September 22, 2024

Submitted via Regulations.gov

Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Re: Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards; EPA–HQ–OAR–2025–0194

Dear Administrator Zeldin,

Thank you for the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed rule to reconsider and rescind the 2009 Endangerment Finding for greenhouse gases (GHGs) under Section 202(a) of the Clean Air Act (CAA), as published on July 29, 2025 [hereinafter the Proposed Reconsideration]. We write to express our strong opposition to this action

We are Member Scholars and professional staff of the Center for Progressive Reform (Center), a nonprofit research and advocacy organization that conducts independent scholarly research and policy analysis, and advocates for effective, collective solutions to our most pressing societal challenges. Guided by a national network of scholars and professional staff with expertise in governance and regulation, the Center convenes policymakers and advocates to shape legislative and agency policy at the state and federal levels and advance the broad interests of today's social movements for the environment, democracy, and racial justice and equity.

Collectively, the authors of this comment bring unique expertise and extensive knowledge in issues of Environmental Law and Administrative Law related to the Proposed Reconsideration. In particular, Professor Flatt is an expert on the Clean Air Act and has authored a casebook chapter on the Clean Air Act. Professor

Rothschild researches climate law and policy and submitted an amicus brief *West Virginia v. EPA*, No. 24-1120, based on her expertise in the history of the Clean Air Act.[1] Professor Amy Sinden is an expert on federal regulatory decision-making under the Clean Air Act and other environmental statutes and has authored numerous well-respected and well-cited articles on these and related subjects over the past 25 years. James Goodwin is policy director at the Center where he studies administrative law and policy. Federico Holm, PhD, is a research scientist at the Center where he studies climate science and energy policy.

The 2009 Endangerment Finding is on solid legal ground, and in fact is compelled by the terms of the Clean Air Act. The Act instructs the Administrator to regulate any air pollutant from motor vehicles that "may be reasonably anticipated to endanger public health or welfare,"[2] and explicitly defines "welfare" to include "climate."[3] Yet, the Proposed Reconsideration seeks to confuse this straightforward reading of the text by introducing limitations on this capacious language that are incompatible with both clear congressional intent and the overall structure of Clean Air Act.

Moreover, in *Massachusetts v. EPA*, the Supreme Court held that the Clean Air Act's definition of "air pollutant" unambiguously includes GHGs.[4] Yet this proposed rulemaking would reverse that finding and is a collateral attack on settled law. Because no intervening judicial opinions call into question the continued validity of that holding, the Proposed Reconsideration could not be sustained as a legal matter without formally overturning *Massachusetts*.

The 2009 Endangerment Finding was based on an extensive scientific record, including assessments from the U.S. Global Change Research Program, the National Academies, and the Intergovernmental Panel on Climate Change. It concluded that six well-mixed greenhouse gases, including carbon dioxide and methane, endanger public health and welfare by contributing to climate change. This conclusion has only been reinforced by subsequent scientific findings over the past 16 years. Therefore, the attempt to reverse the 2009 Endangerment Finding through this proposed rulemaking is arbitrary and capricious, an abuse of discretion, and not in accordance with law.

The Proposed Reconsideration is also procedurally deficient in several ways. Its draft Regulatory Impact Analysis (RIA) improperly minimizes the impacts of climate change in the cost-benefit analysis. Furthermore, the EPA improperly certified that the Proposed Reconsideration would not have a significant impact on a substantial number of small entities in conflict with the requirements of the Regulatory Flexibility Act.

[1] Professor Rothschild submits these comments in her personal capacity. Institutional affiliation is provided for identification purposes only.
[2] 42 U.S.C. 7541(a)(1).
[3] 42 U.S.C. 7602(h).
[4] Massachusetts v. EPA, 549 U.S. 497, 528 (2007).

The Plain Meaning of Section 202(a) and Section 302(g) of the Clean Air Act Support the 2009 Endangerment Finding

Traditional Tools of Statutory Interpretation Establish That the EPA Must Regulate GHGs Under Section 202 If They Endanger Public Health or Welfare

Section 202(a) of the Clean Air Act, which governs regular programs concerning "moving sources," specifies that

> Except as otherwise provided in subsection (b)—
>
> **(1)**
>
> The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.[5]

The word "pollutant," as used in Section 202(a), is defined the Clean Air Act's general definitions section at Section 302(g) as:

> any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

It is beyond dispute that GHGs qualify as a "matter which is emitted into or otherwise enters the ambient air," and thus meet the Clean Air Act's intentionally capacious definition of "pollutant."

The "Primary Rationale" for the Proposed Reconsideration — that Section 202(a)(1) Only Applies to Local or Regional pollutants — is Contrary to the Plain Meaning of the Statute

The Proposed Reconsideration identifies as its "primary rationale" the argument that Section 202(a)(1) only "targets air pollution that threatens public health or welfare

[5] 42 U.S.C. 7521(a).

through local or regional exposure."[6] This purportedly "best" reading of Section 202(a)(1) is contrary to the plain meaning of the statute.

Section 302(g) provides the Act-wide definition of "air pollutant" as "any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive . . . substance or matter which is emitted into or otherwise enters the ambient air." The Proposed Reconsideration appears both to concede that this "capacious" definition includes GHGs and to accept the Supreme Court's holding to that effect in *Massachusetts*.

