

September 22, 2025

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

VIA ELECTRONIC SUBMISSION

RE: Comments from students and faculty opposing the Proposed Rule, Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards,” 90 Fed. Reg. 36,288 (Aug. 1, 2025)

Docket No.: EPA–HQ–OAR–2025–0194; FRL–12715–01–OAR

Dear Administrator Zeldin:

We are a group of students and faculty affiliated with Northeastern University responding to your request for comments on the Reconsideration of the 2009 Endangerment Finding (“Proposed Reconsideration”). We strongly oppose the proposed rescission of the Endangerment Finding.

At Northeastern, we come from many different backgrounds, including science, policy, education, and business. Particularly at the Northeastern University School of Law, almost all of us chose or seek to pursue the legal profession in service to the public good. Our clients include those most affected by climate impacts and it is our moral and professional duty to speak up on their behalf. More broadly, all of us have an interest in maintaining the integrity of the legal system. As people with interests in the legal field, we are disappointed by the flawed scientific reasoning and blatant disregard for legal precedent utilized by the EPA. We urge you to maintain the Endangerment Finding, in support of critical regulations that can lessen already stark climate impacts against public health and welfare.

I. The scientific evidence supporting the Endangerment Finding is sound, peer-reviewed, and verifiable.

We experience the effects of climate change as well as the specific negative health effects of motor vehicle greenhouse gas (“GHG”) emissions. Our letter includes young people who are concerned about how climate change will continue to worsen. In Massachusetts, seventy percent of the air pollution from Massachusetts-based sources stems from mobile or transportation-based sources, like cars, buses, trains, trucks and planes.¹ Higher levels of air pollution have been shown to increase incidence of asthma and other respiratory issues. While both nitrogen oxides and ozone have negative correlations with lung and respiratory health, ozone in particular has an oxidizing effect that can reduce lung function and increase inflammation and mortality risks.²

¹ Jeremy Siegel & Paris Alston, *Air pollution is killing nearly 3,000 people in Massachusetts every year, new study finds*, W.G.B.H., (July 21, 2022) <https://www.wgbh.org/news/local/2022-07-21/air-pollution-is-killing-nearly-3-000-people-in-massachusetts-every-year-new-study-finds>.

² Gennaro D’Amato et al., *Climate Change and Air Pollution*, 23 ALLERGO J. INT’L 17, 34 (2014).

When people are exposed to air pollution as infants or children, their likelihood of developing these diseases, whether acute or chronic, increases significantly.³ Air pollution causes and worsens incidence of asthma and respiratory diseases, especially in conjunction with viral respiratory disease outbreaks such as influenza or COVID-19. It also correlates with lower IQ, higher rates of stroke, heart disease, lung cancer, and low birth-weight, implicating both infant and maternal health in pregnancies.⁴

Beyond the immediate health impacts of motor vehicle emissions, climate change causes impacts such as extreme heat, poor air quality, increased flooding, increased extreme weather events, and infrastructure degradation.⁵ Marginalized communities across Massachusetts are often disproportionately impacted by these issues, facing more of the harms with less resources to adapt.⁶ However, we all have to live with the effects of climate change every day.

In examining the broader picture beyond Massachusetts, there is a track record of scientific reliability supporting the existence of anthropogenic climate change. Nowhere is this more clear than with the United Nations Intergovernmental Panel on Climate Change (“IPCC”). Across the world, thousands of scientists, experts in their fields, are nominated to create the IPCC reports for the UN. According to the sixth report, published in 2023, “[h]uman activities, principally through emissions of greenhouse gases, have *unequivocally caused* global warming.”⁷ For the seventh report, 664 scientists who represent 111 countries have been selected for a projected publishing date of 2027.⁸ These experts are selected by a process defined by scientific inquiry and peer review. This process takes years, and, importantly, collaboration between many different scientists. That is how science should be done.

