

August 7, 20225

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

Re: Docket ID No. EPA-HQ-OAR-2025-0124, Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units

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) to comment on the proposed repeal of greenhouse gas emissions standards for fossil fuel-fired electric generating units (Proposed Rule). 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 Organization¹, People for Community Recovery², the Southeast Environmental Task Force³, Neighbors for Environmental Justice⁴, and Blacks in Green⁵.

CEJN urges U.S. EPA to forgo promulgating the Proposed Rule repealing the 2024 greenhouse gas (GHG) emissions standards for fossil fuel-fired electric generating units (EGUs)⁶. CEJN acknowledges that the 2024 Rule that would be repealed is an imperfect policy, as explained in CEJN's public comment submitted during that rulemaking⁷, because the use of carbon capture and sequestration at fossil fuel-fired EGUs will perpetuate dangerous air pollution and is an inferior choice to non-combustion forms of electricity generation. However, while imperfect, the 2024 Rule is a better policy than the 2025 Proposed Rule, which will accelerate climate change and its harmful impacts on human health and the environment.

¹ Little Village Environmental Justice Organization, <http://lvejo.org/> (last visited July 31, 2025).

² People for Community Recovery, <http://www.peopleforcommunityrecovery.org/> (last visited July 31, 2025).

³ *Id.*

⁴ N4EJ, <https://n4ej.org/> (last visited July 31, 2025).

⁵ Blacks in Green, <https://www.blacksingreen.org/> (last visited July 31, 2025).

⁶ Federal Register, *New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule*, <https://www.federalregister.gov/documents/2024/05/09/2024-09233/new-source-performance-standards-for-greenhouse-gas-emissions-from-new-modified-and-reconstructed>.

⁷ Comment submitted by Chicago Environmental Justice Network (CEJN), <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0072-0408>.

Repealing the 2024 Rule will significantly increase emissions of atmosphere-warming carbon nationwide, accelerating climate change and its negative impacts on human health and the environment. U.S. EPA’s own Regulatory Impact Analysis (RIA) forecasts such an increase, predicting that if the Proposed Rule takes effect, there will be an increase in annual emissions for each of the years included in the analysis compared to projected emissions with the current regulations⁸.

By allowing more GHG emissions, the Proposed Rule will increase the risks to Chicago residents of exposure to extreme heat, flooding, and air pollution. These climate-driven threats are especially harmful in majority Black and Latinx neighborhoods in the south and west sides of Chicago with lower incomes. These populations have fewer resources available to cope with climate change, have less resilient infrastructure, and already experience environmental, health, and social stressors.⁹ While the Proposed Rule does not, on its face, target communities of color and low-income communities, the effects of weakening generally-applicable environmental protections like the 2024 Rule will nonetheless burden these communities the most heavily. As explained in detail below, neighborhoods on Chicago’s south and west sides have long dealt with disproportionately severe impacts of extreme heat, flooding, and air pollution, all of which are projected to worsen with a significant increase in carbon dioxide and other co-pollutants from fossil fuel-fired power plants.

CEJN offers the following more specific comments to demonstrate the importance of keeping in place GHG emissions limits for fossil fuel-fired power plants.

I. Comment: U.S. EPA relies on an incorrect reading of the Clean Air Act as its legal basis for the Proposed Rule.

U.S. EPA states that “Clean Air Act (CAA) section 111 requires it to make a finding that GHG emissions from fossil fuel-fired power plants contribute significantly to dangerous air pollution, as a predicate to regulating GHG emissions from plants in this source category.” To justify its reversal of the 2024 Rule, U.S. EPA proposes to make a finding that “GHG emissions from fossil fuel-fired power plants **do not** contribute significantly to dangerous air pollution within the meaning of the statute [emphasis added].”¹⁰

In reversing U.S. EPA’s long held judgment on this question, the Agency now novelly and incorrectly reads section 111 of the CAA as requiring a finding that regulating the category of sources in question would have a certain, unspecified level of impact on the negative effects of the type of air

⁸ Environmental Protection Agency, *Regulatory Impact Analysis for the Proposed Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units*, https://www.epa.gov/system/files/documents/2025-06/utilities_ria_proposal_111_repeal_2025-06.pdf.