Instead, this "primary argument" rests on a novel reading of Section 202(a) that essentially adds words to that section that simply are not there, while ignoring or attempting to obscure the words that are there.

Section 202(a) provides that:

> The Administrator shall by regulation prescribe… standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles… which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.

The Proposed Reconsideration's "primary rationale" is that, even though the Act-wide definition at 302(g) includes GHGs, the word "air pollutant" in Section 202(a) is "best read" as including only "air pollutant emissions that cause or contribute to air pollution that endangers public health or welfare through local or regional exposure."[7] Thus, the Proposal unabashedly rewrites the text of Section 202(a) as follows:

> The Administrator shall by regulation prescribe . . . standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles . . which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare *through local or regional exposure*.

Not only does this reading of Section 202(a) add five words to the statute that Congress did not put there, it ignores a key word that Congress *did* include. Section 202(a)'s specific reference to "*any* air pollutant" flies in the face of the EPA's attempt to narrow the class of air pollutants to which Section 202(a) applies. The word "any" instead make

[6] Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, 90 Fed. Reg. 36288, 36299 (August 1, 2025) (to be codified at 40 CFR pts 85, 86, 600, 1036, 1037, and 1039).
[7] Reconsideration, 90 Fed. Reg. at 36300 ("The EPA proposes that CAA section 202(a) is best read as authorizing the Agency to regulate air pollutant emissions that cause or contribute to air pollution that endangers public health or welfare through local or regional exposure.").

clear Congress' intent to make Section 202(a) applicable to the broadest possible range of air pollutants falling within Section 302(g)'s "capacious" definition.

Congress, of course, could easily have added those five words — "*through local or regional exposure*" — had it intended such a limiting construction of Section 202(a). Indeed, it did just that in other sections of the Clean Air Act. For instance, the visibility protection program includes a provision to "establish visibility transport regions" to address "interstate transport of air pollutants from one or more states [that] contributes significantly to visibility impairment in class 1 areas located in the affected States."[8] Elsewhere, as part of its program to address ozone nonattainment areas, the Clean Air Act establishes a "single transport region for ozone" that comprises 11 east coast states along with the District of Columbia.[9] As Justice Scalia has noted, the Supreme Court has "refused to find implicit in ambiguous section of the CAA an authorization . . . that has elsewhere… been expressly granted."[10] It would be a strange understanding of the settled rules of statutory interpretation if an agency simply added new words to a statute that Congress had not put there — particularly in the wake of the Supreme Court's decision in *Loper*.

The Proposed Reconsideration's main argument in support of this wholesale addition of five words to the statute is that "[each of] the specific air pollutants identified *for other purposes* in the remainder of section 202 . . . share the common quality of causing or contributing to air pollution that adversely impacts public health or welfare through local or regional exposure to the air pollution itself."[11] But this novel reading fails to reckon with the fact that section 202(a) used the phrase "*any* air pollutant" rather than "air pollutants mentioned specifically for other purposes somewhere in this section."

Even more disturbing is the Proposed Reconsideration's blatant attempt to hide and obfuscate words in the statute with a clear bearing on the question of the types of pollutants Congress intended Section 202(a) to cover. At the very outset of its "primary rationale," the Proposed Reconsideration provides a full quote of Section 202(a), followed by selected phrases from the definition contained in the Act's general definitions section for "air pollutant" at Section 302(g) and the definition of "welfare" at Section 302(h). Remarkably, the Proposed Reconsideration leaves out of its quotation of Section 302(h) the two words most relevant to the issue at hand: "weather" and "climate."

The fact that Congress in the 1970 Act chose to include those two words in the definition of "effects on welfare" flies in the face of the Proposed Reconsideration's first

[8] 42 U.S.C. 7492(c)(1).
[9] 42 U.S.C. 7511c(a).
[10] Whitman v. American Trucking, 531 U.S. 457, 467 (2001).
[11] Reconsideration, 90 Fed. Reg. at 36300 (emphasis added).

argument for its primary rationale. These words provide a clear textual indication that Congress, when it directed the EPA to regulate "any air pollutant" that "may reasonably be anticipated to endanger the public health or welfare," intended that directive to include air pollutants that endanger welfare through their effects on weather and climate. Congress' choice of language here is not surprising in light of the extensive evidence that the framers of the 1970 Clean Air Act were, in the discussions leading up its enactment, aware of and actively discussing the problem of climate change.[12]

Elsewhere, though, the Proposed Reconsideration seems to deny that its rationale for concluding that the Endangerment Finding lacks support under the Clean Air Act is based on a constrained reading of the word "air pollutant." Rather – and confusingly – it appears at times to concede that GHGs meet this definition but instead seeks to justify its recission by creating out of whole cloth novel requirements for the concept of "endangerment" itself. Specifically, the Proposed Reconsideration seems to assert that the mechanism of endangerment identified in Section 202(a) must occur through a causal chain that involves only local or regional exposures, as opposed to an exposure of a global nature like GHGs and climate change.

