Finding Recission* at 36303.

¹⁴⁴ *See RIA*.

¹⁴⁵ *Id.*

¹⁴⁶ Autumn Burton, *How Heat Drives Up Housing Costs*, *New Am.* (Aug. 26, 2025), <https://www.newamerica.org/future-land-housing/blog/housing-costs-extreme-heat-energy-solutions/>.

¹⁴⁷ *See RIA*.

¹⁴⁸ *Simon Morrow, Study Finds Chicagoans Without AC Are Exposed to Fatal Levels of Heat*, *IIT News* (Sept. 17, 2024), <https://www.iit.edu/news/study-finds-chicagoans-without-ac-are-exposed-fatal-levels-heat>.

¹⁴⁹ May Malone & Reema Saleh, *Mapping Out Extreme Heat Resilience Strategies for Cities*, *BUFFETT INST. FOR GLOBAL AFFAIRS* (Sept. 20, 2024), <https://buffett.northwestern.edu/news/2024/defusing-disasters-group-maps-out-extreme-heat-resilience-strategies-for-cities.html>.

via access to green space and cooling resources.¹⁵⁰ This pattern is reflected in Chicago.¹⁵¹ People of color and low-income residents are more likely to inhabit neighborhoods with the highest projected increases in heat-related mortality.¹⁵² Moreover, minorities are thirty-five percent more likely than non-minorities to live in areas expected to experience the greatest labor hour losses due to extreme heat, with Hispanic and Latino individuals facing the highest relative risk.¹⁵³ Those working outdoors in construction, transportation, utilities, or non-climate-controlled factories and warehouses face direct exposure to extreme heat in ways that often cannot be avoided.¹⁵⁴ Economic pressures may compel such workers to remain on the job during dangerously hot days, further increasing the risk of heat-related illness.¹⁵⁵

Flood events nationwide threaten homes, businesses, and community infrastructure, including water systems, transportation networks, and public spaces.¹⁵⁶ These flooding impacts disproportionately affect low-income communities, where local governments may lack the resources or political will to maintain infrastructure, repair damage, or implement long-term mitigation strategies.¹⁵⁷ Residents with limited means may struggle to afford insurance, make repairs, replace damaged possessions, or invest in preventive measures.¹⁵⁸ This dynamic was evident in Berwyn, a largely Hispanic southwest suburb of Chicago, where a 2023 flood brought 8 to 9 inches of rainfall in a single day, leaving many homes with sewage-filled basements and thousands of dollars in damage.¹⁵⁹ Because many residents lacked flood insurance or the savings needed to cover repairs, families were forced to live with unsafe conditions, discard essential household items, and depend on limited community or municipal assistance.¹⁶⁰ The financial and emotional toll of the flooding illustrates how households already under economic strain face disproportionate barriers to recovery, and how the absence of resources compounds the long-term risks of climate-related disasters.¹⁶¹

The climate-driven storms that are becoming more frequent and severe throughout the United States are leading to increased flooding in northeastern Illinois, a trend expected to

¹⁵⁰ *See Id.*

¹⁵¹ *Id.*; Chicago Department of Public Health, *Heat Watch Report*, https://www.chicago.gov/content/dam/city/depts/cdph/environment/heat_watch/Summary-Report-Heat-Watch-Chicago_CAPA-12.15.2023.pdf

¹⁵² Environmental Protection Agency, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts* (Sept. 2021), www.epa.gov/cira/social-vulnerability-report.

¹⁵³ *Id.*

¹⁵⁴ Environmental Protection Agency, *Climate Change and the Health of Socially Vulnerable People*, <https://www.epa.gov/climateimpacts/climate-change-and-health-socially-vulnerable-people>.