⁹ City of Chicago, *Chicago Cumulative Impact Assessment, 2023 Summary Report*, https://www.chicago.gov/content/dam/city/depts/cdph/environment/CumulativeImpact/oct-update/CIA_ExecutiveSummary_9.17.23_v3.pdf.

¹⁰ *Id.*

pollution being regulated. U.S. EPA proposes that “if regulating emissions of a particular pollutant from a source category would have little effect on dangerous air pollution, that source category’s contribution to the air pollution is not significant.”¹¹ This reading has no basis in the text of section 111 of the CAA, which does not mention the effects of potential regulations, but instead requires the U.S. EPA Administrator to maintain a list of pollution sources to be regulated and to include a “category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.”¹²

The statutory text breaks down the appropriate inquiry into two distinct steps: (1) an assessment of whether the category produces a significant volume of air pollution emissions, and then (2) a determination of whether that air pollution is of the kind that endangers public health or welfare. U.S. EPA’s misreading of the statute improperly merges these two steps, simply asserting that GHG emissions from EGUs do not endanger public health and welfare because public health and welfare would be endangered by GHGs whether or not EGUs are regulated, without ever addressing whether GHG emissions themselves endanger public health and welfare. Furthermore, section 111 does not suggest, much less require as a predicate to regulation, an inquiry into the impact that potential regulations of the category of sources in question may have. U.S. EPA’s misreading of the statute ignores the purpose of the “significantly contributes” language, which is to identify categories of sources of pollution that cause harms to health and the environment and then to trigger specific, tailored regulation of that category of source. Instead, U.S. EPA imposes a novel criterion of assessing the degree to which the proposed regulations would prevent health and environmental impacts, which would be a new threshold requirement for regulation that is unfounded in the text.

U.S. EPA also places improper emphasis on cost-effectiveness, which under the CAA is not a proper consideration at the specific step of determining whether a source “contributes significantly” to air pollution. U.S. EPA proposes that “CAA section 111(a) requires that the EPA determine the level of emission reductions that will be required based on consideration of...the cost of achieving those reductions... when determining if a source category contributes significantly to dangerous air pollution, the EPA will look to the availability of achievable, cost-effective emission reductions. If no such reductions are available, the influence or effect of regulating the source category for that pollutant is null and its contribution to air pollution is not significant.”¹³ This interpretation has no support in the statutory text. The only mention of “cost” in CAA section 111(a) is in subsection (1), which defines the term “standard of performance.”¹⁴ In other words, section 111 contemplates considering compliance costs in setting the specific standard, not in asking the threshold question of whether a standard must be set. No

¹¹ Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25752, 25765 (proposed June 17, 2025) (to be codified at 40 C.F.R. pt. 60).

¹² Clean Air Act, 42 U.S.C. § 7411(b)(1)(A) (2013).

¹³ Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25752, 25766 (proposed June 17, 2025) (to be codified at 40 C.F.R. pt. 60).

¹⁴ Clean Air Act, 42 U.S.C. § 7411(a)(1) (2013).

part of CAA section 111 connects costs of achieving emission reduction with a definition of, or criteria, for determining whether a category of sources makes significant contribution to air pollution as required under section 111(b). U.S. EPA's explanation of its interpretation provides no textual evidence connecting the "availability of achievable, cost-effective emissions reductions" to the entirely separate determination of whether a certain category of sources contributes significantly to air pollution.