There is nothing within Section 202(a) that supports this novel reading. It would be a huge departure from the overall thrust of that provision and 302(g), which is worded in expansive and capacious terms. Moreover, this arbitrary geographic limitation is inconsistent with other analogous provisions in the Clean Air Act. For instance, the provisions related to the Act's acid rain and ozone depletion programs use the terms "protection of the public health and welfare"[13] and "protect human health and the environment,"[14] and clearly apply to dangers that are international in nature, not local or regional. It would have been strange for Congress to make an idiosyncratic departure from this general formula in the moving source program without explicitly announcing that intent.

The Original Endangerment Finding was Legally Correct in 2009 and is Still Compelled Today by Prevailing Statutory Interpretation Doctrine

The Supreme Court's decision in *Massachusetts* is entirely consistent with *Loper Bright v. Raimondo*.[15] The central import of the Supreme Court's opinion in *Loper Bright*, (as well as *West Virginia v. EPA*[16]) was to re-entrust the job of statutory interpretation in the first instance to the judicial branch. This has no bearing on *Massachusetts,* where the

[12] Naomi Oreskes, et al., *Climate Change and the Clean Air Act of 1970 Part I: the Scientific Basis*, 50 Ecol. L.Q. 811 (2023).
[13] 42 U.S.C. 7651(a)(6).
[14] 42 U.S.C. 7671e(a)(1).
[15] 603 U.S. 369 (2024).
[16] 597 U.S. 697(2022).

Supreme Court did undertake the job of statutory interpretation. The majority opinion in *Massachusetts* did not apply *Chevron* deference but rather, concluded that the best reading of the statutory text required GHGs to be classified as an air pollutant. If anything, the Supreme Court's opinion in *Loper Bright* casts doubt not on the majority opinion in *Massachusetts*, but rather on the argument made by the dissenting opinion, which did rely on *Chevron* deference*,* and which the Proposed Recission appears intent on resurrecting.

The justification for the Proposed Reconsideration rests almost entirely on a statutory interpretation argument – that the agency did not have legal authority to issue the 2009 Endangerment Finding at the time but was only permitted to do so according to legal doctrine that has since been overturned. The Proposed Reconsideration thus concludes that the agency is now compelled to rescind the finding and the accompanying automobile GHG standards that the finding triggered. This constitutes a profound misreading of *Massachusetts v. EPA*, the original 2009 Endangerment Finding's analysis of its legal mandate, and the EPA's longstanding understanding of its own legal authority.[17] It also contravenes the Supreme Court's admonition in *Loper* to agencies to avoid changing their interpretation of statutory terms.[18] And even if the agency was correct in its interpretation of *Massachusetts*, its reasoning would rest on a misreading of the Supreme Court's prevailing framework for statutory interpretation of agency regulatory authority as set forth in *Loper*.[19]

[17] Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles, 89 Fed. Reg. 27842 (Apr. 18, 2024) (to be codified at 40 CFR pts 85, 86, 600, 1036, 1037, 1066, and 1068); Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards, 86 Fed. Reg. 74434 (Dec. 30, 2021) (to be codified at 40 CFR pts. 86 and 600); The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks, 85 Fed. Reg. 24174 (Apr. 30, 2020) (to be codified at 40 CFR pts. 86 and 600); 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 77 Fed. Reg. 62624 (Oct. 15, 2012) (to be codified at 49 CFR pts 523, 531, 533, 536, and 537); and Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 75 Fed. Reg. 25324 (May 7, 2010) (to be codified at 49 CFR pts 531, 533, 536, 537 and 538).

[18] *Loper*, 603 U.S. at 411-12 (2024) ("And the only way to 'ensure that the law will not merely change erratically, but will develop in a principled and intelligible fashion,' *Vasquez v. Hillery*, 474 U. S. 254, 265, 106 S. Ct. 617, 88 L. Ed. 2d 598 (1986), is for us to leave *Chevron* behind.")

[19] 144 S. Ct. at 2273 (2024) (By doing so, however, we do not call into question prior cases that relied on the Chevron framework. The holdings of those cases that specific agency actions are lawful…").

The reasoning provided in the Proposed Reconsideration to support this illogical leap is nonsensical, misleading, and wrong.[20] With respect to the *Massachusetts* precedent, the Proposed Reconsideration clearly acknowledges that "the Court stated that the EPA 'has the statutory authority to regulate the emission of such gases from new motor vehicles.' *Id.* at 532."[21]

The Proposed Recission then attempts to muddle this clear statement by introducing uncertainty and ambiguity where none exists:

> The Court did not, however, decide whether including GHGs within the definition of "air pollutant" meant that we must find that GHGs meet the statutory standard for regulation under CAA section 202(a) because they cause or contribute to air pollution which endangers the public health or welfare. Rather the Court concluded its opinion by clarifying that it "need not and do[es] not reach the question whether on remand EPA must make an endangerment finding." *Id.* at 534.[22]

This quote from the *Massachusetts* Court is deliberately misleading. It only refers to whether the agency actually determines that these air pollutants are a danger. It does not question the conclusion that GHGs themselves are air pollutants for purposes of making an endangerment finding under 202(a). Indeed, after the Court's decision in *Massachusetts*, the agency *did* find that GHG emissions from motor vehicles may