¹⁵⁵ *Climate Change and Social Vulnerability*, *supra* note 152.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Illinois' Urban Flooding Problem Is Growing, and Residents Say Help Isn't Coming Soon Enough, CICERO INDEP. (July 20, 2023), <https://www.ciceroindependiente.com/english/illinois-urban-flooding-berwyn>.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

continue.¹⁶² Repealing greenhouse gas emissions standards would exacerbate warming, further intensifying flooding in Chicago. In Illinois, insurers paid \$1.8 billion in flood-related claims in the Chicago area between 2007 and 2014, and a 2019 study found that eighty-seven percent of flood claims from 2007 to 2016 were concentrated in disadvantaged neighborhoods.¹⁶³ In Chicago, these disparities are similarly stark. Between 2007 and 2016, thirteen zip codes, predominantly on the west, southwest, and south sides, accounted for nearly three-quarters of the city's flood insurance claims.¹⁶⁴ In these neighborhoods, ninety-three percent of residents are people of color, and sixty-two percent of households earn less than \$50,000 annually.¹⁶⁵ The personal impacts of flooding are severe: a 2019 survey of Chicago flood victims found that sixty-three percent lost valuables, forty-one percent lost partial use of their property, and seventy-four percent lost work hours addressing repairs.¹⁶⁶

Notably, the Regulatory Impact Analysis offered in support of the Proposed Endangerment Finding Recission fails to consider equity, vulnerable populations, or income-level differences in exposure to climate harms and the capacity to adapt to them, an omission that undercuts an accurate accounting of climate impacts and ignores the very communities most at risk.¹⁶⁷ Given the heightened vulnerabilities affecting low-income communities and communities of color in Chicago, CEJN and RHA strongly urge the U.S. EPA not to finalize the Proposed Endangerment Finding Recission.

IV. Comment: The Proposed Endangerment Finding Recission will worsen respiratory health issues amongst Chicago residents, especially in low-income communities and communities of color.

EPA should abandon its proposed action because it will harm public health as a result of the way that regulating GHGs from motor vehicles impacts the emission rates of other forms of air pollution from those sources. Indeed, EPA admits the health costs of its proposal will be massive: EPA's Draft RIA for the Proposed Endangerment Finding Recission states that the Proposed Endangerment Finding Recission would lead to health costs of \$2 billion to \$4 billion annually, on average.¹⁶⁸ The costs may be even higher than this, as the EPA's final rule for multi-pollutant emission standards for model years 2027 light-duty and medium-duty vehicles,

¹⁶² Chicago Metropolitan Agency for Planning, *Stormwater and Flooding Strategy Paper*, https://cmap.illinois.gov/wp-content/uploads/FY18-0051-STORMWATER-AND-FLOODING_FINAL.pdf.

¹⁶³ Center for Neighborhood Technology (CNT), *Disparities of Urban Flood Risk For Households of Color in Chicago*, at 1 (2019), <https://cnt.org/sites/default/files/publications/IMPJ-Assessing-Disparities-of-Urban-Flood-Risk-for-Households-of-Color-in-Chicago.pdf>.

¹⁶⁴ Center for Neighborhood Technology, *Assessing Disparities of Urban Flood Risk for Households of Color in Chicago*, <https://cnt.org/projects/flood-equity-report>.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ RIA; *Proposed Endangerment Finding Recission*.

¹⁶⁸ RIA, 42.

which would be eliminated in this action, estimated the health savings of that rule to be \$13 billion dollars annually.¹⁶⁹ The cause of this massive difference lies primarily in EPA's newfound and unsupported assumption that comparing emissions projections should include offsetting emissions that would have resulted from the greater proportion of vehicles that would have been electric if the multi-pollutant standards went into effect and which would have been, EPA now assumes, powered by fossil fuel electric generating units.¹⁷⁰ The second reason for the difference lies in EPA's claim that much of the health benefits were caused by the regulation of certain criteria pollutants, which will be unchanged by the proposed action.¹⁷¹ EPA's proposal will harm the public health and welfare, which is directly at odds with the precautionary, and protective public health focus of § 202(a)(1).¹⁷²

Contrary to EPA's claims, the Proposed Endangerment Finding Recission will cause an increase emissions of several co-pollutants that are harmful to human respiratory health. It is estimated that the repeal of the 2009 Findings would result in the addition of seven billion metric tons of CO₂ and other GHGs over the next thirty years, which would lead to severe climate impacts in Illinois and elsewhere.¹⁷³ But, requiring reductions in GHG emissions functionally also reduces emissions of co-pollutants, which are pollutants released alongside GHGs that directly impact human health and the environment.¹⁷⁴ Transportation is one of the largest contributors to anthropogenic GHG emissions and also generates ozone, fine particulate matter, nitrogen oxide and sulfur dioxide co-pollutants that irritate the respiratory system and aggravate asthma.^{175 176 177 178} These co-pollutants harm public health and the environment even at levels permitted by existing regulations.¹⁷⁹ In fact, it has been found that air pollutants from U.S. oil and gas operations cause 91,000 premature deaths and hundreds of thousands of health issues

¹⁶⁹ Environmental Protection Agency, *Final Rule: Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles: Final Rule*, <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P1019VP5.pdf>

¹⁷⁰ *RIA*, 42.