U.S. EPA goes on to apply its erroneous interpretation of the CAA to propose making the finding that "any regulation of GHG emissions from fossil fuel-fired EGUs under CAA section 111 would not have a significant effect on GHG air pollution...and that the contribution of this source category is therefore not significant."¹⁵ Even if U.S. EPA's interpretation of the statute were correct, U.S. EPA fails to provide a definition of what impact of a regulation would qualify as a "significant effect" sufficient to justify regulation under its new view. Moreover, the vague claim that GHG emissions regulations on fossil fuel-fired EGUs would not have a "significant effect" on pollution appears to contradict U.S. EPA's own RIA for the Proposed Rule. In terms of contributions to emissions, the RIA predicts an increase in annual emissions for each year analyzed compared to projected emissions under the current regulations¹⁶. In terms of effects on public health or welfare, the RIA states that the estimated human health benefits of reduced exposure to two co-pollutants, particulate matter and ground-level ozone, that were expected from the 2024 Rule are no longer expected under the Proposed Rule.¹⁷ U.S. EPA fails to explain why these projected impacts do not satisfy the "significant effect" standard or how much greater they would have to be to do so. That U.S. EPA cannot even articulate a specific standard for what regulatory impact would satisfy its "significant effect" criteria, reveals the Agency's novel interpretation of the CAA as not only incorrect and unhinged from the statute, but also arbitrary and unworkable.

II. Comment: The Proposed Rule will worsen the impacts of extreme heat on Chicago residents, especially in low-income communities and communities of color.

As average temperatures increase due to climate change driven by GHG emissions, so does the risk of extreme heat events, which are expected to become longer and more severe.¹⁸ The potential for extreme heat events to become more frequent, longer, and more intense poses a significant risk to Chicago residents. From 1985-2016, the average temperature in states bordering the Great Lakes rose by 1.4°F.¹⁹ Climatologists predict that because of global warming, Chicago will experience longer warm

¹⁵ Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25752, 25755 (proposed June 17, 2025) (to be codified at 40 C.F.R. pt. 60).

¹⁶ Environmental Protection Agency, *Regulatory Impact Analysis for the Proposed Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units*, https://www.epa.gov/system/files/documents/2025-06/utilities_ria_proposal_111_repeal_2025-06.pdf.

¹⁷ *Id.*

¹⁸ Environmental Protection Agency, *Extreme Heat*, <https://www.epa.gov/climatechange-science/extreme-heat>.

¹⁹ Metropolitan Mayors Caucus, *Climate Action Plan for the Chicago Region*, (2021), https://mayorscaucus.org/wp-content/uploads/2021/06/RegionalCAP_primary_and_appendices_062321-02.pdf.

seasons, more days of extreme heat, and rising night temperatures.²⁰ The urban heat island effect, which occurs when heat intensifies in certain areas due to dense concentration of pavement, buildings, and other urban features, puts certain parts of Chicago at a heightened risk for extreme heat.²¹ Sixty-two percent of Chicago's population, or approximately 1.7 million people, live in neighborhoods that feel at least 8° F hotter than surrounding areas because of the local built environment.²² Dense residential areas across Chicago also lack sufficient tree canopy cover to lower temperatures for those who live there.²³

Extreme heat in Chicago disproportionately impacts low-income communities and communities of color. Heat tends to be most concentrated on Chicago's west, southwest, and south sides, with the urban heat island effect being most intense on the more densely and homogenously residential west side.²⁴ Tree canopy coverage is also unequally distributed, and neighborhoods most in need of trees are concentrated on the west, southwest, and south sides.²⁵ While the average canopy coverage in Chicago is only 16 percent, it is even lower in these historically under-resourced communities, varying from 4 percent to 10 percent.²⁶

As U.S. EPA itself has found, low-income communities and communities of color are especially vulnerable to the impacts of extreme heat. Low-income individuals may live in housing with poor insulation or cooling and may not be able to afford air conditioning.²⁷ People who work outdoors in industries like construction, transportation, and utilities, as well as people who work in buildings that are not climate-controlled like factories or warehouses, are more exposed to extreme heat.²⁸ Workers in weather-exposed industries tend to be lower-income individuals and are therefore more sensitive to any pay loss from reduced labor hours on high-temperature days.²⁹ Some workers therefore may choose to work during dangerously hot days if given the option, risking heat-related illness.³⁰

Heat waves disproportionately impact people of color. These communities suffer most from extreme heat in part because of redlining and other systemic discriminatory development practices that

²⁰ City of Chicago, *Chicago Climate Action Plan*, <https://www.chicago.gov/content/dam/city/sites/climate-action-plan/documents/Chicago-CAP-071822.pdf>.