The United States’ own climate report, the National Climate Assessment (“NCA”), was mandated by law by Congress in the Global Change Research Act of 1990 and it has been fulfilled by every presidential administration since 2000 until this year. In the Trump Administration’s first term, the fourth NCA notes that “it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.”⁹

³ Alison J. Burbank, *Climate Change and the Future of Allergies and Asthma*, 25 CURRENT ALLERGY AND ASTHMA REPORTS 20, 5 (2025).

⁴ Phillip Landrigan et al., *A replicable strategy for mapping air pollution’s community-level health impacts and catalyzing prevention*, 21 ENV’T HEALTH 70, 4 (2022).

⁵ ELLEN DOUGLAS & PAUL KIRSHEN, UNIV. MASS. BOS., CLIMATE CHANGE IMPACTS AND PROJECTIONS FOR THE GREATER BOSTON AREA 1-5 (2022).

⁶ UNION OF CONCERNED SCIENTISTS, INEQUITABLE EXPOSURE TO AIR POLLUTION FROM VEHICLES IN MASSACHUSETTS 2 (2020).

⁷ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2023: SYNTHESIS REPORT, [SYNTHESIS OF SIXTH ASSESSMENT REPORT] 42 (2023) (https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf) (emphasis added).

⁸ See Press Release, Intergovernmental Panel on Climate Change, IPCC concludes selection of authors for its Seventh Assessment Report (Aug. 18, 2025), <https://www.ipcc.ch/2025/08/18/pr-ar7-authors>.

⁹ DONALD J. WEUBBLES ET AL., CLIMATE SCIENCE SPECIAL REPORT: FOURTH NATIONAL CLIMATE ASSESSMENT I, USGCRP (2017). See also CONG. RES. SERVICE, EVOLVING ASSESSMENTS OF HUMAN AND NATURAL CONTRIBUTIONS TO CLIMATE CHANGE 22 (2017).

These reports are also written by large groups of scientists who take years to finish them in order to fulfill ethical scientific standards.

In contrast, the evidence that the Proposed Reconsideration is based on is flawed, rushed, and non-scientific. The Department of Energy (“DOE”) report created in April 2025 was written by five members, not all of whom are scientists.¹⁰ The report was written in less than four months.¹¹ As of this comment, the working group haphazardly formed to create a scientific basis for the rescission has already been disbanded.¹² The arguments made in the report were so flawed that over 85 US-based scientists worked to debunk the entire report, finding many of the arguments to be exaggerated, misconstrued, or even simply wrong.¹³ The two most recent NCAs and response by scientists to the DOE report are attached as Appendices to this letter. The basis for the Proposed Reconsideration was both problematic and procedurally abnormal from the viewpoint of standard scientific process.

II. The legal reasoning from *Massachusetts v. EPA* and the original Endangerment Finding is sound.

There is no valid basis for the legal arguments brought forth in the Proposed Reconsideration. The 2009 Endangerment Finding was grounded in authority and sound legal reasoning, and the Proposed Reconsideration relies on bad faith and stale legal arguments that directly conflict with binding legal precedent and the will of Congress.

First, the EPA is bound by the decision in *Massachusetts v. EPA*, which held that GHG emissions are “air pollutants” within the meaning of the Clean Air Act.¹⁴ The EPA’s present-day argument that GHGs are too dispersed to “cause or contribute to” climate change and that the causal link is too attenuated ignores the holding from *Massachusetts*.¹⁵ The Proposed Reconsideration falsely claimed that the Clean Air Act did not give the agency authority to regulate GHG emissions on the basis of global climate change. The 2009 Endangerment Finding stated that GHG emissions from motor vehicle sources are responsible for “just over 23 percent of total U.S. well-mixed greenhouse gas emissions.”¹⁶ Simply because climate change has a global effect does not mean that the agency no longer has authority to regulate sources domestically.

¹⁰ Daniel Peck & Matthew Glasser, *Dozens of scientists push back on 'fundamentally flawed' Department of Energy climate report*, A.B.C. News, (September 3, 2025) <https://abcnews.go.com/US/dozens-scientists-push-back-fundamentally-flawed-department-energy/story?id=125211760>.