¹⁷¹ *Id.*

¹⁷² 42 U.S.C. § 7521(a) (2025).

¹⁷³ Environmental Protection Agency, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, 89 Fed. Reg. 27842, 27860 (2024).

¹⁷⁴ Climate Trace, *Understanding the major non-GHG air pollutants*, <https://climatetrace.org/news/understandingthe-major-non-ghg-air-pollutants>.

¹⁷⁵ Han Han, *Increases in global transportation-induced air pollution mortality and radiative forcing during 1990–2019*, (May, 2025), doi: 10.3389/fenvs.2025.1545924

¹⁷⁶ Environmental Protection Agency, *Fast Facts on Transportation Greenhouse Gas Emissions*, <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions>.

¹⁷⁷ Environmental Protection Agency, *Nitrous Oxide Emissions*, <https://www.epa.gov/ghgemissions/nitrous-oxide-emissions>; South Carolina Department of Environmental Service, *Sulfur Dioxide*, <https://des.sc.gov/programs/bureau-air-quality/air-pollution/sulfur-dioxide>

¹⁷⁸ Environmental Protection Agency, *Basic Information about NO₂*, <https://www.epa.gov/no2-pollution/basicinformation-about-no2#Effects>; Environmental Protection Agency, *Sulfur Dioxide Basics*, <https://www.epa.gov/so2-pollution/sulfur-dioxidebasics#effects>.

¹⁷⁹ Kai Zhang & Stuart Batterman, *Air Pollution and Health Risks Due to Vehicle Traffic*, at 1 (2013), doi:10.1016/j.scitotenv.2013.01.074.

ever year.¹⁸⁰ Moreover, these negative health effects are concentrated in racial-ethnic minorities who bear the brunt of the exposure and consequential health burdens.¹⁸¹ Eliminating GHG regulations will allow for continued emissions of not only carbon, but also of the harmful pollutants that accompany it. Overall, the Proposed Endangerment Finding Recission has serious negative implications for communities who face non-GHG air pollution burdens and heightened rates of asthma.

As noted above, EPA's proposal excludes an analysis on vulnerable populations, which is particularly significant given that vehicle emissions are both a major source of greenhouse gases and localized air pollutants and are disproportionately concentrated near vulnerable populations, exacerbating health and environmental inequities. Even if EPA were correct in its assumptions about offsetting emissions from potentially increased fossil fuel power plant operation, it still would not account for *where* those emissions are happening. In Illinois, transportation pollution disproportionately burdens low-income communities and communities of color. Chicago, the nation's largest intermodal shipping hub, sees highways carrying more than 30,000 trucks per day, and these impacts are concentrated in communities already facing cumulative health and social stressors.¹⁸² Diesel exhaust alone is estimated to cause 416 premature deaths and \$4.6 billion in annual health costs each year, with the heaviest impacts in low-income and minority neighborhoods near freight corridors and industrial facilities.¹⁸³ This stems from longstanding discriminatory practices that directed industrial development into low-income neighborhoods and communities of color.¹⁸⁴ These same neighborhoods are also the least able to withstand the worsening climate impacts of heat, storms, and declining air quality.¹⁸⁵ Yet the Proposed Endangerment Finding Recission neglects to address how vehicle emissions, and the climate change they fuel, fall hardest on low-income and minority populations.