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[20] This is especially important because the federal judiciary has repeatedly demonstrated that it will closely police attempts by agencies to change their existing policies and reject those that lack adequate justification. Agencies cannot disregard facts or reasoning that informed a prior policy position without detailed explanation; the bar is not higher than it is for adoption of a rule from a clean slate, but the scope of what the agency must articulate is focused by what it has examined and said in the past. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009) ("a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy."); *see also id*. at 537 (Kennedy, J., concurring) ("An agency cannot simply disregard contrary or inconvenient factual determinations that it made in the past, any more than it can ignore inconvenient facts when it writes on a blank slate."). When amending, suspending, or repealing a rule, an agency must provide "a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy." *Fox*, 556 U.S. at 516); *see also Pub. Citizen v. Steed*, 733 F.2d 93, 98 (D.C. Cir. 1984) (explaining that agencies must "cogently explain" a suspension (quoting *State Farm*, 463 U.S. at 48)). Agencies must acknowledge when they are departing from a prior policy and cannot assess prior policy with "blinders": "The Service's main defense in this case, however, has been to insist that nothing changed in 2013. In the Service's view, the Middle Section was never part of the Devil's Garden Wild Horse Territory, and so there was nothing to change. That argument flatly defies the plain text of the official 1991 Forest Plan, repeated official agency statements, and two decades of agency practice. Blinders may work for horses, but they are no good for administrative agencies." *Am. Wild Horse Pres. Campaign v. Perdue*, 433 U.S. App. D.C. 25, 35, 873 F.3d 914, 924 (2017). *See also Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126-27 (2016) (holding that an agency's "conclusory statements" for reversing a long-standing policy that engendered reliance did not constitute a "reasoned explication"); Mexichem Specialty Resins, Inc. v. EPA, 787 F.3d 544, 557 (D.C. Cir. 2015) ("If an agency could engage in rescission by concession, the doctrine requiring agencies to give reasons before they rescind rules would be a dead letter."); *Bauer v. DeVos*, 325 F.Supp.3d 74, 109 (D.D.C. 2018) ("Department failed to acknowledge, much less to address, the inconsistency between its current view that those provisions stand on legally questionable footing, and its prior conclusion that they were legally sound.").

[21] Reconsideration, 90 Fed. Reg. at 36302.

[22] *Id*.

"reasonably be anticipated to endanger public health or welfare." This finding has been repeatedly affirmed and is not scientifically in doubt.

The Proposed Reconsideration is correct to note that there have also been important cases concerning statutory interpretation since the 2009 Endangerment Finding. In particular, *Loper* eliminated *Chevron* deference to an agency's interpretation of an ambiguous statute: "*Chevron* is overruled. Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires."[23]

Significantly, though, the changed interpretative framework heralded by *Loper* does not affect the legal basis of the 2009 Endangerment Finding because the Court itself exercised independent judgment in *Massachusetts*, finding that GHGs are ***unambiguously*** air pollutants under the Clean Air Act and that the EPA is required to regulate them under Section 202 if they endanger public health or welfare.[24] This is significant because the Proposed Reconsideration argues that the recent decision in *Loper* compels the rescission. The only way that argument would make sense is if the *Massachusetts* majority found ambiguity at *Chevron*'s Step 1 and then deferred to the EPA's interpretation at Step 2, because *Chevron*'s Step 1 does not change under the *Loper* interpretative framework.

The only way under the current *Loper* framework that the EPA could revoke the endangerment finding would be to find that the term "pollutant" is ambiguous in some regard or to reject the reading of that term reached by the *Massachusetts* majority as not "the best" reading. Either way, this Proposed Reconsideration could only survive judicial review if the Supreme Court is prepared to overturn its precedent in *Massachusetts*. This is true even though the Proposed Reconsideration somehow claims that it leaves the *Massachusetts* holding untouched.

Moreover, the majority in *Massachusetts* dismissed the possibility that determining that GHGs were air pollutants was in any way a "major question."[25] The regulatory actions that have followed and been related to the 2009 Endangerment Finding themselves might bring in a question of large scale economic and political consequences,[26] but the mere determination that greenhouse gases are air pollutants trigger no such concerns on its own. The EPA's own RIA for the Proposed Reconsideration would seem to confess as much. It identifies no costs or benefits – monetizable or otherwise – related to the rescission of the 2009 Endangerment Finding *itself* but instead is entirely focused on the impacts of rescinding the various automobile GHG standards currently in effect.

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[23] *Loper*, 603 U.S. at 412.
[24] *Massachusetts*, 549 U.S. at 529.
[25] *Id*. at 530-31.
[26] *See* West Virginia v. EPA, 597 U.S. 697, 721 (2022).

Neither *UARG* nor *West Virginia v. EPA* raise any doubts about the continuing validity of *Massachusetts* either. In *UARG*, the Court held that one portion of an EPA rule raised a major question but that the other portion of the rule (applying to "anyway" sources) was valid. Similarly, in *West Virginia*, the Court determined that one specific regulation of power plants raised a major question, but neither the majority nor any of the separate opinions argued that *Massachusetts* should be reconsidered. To the extent they are relevant, these decisions serve as guarantees that the 2009 Endangerment Finding will *not* give rise to specific regulations raising major questions, because those specific regulations would be invalid.