²¹ *Id.*

²² Climate Central, *Urban Heat Hot Spots in 65 Cities*, <https://www.climatecentral.org/climate-matters/urban-heat-islands-2024>.

²³ 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

²⁴ City of Chicago, *Chicago Climate Action Plan*, <https://www.chicago.gov/content/dam/city/sites/climate-action-plan/documents/Chicago-CAP-071822.pdf>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Environmental Protection Agency, *Climate Change and the Health of Socially Vulnerable People*, <https://www.epa.gov/climateimpacts/climate-change-and-health-socially-vulnerable-people>.

²⁸ Environmental Protection Agency, *Extreme Heat*, <https://www.epa.gov/climatechange-science/extreme-heat>.

²⁹ EPA. 2021. *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts*. U.S. Environmental Protection Agency, EPA 430-R-21-003. www.epa.gov/cira/social-vulnerability-report

³⁰ *Id.*

have left some communities with less access resources and amenities that can help them cope with increased heat, to cooling resources, green space, and tree coverage.³¹ The experiences of Chicago communities track the national trend of association between being a racial or ethnic minority and having lower income, lower air conditioning access, and living in an area with less greenery and more heat-absorbing surfaces.³² People of color and those with lower incomes are more likely to live in areas with the highest projected increases in temperature mortality.³³ Furthermore, minorities are 35% more likely than non-minorities to currently live in areas that are projected to have the highest labor hour losses, with Hispanic and Latino individuals having the highest comparative risk of living in high-impact areas.³⁴

CEJN urges U.S. EPA to forgo promulgating the Proposed Rule, which would otherwise raise the risk of exposure to extreme heat in Chicago and particularly in low-income communities and communities of color.

III. Comment: The Proposed Rule will worsen the impacts of flooding on Chicago residents, especially in low-income communities and communities of color.

Climate-driven storm events, which have become more frequent and intense over time, have already increased the frequency and intensity of flooding in northeastern Illinois and are expected to worsen further.³⁵ The climate-warming effects of repealing GHG emissions standards will worsen the impacts of flooding in Chicago. Flooding can cause damage to residents, homes and businesses, and community assets such as water quality, transportation infrastructure, and open space.³⁶

Flooding is especially prevalent in and damaging to low-income communities. Local governments already facing disinvestment and financial challenges may have inadequate resources to maintain infrastructure and repair damages and may lack the capacity to implement solutions or plans to reduce future flood risk.³⁷ Low-income residents may not be able to afford flood insurance, repairs and replacing personal belongings, and investments that could reduce future flood exposure.³⁸

Disproportionate impacts of flooding are especially visible in Chicago, where the vast majority of flood damage insurance claims are paid in the city's west, southwest, and south sides. Between 2007 and 2016, 13 Chicago zip codes represented nearly three-fourths of the city's flood damage claims. In these zip codes, 93 percent of residents are people of color, and 62 percent of households have an income less

³¹ Gronlund, Carina, *Racial and socioeconomic disparities in heat-related health effects and their mechanisms: a review*, National Library of Medicine, <https://pmc.ncbi.nlm.nih.gov/articles/PMC4264980/>.

³² *Id.*

³³ EPA, *Climate Change and Social Vulnerability*, *supra* note 29.

³⁴ *Id.*

³⁵ Chicago Metropolitan Agency for Planning, *Stormwater and Flooding Strategy Paper*, https://cmap.illinois.gov/wp-content/uploads/FY18-0051-STORMWATER-AND-FLOODING_FINAL.pdf.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

than \$50,000.³⁹ In a 2019 survey of Chicago flood victims, 63 percent lost valuables, 41 percent lost the use of part of their property, and 74 percent lost work hours to handle home repairs.⁴⁰

CEJN urges U.S. EPA to forgo promulgating the Proposed Rule, which would raise the risk of flooding in Chicago and particularly in low-income communities and communities of color.