¹¹ *Id.*

¹² Jeff Brady & Julia Simon, *Trump's Energy Department disbands group that sowed doubt about climate change*, W.S.K.G., (September 13, 2025) <https://wskg.org/npr-climate-reporting/2025-09-13/trumps-energy-department-disbands-group-that-sowed-doubt-about-climate-change>.

¹³ Daniel Peck & Matthew Glasser, *supra* note 10; Letter from Andrew E. Dessler & Robert E. Kopp, Co-Editors, Climate Experts’ Review of the DOE Climate Working Group Report, to Chris Wright, Secretary, Dep’t of Energy (Aug. 30, 2025) (on file with author).

¹⁴ Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, 90 Fed. Reg. 146 (proposed Aug. 1, 2025) (to be codified at 40 C.F.R. pts. 85, 86, 600, 1036, 1037, 1039 at 36,302) (“2025 Proposed Reconsideration”).

¹⁵ 2025 Proposed Reconsideration at 36,301, 36,303-04.

¹⁶ 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) (the “2009 Endangerment Finding”) at 64,499.

Not only does the Proposed Reconsideration directly conflict with the holding in *Massachusetts*, it also conflicts with the will of Congress. Congressional action following *Massachusetts* further relied on and affirmed the decision in that case. The Inflation Reduction Act (IRA) made clear that Congress understands that the term “pollutant” includes greenhouse gases, which reflects the state of the law since *Massachusetts* was decided in 2007.¹⁷ “The IRA enabled Congress to establish new programmatic goals and incentive programs and to amend the current statutory provisions of the CAA to make explicit that GHGs are air pollutants and that reducing them is a core objective of the Act.”¹⁸ Even if there was uncertainty before, these provisions in the IRA make clear that carbon dioxide and five other GHGs are “air pollutants.”¹⁹ Although individual legislators have attempted to reverse *Massachusetts* before, those efforts have always failed.²⁰ Congress has affirmed EPA’s consistent interpretation of the Clean Air Act to include greenhouse gases.²¹ Additionally, had Congress wished to further clarify this provision of the Clean Air Act, it could have done so in the 18 years since the Court’s decision. As such, the Proposed Reconsideration is an attempt to dodge the mandate from both the Supreme Court and Congress and instead, relitigate issues that have been relied on since 2009.²²

The passage of the so-called “One Big Beautiful Bill Act” (OBBBA) does not negate this argument because the OBBBA primarily rescinded funding for programs and did not repeal most of the programs themselves. Almost none of the Clean Air Act programs that include references to greenhouse gas emissions themselves were repealed, with one exception, the Greenhouse Gas Reduction Fund. Other programs, such as the Air Pollution Monitoring Grants (IRA Sec. 60105, OBBBA Sec. 60004), Methane Emissions Reduction Program (IRA Sec. 60113, OBBBA Sec. 60012), Climate Pollution Reduction Grants (IRA Sec. 60114, OBBBA Sec. 60013) are still in effect with respect to contractually obligated funds.²³

The EPA’s current position represents an extraordinary departure from the past 16 years of agency practice of regulating GHG emissions. Congress has made clear that it intended for EPA to continue regulating GHG emissions because GHGs are air pollutants within the meaning of the Clean Air Act. Departing from this practice requires “clear congressional authorization” under the major questions doctrine.²⁴

Additionally, the EPA’s argument that the 2009 Endangerment Finding impermissibly relied on “procedural discretion” is inconsequential and has no bearing on the substance of the finding. Their argument boils down to this: instead of taking one big step (*i.e.*, issuing the endangerment finding together with the emissions standards), the EPA took two separate steps in 2009. The Administrator already responded to comments in 2009 concerning this supposed severed analysis. As stated in 2009, there was nothing in the Clean Air Act that required the EPA to

¹⁷ Inflation Reduction Act, Pub. L. No. 117-169 (2022).