While the Supreme Court indicated in *West Virginia v. EPA* that there may be some limits on the *way* that the EPA can regulate GHGs from power plants,[27] the Court did not question the EPA's legal authority to control these pollutants under Section 202 of the Clean Air Act. This case and the major questions doctrine therefore does not affect the legal validity of the 2009 Endangerment Finding, nor does it create interpretive room for the EPA to completely alter its interpretation of the Clean Air Act as it attempts to do in this proposed rulemaking.

The EPA's Failure to Correctly Collate and Analyze the Impacts of Climate Change Renders the Scientific Basis of the Proposed Reconsideration Legally Deficient

Other commenters highlight the troubling methodological flaws in the Regulatory Impact Analysis (RIA) that the EPA performed on the Proposed Reconsideration, and we endorse those criticisms to the extent that they raise serious questions about the reliability of the results. Here, we wish to emphasize that the overwhelming consensus among climate scientists is that anthropogenic GHG emissions are the primary driver of global climate change.

The 2025 Climate Working Group Draft Report and the EPA's assessment of the current body of scientific evidence on climate change are highly flawed

The scientific basis for EPA's Proposed Reconsideration relies primarily on the Energy Department's 2025 Climate Working Group (CWG) Draft Report.[28] But that report exhibits myriad deficiencies in its portrayal of the field of climate science as well as scientific dishonesty and inconsistencies, including cherry-picking information while ignoring the overwhelming majority of the evidence and scholarly research. Moreover, when citing other sources (such as the National Climate Assessments or

[27] *Id*. at730-31 (2022) (striking down a "generation shifting" approach to reducing GHG emissions from power plants but noting that EPA retains authority to regulate these emissions with on-site controls).
[28] Climate Working Group, U.S. Dept Energy, A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate (2025).

Intergovernmental Panel on Climate Change (IPCC) reports) and published academic papers, the Proposed Reconsideration and the 2025 CWG Report consistently misinterpret or mischaracterize the research. These misrepresentations have already led some authors of such papers to publicly speak against the use of their own and others' research in this way.[29] In the sections below, we highlight some of the major deficiencies and mischaracterizations found in this rulemaking, as well as the 2025 CWG Draft Report.

Claim: Uncertainty Regarding the Role of GHGs and Natural Factors in Earth's Temperature Variability

The Proposed Reconsideration and the CWG Draft Report both include substantive criticism of well-established assessments by the IPCC of the role of carbon dioxide (CO2) in Earth's warming. They claim these analyses provide an inadequate assessment of natural climate variability, insufficiently account for uncertainties in measurement of solar variability and in aerosols, and employ problematic statistical methods in attribution. These criticisms imply that the role of CO2 in warming is not well-established, and that natural factors – such as solar variability and aerosols-- are not sufficiently accounted for, thus invalidating the conclusions. This is an inaccurate claim.[30]

The Proposed Reconsideration puts misleading emphasis on purported insufficient scientific knowledge about the role of natural causes in driving climate change, which clearly misrepresents the current state of climate and atmospheric sciences. As the IPCC Sixth Assessment Report states, "[m]any factors influence Earth's global surface temperature. Here, the influence of each one is simulated: natural causes (like solar activity) and human causes (aerosols and greenhouse gases emissions)… ***Taking those uncertainties into account, natural causes alone cannot reproduce the observed temperature… from the last 170 years. This unequivocally shows the major influence of human activities on global temperature rise***"[31] (emphasis added). To doubt the fact that rising CO2 emissions are the main driver of climate

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[29] *See* Zeke Hausfather, *How the DOE and EPA Used and Misused My Research*, The Climate Brink, Aug 2, 2025, https://www.theclimatebrink.com/p/how-the-doe-and-epa-used-and-misused ("[T]heir quoted text is incorrect, as this figure does not show CO2 concentrations compared to the 2000 SRES scenarios (indeed, all models that disagree with observed CO2 concentrations well predate the SRES scenarios)."); Andrew Dessler, "@andrewdessler.com," "Lots of interesting stuff buried in the DOE report. For example, here's a reference that doesn't exist:" Bluesky (Aug. 1, 2025, 4:03 p.m.), https://bsky.app/profile/andrewdessler.com/post/3lvegzzjue22p (from an online thread pointing out at citations in the Draft Report that are non-existent papers and at the factual and interpretative errors included in the document).

[30] Piers M. Foster et al., *Indicators of Global Climate Change 2023: Annual Update of Key Indicators of the State of the Climate System and Human Influence*, 16 Earth Syst. Sci. Data 2625 (2024).

[31] Veronika Eyring et al, *2021: Human Influence on the Climate System*, in Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change 423, 515 (Valerie Masson-Delmotte et al. eds).

change is to ignore an incredibly robust body of scientific evidence that clearly connects the two.