Even when EPA recognizes the costs of conventional air pollution, it ignores the equity implications as air pollution disproportionately impacts low-income communities and communities of color. Studies have shown that minorities and lower-income individuals are at higher risk of air pollution exposure and resulting health effects.¹⁸⁶ Race is a significant factor in risk of exposure to air pollution, even after controlling for other socioeconomic and demographic factors.¹⁸⁷ Chicago exemplifies this disproportionality, as air pollution unevenly burdens neighborhoods on the south and west sides. Harmful co-pollutants, such as sulfur dioxide and nitrogen oxides, already have a presence in Chicago even under the current emissions

¹⁸⁰ Sharon Udasin, *US oil and gas air pollution is causing unequal health impacts: Study*, The Hill, (August 22, 2025), <https://thehill.com/policy/energy-environment/5466139-oil-gas-pollution-health-impacts-study/>

¹⁸¹ *Id.*

¹⁸² Carolina Macias, et al., *Chicago Truck Data Portal*, (2023), <https://apps.cnt.org/truck-count-tracker/> ("Chicago Truck Data Portal").

¹⁸³ *Proposed Clean Car and Truck Standards*, *supra* note 8, at 10–11.

¹⁸⁴ *Id.*

¹⁸⁵ *See Proposed Clean Car and Truck Standards*, *supra* note 8.

¹⁸⁶ *Climate Change and Social Vulnerability*, *supra* note 152.

¹⁸⁷ *Id.*

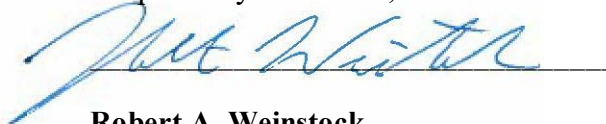
regulations,¹⁸⁸ and would become more prevalent if GHG emissions limits are repealed. Air pollution increases the risk of chronic illness, which is a primary cause of the nine-year life expectancy gap between Black and white Chicago residents as well as decreases in life expectancy in Chicago's Latinx population.¹⁸⁹

One factor making air pollution a particularly serious concern in Chicago is the prevalence of asthma among Chicago residents, particularly among children living on the south and west sides. About twenty percent of children on Chicago's south side have asthma, compared to the ten percent of children statewide.¹⁹⁰ Twenty-five percent of Black children in Chicago have asthma, and Black children are hospitalized for asthma at six times the rate of their white counterparts.¹⁹¹ Black children are also 4.3 times more likely than a white child to have an asthma-related ED visit.¹⁹² The Proposed Endangerment Finding Recission would produce greater emissions of co-pollutants that worsen asthma symptoms, placing a disproportionate burden on communities that already face heightened asthma rates and air pollution concerns.

V. Conclusion

EPA relies on faulty legal analyses and a wildly unreliable report on the underlying scientific issues, which has resulted in a proposed decision that is arbitrary and capricious and grossly unsupported by the evidence in the record before it. The Proposed Endangerment Finding Recission would worsen the impacts of climate change that most heavily burden vulnerable communities who already face environmental, health, and social stressors. Extreme heat, flooding, and respiratory illness already disproportionately impact low-income communities and communities of color, and intensifying these threats by allowing more emissions from vehicles will further burden these populations. CEJN and RHA urge EPA to address these comments in the final rulemaking and forgo promulgating the Proposed Endangerment Finding Recission. Instead EPA should maintain current regulations that limit these environmental harms from vehicles. Thank you for your consideration of these comments.

Respectfully submitted,



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¹⁸⁸ Michael J. Rizzo, Peter A. Scheff, *Fine particulate source apportionment using data from the USEPA speciation trends network in Chicago, Illinois: Comparison of two source apportionment models*, Atmospheric Environment, Volume 41, Issue 29, 2007, Pages 6276-6288, ISSN 1352-2310, <https://doi.org/10.1016/j.atmosenv.2007.03.055>.

¹⁸⁹ City of Chicago, *Air Quality and Health Report*, https://www.chicago.gov/content/dam/city/depts/cdph/statistics_and_reports/Air_Quality_Health_doc_FINALv4.pdf.

¹⁹⁰ South Side Pediatric Asthma Center, *Who We Are*, <https://www.southsidekidsasthma.org/who-we-are/>

¹⁹¹ Chicago Asthma Consortium, *Chicago Plan*, <https://chicagoasthma.org/chicago-plan/>.

¹⁹² Respiratory Health Association, *Racial Disparities in Childhood Asthma Chicago, 2016-2021*, at 4 (May 2022), <https://resphealth.org/wp-content/uploads/2022/05/Updated-Asthma-Disparities-Report.pdf>.

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