¹⁸ Greg Dotson & Dustin J. Maghamfar, *The Clean Air Act Amendments of 2022: Clean Air, Climate Change, and the Inflation Reduction Act*, 53 ENV. L. REP. 10017, 10019 (2023).

¹⁹ *Id.* at 10026.

²⁰ *Id.* at 10027.

²¹ *Id.* at 10026–10028.

²² See *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102 (D.C. Cir. 2012).

²³ Blue Green Alliance, *What Survived? An Update on Inflation Reduction Act Programs* (2025), <https://www.bluegreenalliance.org/wp-content/uploads/2025/08/OBBBA-user-guide.pdf>.

²⁴ See *West Virginia v. EPA*, 597 U.S. 697 (2022).

specify exact emission standards upon a finding that such air pollutants endanger public health or welfare.²⁵ Further, the 2009 Endangerment Finding has been challenged already, and the rule was upheld at that time.²⁶ The Supreme Court granted certiorari regarding EPA’s other attempts to regulate greenhouse gases (*i.e.*, from stationary sources), but it did not raise concerns about the validity of the endangerment finding itself.²⁷

The Proposed Reconsideration’s emphasis on “procedural discretion” is misplaced, and a belated attempt to recast the 2009 Endangerment Finding in light of the Court’s holding in *Loper Bright*.²⁸ In fact, the term “procedural discretion” was only used once in the original rulemaking, but eight times in the Proposed Reconsideration. In other words, it was not at the center of the original rulemaking. Even if EPA’s argument about procedural discretion had any validity, it is meaningless under the rule of harmless error.²⁹

Further, the Proposed Reconsideration used strawman arguments in order to create the illusion of scientific rigor. To illustrate its argument, the 2025 Proposed Reconsideration stated that water vapor could fall within the Clean Air Act’s regulations if its impacts are at least *de minimis*—a finding that the EPA states would be “absurd.”³⁰ This is exactly the purpose of the agency’s expertise. Like any air pollutant, if water vapor were found to be emitted at a level that endangered public health and welfare, EPA would have Congress’ permission to regulate those emissions. The scientific evidence detailed above and the Congressional mandate given to EPA to regulate air pollutants is clear, and the 2025 Proposed Reconsideration’s attempt to revisit the procedural history of the 2009 Endangerment Finding does not change the fact that GHG emissions cause or contribute to air pollution that endangers public health and welfare.

The 2025 Proposed Reconsideration also asks commenters whether *Massachusetts* applied the major questions doctrine.³¹ We point to the discussion of a leading major questions doctrine case—*FDA v. Brown & Williamson Tobacco Corp* as cited in the *Massachusetts* opinion—to answer that question.³² The Supreme Court in *Massachusetts* distinguished *Brown & Williamson* and reiterated that regulating GHG emissions is consistent with the unambiguous language in the Clean Air Act.³³ Congress clearly spoke: the definition of “air pollutant” under the Clean Air Act section 202 includes greenhouse gases. But, regardless of *Massachusetts* addressed the major questions doctrine, that doctrine is not an excuse for agencies to avoid regulating at all. Rather, it is a starting place to consider whether an agency’s action exceeded Congressional delegation. As the 2025 Proposed Reconsideration pointed out, the major questions doctrine “provide[s] a

²⁵ 2009 Endangerment Finding at 66,501-02.

²⁶ *Coalition for Responsible Regulation v. EPA*, 684 U.S. 102 (2012).

²⁷ *See Utility Air Regulatory Group v. EPA*, 573 U.S. 302 (2014).

²⁸ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

²⁹ *Little Sisters of the Poor v. Pennsylvania*, 591 U.S. 657, 684 (2020) (noting that “the rule of prejudicial error is treated as an “administrative law. . . harmless error rule.” *National Assn. of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 659–660, 127 S.Ct. 2518, 168 L.Ed.2d 467 (2007)). *See also* 5 U.S.C. §706.