The Proposed Reconsideration also highlights the inherent uncertainty in climate models and points at the existence of multiple possible climate scenarios as a supposed deficiency in the models, using this argument to attempt to discredit the methodologies underpinning the models and paint them as untrustworthy. However, this argument fails to account for the fact that current measurements (not *predictions,* but rather empirical measurements across the globe) show that increasing temperatures are the overwhelming general trend, and that the actual temperatures fall squarely within the bandwidths predicted by climate models.[32] Moreover, extensive model simulations (across climate models) do not allow scientists to explain this increase in temperature in any other way than by the accumulation of CO2.[33] This is the main conclusion of all climate models, despite the slight differences between them. Pointing at differences while ignoring the overall conclusions is disingenuous and scientifically irresponsible. Recent studies suggests that climate models are likely *underestimating* deviations from mean temperatures, which determine the impact of extreme events.[34] Other research published in the PNAS has found that humans have been playing a greater role in recent warming than previously estimated, as total solar irradiance since 1980 has decreased more per decade than commonly estimated, further undermining the fallacious argument that temperature fluctuations are caused by the sun.[35]

Claim: Uncertainty Regarding the Role of Climate Change in Natural Phenomena and Natural Disasters

The Proposed Reconsideration arbitrarily rejects the evidence directly linking climate change to more severe heatwaves, wildfires, and droughts. The Proposed Reconsideration claims that "we propose that global climate change concerns involve analyzing causal relationships that are too uncertain, too remote, and too confounded by intervening and confounding factors to fit within the terms 'cause' and 'contribute' as used in CAA section 202(a)."[36]

This claim is directly contradicted by recent scientific research that has been able to attribute global emissions, natural phenomena, and natural disasters with enough precision that their relationship can no longer be deemed "too uncertain, too remote, and too confounding by intervening and confounding factors." Research by Quilcaille et

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[32] Robert Rohde, Global Temperature Report for 2024 (Berkeley Earth, 2025).
[33] *Id*.
[34] Lei Duan et al, *Historical Model Biases in Monthly High Temperature Anomalies Indicate Under-Estimation of Future Temperature Extremes*, 6 Comm's Earth & Enviro 604 (2025).
[35] Ted Amdur & Peter Huybers, *Negative Trend in Total Solar Irradiance Over the Satellite Era*, 122 Proc. Nat'l Acad. Sci. e2417155122 (2025).
[36] Reconsideration, 90 Fed. Reg. at 36301.

al. (2025) found that climate change made 213 historical heatwaves reported over 2000–2023 more likely and more intense.[37] Moreover, *one-quarter of these events were virtually impossible without climate change.* The emissions of the carbon majors contribute to half the increase in heatwave intensity since 1850–1900, and depending on the carbon major, their individual contribution is high enough to enable the occurrence of 16–53 heatwaves that would have been exceedingly unlikely in a preindustrial climate. This is not the only paper that has shown clear links between climate change and phenomena such as wildfires, ocean acidification, heatwaves and heavy-precipitation events.[38] This has led researchers to show that attribution and responsibility linking emitters, climate change, and climate impacts, is no longer a hypothesized relation, but rather an empirically verifiable one. For example, Callahan and Mankin (2025) use scope 1 and 3 emissions data from major fossil fuel companies, peer-reviewed attribution methods and advances in empirical climate economics to lay down the scientific and legal implications of an 'end-to-end' attribution that links fossil fuel producers to specific damages from warming.[39]

Claim: Natural Processes Have Shown Greater Capacity to Reuptake GHGs Than Previously Anticipated

The Proposed Reconsideration claims that recent evidence demonstrates that natural ecosystems have shown greater-than-expected capacity to reabsorb GHGs. In particular, the Proposed Reconsideration claims that:

> Recent scientific analyses propose that this divergence may be explained by greater capacity for the climate to reuptake GHGs in the atmosphere through natural processes. Terrestrial ecosystems have demonstrated a greater than anticipated sensitivity to elevated CO2 concentrations in the form of enhanced plant growth, which results in greater removal of CO2 from the atmosphere as plants take up CO2 and return it to the soil through natural life cycles. Similarly, the oceans have demonstrated a greater capacity to take up and process CO2

[37] Yann Quilcaille et al, *Systematic Attribution of Heatwaves to the Emissions of Carbon Majors*, 645 Nature 392 (2025).
[38] Erich M. Fischer & Reto Knutti, *Anthropogenic Contribution to Global Occurrence of Heavy-Precipitation and High-Temperature Extremes*, 5 Nature Climate Change 560 (2015); Vishal Bobde et al, *Anthropogenic Warming is Accelerating Recent Heatwaves in Africa*, 6 Comm's Earth & Enviro. 578 (2025); Sarah E. Perkins-Kirkpatrick et al, *Frontiers in Attributing Climate Extremes and Associated Impacts*, 6 Frontiers in Climate fclim.2024.1455023 (2024); Rachel Licker et al, *Attributing Ocean Acidification to Major Carbon Producers*, 14 Envtl. Res. Letters 124060 (2019); Kristina A. Dahl et al, *Quantifying the Contribution of Major Carbon Producers to Increases in Vapor Pressure Deficit and Burned Area in Western U.S. and Southwestern Canadian Forests*, 18 Envtl. Res. Letters 064011 (2023); Sjoukje Y. Philip et al, *Rapid Attribution Analysis of the Extraordinary Heat Wave on the Pacific Coast of the U.S. and Canada in June 2021*, 13 Earth Sys. Dynamics 1689 (2022); Joel Zeder & Erich M. Fischer, *Quantifying the Statistical Dependence of Mid-Latitude Heatwave Intensity and Likelihood on Prevalent Physical Drivers and Climate Change*, 9 Advances Stat. Climatology, Meteorology & Oceanography 83 (2023).
[39] Christopher W. Callahan & Justin S. Mankin, *Carbon Majors and the Scientific Case for Climate Liability*, 640 Nature 893 (2025).