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

The Proposed Rule will allow for increased emissions of several co-pollutants that are harmful to human respiratory health. 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.⁴¹ These co-pollutants have negative impacts on public health and the environment even at levels permitted by regulations addressing them directly.⁴² Fossil fuel-fired power plants are the largest stationary source of nitrogen oxides and sulfur dioxide emissions, as well as a significant source of mercury.⁴³ Both nitrogen oxides and sulfur dioxide emissions can irritate the respiratory system and aggravate asthma.^{44,45} Mercury is a neurotoxin which affects the nervous system and brain functions, especially in children.⁴⁶ Eliminating GHG regulations will allow for continued emissions of not only carbon, but also of the harmful pollutants that accompany it. U.S. EPA's RIA for the Proposed Rule states that the estimated human health benefits of reduced exposure to two co-pollutants, particulate matter and ground-level ozone, that were expected from the 2024 Rule are no longer expected under the Proposed Rule⁴⁷. The Proposed Rule therefore has serious negative implications for communities who face non-GHG air pollution burdens and heightened rates of asthma.

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

³⁹ Center for Neighborhood Technology, *Assessing Disparities of Urban Flood Risk for Households of Color in Chicago*, <https://cnt.org/projects/flood-equity-report>.

⁴⁰ *Id.*

⁴¹ Climate Trace, *Understanding the major non-GHG air pollutants*, <https://climatetrace.org/news/understanding-the-major-non-ghg-air-pollutants>.

⁴² National Institutes of Health, *Deaths associated with pollution from coal power plants*, <https://www.nih.gov/news-events/nih-research-matters/deaths-associated-pollution-coal-power-plants>.

⁴³ Environmental Protection Agency, *Human Health and Environmental Impacts of the Electric Power Sector*, <https://www.epa.gov/power-sector/human-health-environmental-impacts-electric-power-sector>.

⁴⁴ Environmental Protection Agency, *Basic Information about NO₂*, <https://www.epa.gov/no2-pollution/basic-information-about-no2#Effects>.

⁴⁵ Environmental Protection Agency, *Sulfur Dioxide Basics*, <https://www.epa.gov/so2-pollution/sulfur-dioxide-basics#effects>.

⁴⁶ Environmental Protection Agency, *Human Health and Environmental Impacts of the Electric Power Sector*, <https://www.epa.gov/power-sector/human-health-environmental-impacts-electric-power-sector>.

⁴⁷ Environmental Protection Agency, *Regulatory Impact Analysis for the Proposed Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units*, https://www.epa.gov/system/files/documents/2025-06/utilities_ria_proposal_111_repeal_2025-06.pdf.

exposure and resulting health effects.⁴⁸ Race is a significant factor in risk of exposure to air pollution, even after controlling for other socioeconomic and demographic factors.⁴⁹ 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 regulations,⁵⁰ and would become more prevalent if GHG emissions limits were to be repealed. Air pollution increases the risk of chronic illness, which is the 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 population⁵¹.

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.⁵² 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.⁵³ The Proposed Rule 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.

⁴⁸ EPA. 2021. *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts*. U.S. Environmental Protection Agency, EPA 430-R-21-003. www.epa.gov/cira/social-vulnerability-report.

⁴⁹ *Id.*

⁵⁰ 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>.

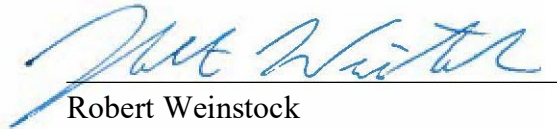
⁵¹ City of Chicago, *Air Quality and Health Report*, https://www.chicago.gov/content/dam/city/depts/cdph/statistics_and_reports/Air_Quality_Health_doc_FINALv4.pdf.

⁵² South Side Pediatric Asthma Center, *Who We Are*, <https://www.southsidekidsasthma.org/who-we-are/>.

⁵³ Chicago Asthma Consortium, *Chicago Plan*, <https://chicagoasthma.org/chicago-plan/>.

The Proposed Rule 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 have a disproportionate impact on low-income communities and communities of color, and intensifying these threats by allowing more emissions from EGUs will further burden these populations. CEJN urges U.S. EPA to address these comments in the final rulemaking and to forgo promulgating the Proposed Rule, instead maintaining the current emissions regulations that limit these environmental harms from EGUs. Thank you for your consideration of these comments.

Respectfully Submitted,



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*On behalf of the
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