³⁰ 2025 Proposed Reconsideration at 36,303-04.

³¹ 2025 Proposed Reconsideration at 36,305-07.

³² *Massachusetts v. EPA*, 249 U.S. at 530-33 (discussing *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000)).

³³ *Id.*

‘reason to hesitate before concluding that Congress’ meant to confer such authority.’³⁴ The EPA’s argument that the 2009 Endangerment Finding was an unprecedented use of power comes more than a decade too late. We do not have to guess whether Congressional actions since 2009 involving GHG emissions show that “EPA erred in attempting to resolve significant policy issues on its own accord.”³⁵ Again, Congress could have clarified in the 18 years since *Massachusetts* that regulating GHG emissions was outside the purview of the Clean Air Act.

Overall, the EPA’s proposed rescission would require revisiting years of legal precedent and ignoring the Clean Air Act’s mandate from Congress. The 2009 Endangerment Finding has consistently withstood challenges in courts.³⁶ Courts have already conclusively answered the arguments set forth in the Proposed Reconsideration. Pursuant to *Loper Bright*, the courts have the final say on this issue.³⁷ As explained above, the EPA has an unambiguous statutory mandate to regulate air pollutants, including GHG emissions. Additionally, if the Endangerment Finding relied on a severed analysis and procedural discretion, this likely would have been considered a harmless error—a finding that a court could have made during litigation subsequent to the 2009 finding. Finally, *Massachusetts* did implicitly engage with the major questions doctrine and the EPA’s actions at that time were not considered an unprecedented power grab. Instead, the Proposed Reconsideration is a deviation from relied-upon and settled law, norms, and science that could itself trigger the major questions doctrine.

Conclusion

For the above reasons, we believe that the 2009 Endangerment Finding should not be reconsidered. As members of an academic and legal community interested in law, policy, and science, we have a unique interest in maintaining administrative and judicial processes. We depend on a legal field founded on just, consistent application of the law. The Proposed Reconsideration questions settled law when convenient to political priorities, and it conflates scientific findings with political power grabs. Similarly, it takes advantage of a divisive political moment to question sound science. Should the Proposed Reconsideration become a final rule, it will represent just how fragmented our institutions have become, and it will contribute to the dwindling hope for important efforts to manage the cataclysmic impacts of climate change.

Sincerely,

The undersigned students, alumni, and faculty are at Northeastern University.*

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³⁴ 2025 Proposed Reconsideration at 36,305 (quoting *West Virginia v. EPA*, 597 U.S. at 697, 721 (2022)); *see also* *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000) at 159-60.

³⁵ 2025 Proposed Reconsideration at 36,307.

³⁶ *See* *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102 (D.C. Cir. 2012); *Concerned Household Electricity Consumers Council v. EPA and FAIR Energy Foundation v. EPA No.*, cert. denied (Dec. 11, 2023).

³⁷ *Loper Bright Enterprises v. Raimondo*, 603 U.S. at 387-88.

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APPENDIX 1:

Letter from Andrew E. Dessler & Robert E. Kopp, Co-Editors, Climate Experts' Review of the DOE Climate Working Group Report, to Chris Wright, Secretary, Dep't of Energy (Aug. 30, 2025), <https://drive.google.com/file/d/1PwAR8I9YYmPhbQ6CRekHkroJGMbjbX7l/view>.

APPENDIX 2:

DONALD J. WEUBBLES ET AL., CLIMATE SCIENCE SPECIAL REPORT: FOURTH NATIONAL CLIMATE ASSESSMENT I, USGCRP (2017), <https://secasc.ncsu.edu/2025/07/14/national-climate-assessments/>.

APPENDIX 3:

A.R. CRIMMINS ET AL., FIFTH NATIONAL CLIMATE ASSESSMENT, USGCRP (2023),
https://toolkit.climate.gov/sites/default/files/2025-07/NCA5_2023_FullReport.pdf.