(including through aquatic plant life) without resulting in the anticipated negative impacts on pH and ocean ecosystems, including coral reefs (2025 CWG Draft Report at 6-9, 18-20).[40]

These claims are misleading and fail to account for the whole range of factors that determine net uptake of GHGs in the Earth system. The Proposed Reconsideration only takes into account a small fraction of the available – and most recent – research, which leaves aside all the evidence that contradicts their claim. Complex systems (like the Earth's climate) include the existence of fluctuations, local variations, and feedback loops[41], which point to the need to account for all the available evidence in order to make sound decisions.

The Proposed Reconsideration criticizes the 2009 Endangerment Finding for relying on data that "may be based on inaccurate assumptions", and cites the 2025 CWG Draft Report at 14-22 and a 2012 (McKitrick, R. et al. (2012)[42]) that took data form 1950-2009 to justify their predictions for the year 2010, which ignores the past 15 years of Earth observations and temperature measurements.

The argument of "enhanced" plant growth as a standalone process to undermine the rising CO2 atmospheric levels is faulty as it requires considering other natural processes that interact with plant growth and ecosystem stability. The Proposed Reconsideration includes the discussion of interacting forces when claiming that natural processes are the actual drivers of increasing temperatures (which, as noted above, does not hold when looking at the available evidence), but *do not discuss interacting forces* when pointing out the role of plant growth in CO2 flows and stocks.

Rising temperatures driven by climate change affect weather patterns, which in turn affect natural ecosystems. In terms of terrestrial ecosystems, scientists have found that increasing meteorological droughts under climate change reduce terrestrial ecosystem productivity and carbon storage, which the Proposed Reconsideration fails to account for. On this point, one study shows that if CO2 emissions continue to increase, we will see a 3.5-fold increase in the loss of vegetation productivity due to droughts, especially in cropland, by the end of the century, meaning that the "buffering" impact of plants on human CO2 emissions cannot be counted on in under current trends.[43] Other research shows that the terrestrial carbon sink is slowing (with many ecosystems under risk of shifting from being sinks to sources) because of limitations and changes in nutrients,

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[40] Reconsideration, 90 Fed. Reg. at 36308.
[41] Misa Ishizawa et al, *Inter-Annual Variability of Summertime CO2 Exchange in Northern Eurasia Inferred from GOSAT XCO2*, 11 Envtl. Res. Letters 105001 (2016).
[42] Ross McKitrick & John Christy, *Pervasive Warming Bias in CMIP6 Tropospheric Layers*, 7 Earth & Space Sci. e2020EA001281 (2020).
[43] Zhaoqi Zeng et al, *Increasing Meteorological Drought Under Climate Change Reduces Terrestrial Ecosystem Productivity and Carbon Storage*, 6 One Earth 1326 (2023).

water, and heat.[44] These includes peatlands and permafrost ecosystems[45] and forested lands.[46]

These trends must be taken into account alongside land use and land use change, which is another critical driver of emissions in grasslands and shrubland ecosystems.[47] Thus, the simplistic argument about the buffering effect of "enhanced" plant growth cannot be used to discredit the overall trends in shifting CO2 emission patterns across ecosystems. The Proposed Reconsideration also incorrectly concludes that increasing ocean temperatures and atmospheric and ocean CO2 levels have not resulted in the "anticipated negative impacts" when recent research does not support this conclusion.[48]

The impacts – rising sea levels, extreme weather events, heatwaves, wildfires, and public health threats – have been significantly documented in the National Climate Assessment. And these impacts impose significant costs on our society in terms of lost lives, health impacts, and property damage. To the extent that the policy basis for this Proposed Reconsideration rests on these findings (or on the conclusions in the RIA, which fails to adequately examine, quantify, and explain these costs), the Proposed Reconsideration is at risk of reversal as arbitrary and capricious on judicial review.

The EPA Inappropriately Certified the Proposed Reconsideration Under the Regulatory Flexibility Act

The Proposed Reconsideration also suffers from several procedural deficiencies that render it vulnerable to successful legal and possible remand on judicial remand. Here,

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[44] Josep Penuelas, *Decreasing Efficiency and Slowdown of the Increase in Terrestrial Carbon-Sink Activity*, 6 One Earth 591 (2023).
[45] Claire C. Treat et al, *Predicted Vulnerability of Carbon in Permafrost Peatlands with Future Climate Change and Permafrost Thaw in Western Canada*, 126 J. of Geophysical Res.: Biogeosciences e2020JG005872 (2021); Claire C. Treat et al, *Permafrost Carbon: Progress on Understanding Stocks and Fluxes Across Northern Terrestrial Ecosystems*, 129 J. of Geophysical Res.: Biogeosciences e2023JG007638 (2024); Justine Ramage et al, *The Net GHG Balance and Budget of the Permafrost Region (2000–2020) from Ecosystem Flux Upscaling*, 38 Global Biogeochemical Cycles e2023GB007953 (2024).
[46] Gamalathge Karandana et al, *Impacts of California Wildfires on CO2 and Other Trace Gases*, 51 Geophysical Res. Letters e2024GL109352 (2024); Hui Chen et al, *Satellite-Detected Large CO2 Release in Southwestern North America During the 2020–2021 Drought and Associated Wildfires*, 19 Envtl. Res. Letters 054047 (2024).
[47] Jinfeng Chang et al, *Climate Warming from Managed Grasslands Cancels the Cooling Effect of Carbon Sinks in Sparsely Grazed and Natural Grasslands*, 12 Nature Comm's 118 (2021); European Enviro. Agency, Greenhouse Gas Emissions from Land Use, Land Use Change and Forestry in Europe (2024), *available at* https://www.eea.europa.eu/en/analysis/indicators/greenhouse-gas-emissions-from-land; Sophie Ruehr et al, *Evidence and Attribution of the Enhanced Land Carbon Sink*, 4 Nature Revs. Earth & Enviro. 518 (2023).
[48] Rongbo Dai et al, *Eukaryotic Phytoplankton Drive a Decrease in Primary Production in Response to Elevated CO2 in the Tropical and Subtropical Oceans*, 122 Proc. Nat'l Acad. Sci. e2423680122 (2025); Fabio Benedetti, *Major Restructuring of Marine Plankton Assemblages Under Global Warming*, 12 Nature Comm's 5226 (2021); Scott C. Doney et al, *Ocean Acidification: The Other CO2 Problem*, 1 Ann. Rev. Marine Sci. 169 (2009); Haizheng Hong et al, *The Complex Effects of Ocean Acidification on the Prominent N2-Fixing Cyanobacterium Trichodesmium*, 356.6337 Sci. 527 (2017); Futing Zhang et al, *Phosphate Limitation Intensifies Negative Effects of Ocean Acidification on Globally Important Nitrogen Fixing Cyanobacterium*, 13 Nature Comm's 6730 (2022).

we raise additional concerns about the analysis that the EPA performed pursuant to the Regulatory Flexibility Act. Specifically, the Proposed Reconsideration assumes that "regulatory" actions can only have harmful impacts on small businesses, while "deregulatory" actions can only have beneficial impacts on small businesses. The Regulatory Flexibility Act recognizes that small businesses are not monoliths and thus requires consideration of both beneficial and harmful impacts of all regulations – whether regulatory or deregulatory in nature – which the agency failed to do so here.

Background on the Regulatory Flexibility Act

The purpose of the Regulatory Flexibility Act is to ensure that agencies properly account for the unique impacts of their regulations on the small firms in the industrial sectors targeted by the regulation's requirements. While we may not fully support the design of the Regulatory Flexibility Act's provisions or how those provisions have been implemented over the years, we nevertheless believe that those provisions should be applied evenhandedly across administrations and irrespective of substantive policy goals. As we explain below, that has occurred with the Proposed Reconsideration

The Regulatory Flexibility Act requires all agencies to perform two sets of analyses on their regulatory actions – an Initial Regulatory Flexibility Analysis (IRFA) that accompanies the proposal and the Final Regulatory Flexibility Analysis (FRFA) that accompanies the final rule.[49] The basic function of these analyses is to identify the universe of small firms that would be subject to the rule's requirements as well as provide a description of the rule's likely impacts on those small businesses.

For some agencies, including the EPA, the Regulatory Flexibility Act, as amended, also requires the completion of a Small Business Advocacy Review (SBAR) process prior to issuing a proposal. The SBAR process requires the agency to work with the Small Business Administration's Office of Advocacy (SBA Office of Advocacy) to convene a group of representatives of small businesses potentially affected by regulatory action that is under development. As part of this process, the agency provides the representatives with a copy of the draft proposed rule and relevant supporting materials. After gathering the representatives' input on the materials, the agency must then prepare a report summarizing that input and make appropriate changes to the proposal as well as the IRFA.[50]

An agency can avoid all of these requirements (including the SBAR process where applicable) if, based upon a threshold analysis, they certify that the planned will not have a "significant economic impact on a substantial number of small entities"

[49] 5 U.S.C. 603, 604.
[50] 5 U.S.C. 609.

(SEISNSE certification).[51] The SBA Office of Advocacy – which is a standalone agency that the Regulatory Flexibility Act charges with supervising agency compliance with its requirements – has issued a document called *How to Comply with the Regulatory Flexibility Act*, which, among other things, provides detailed guidance for agencies on how to conduct this threshold analysis and appropriately make SEISNSE certification. The most recent update was issued in August 2017 (the 2017 Guidance) during the first Trump administration.

Significantly, the 2017 Guidance sets out a demanding set of steps for agencies to follow before reaching SEISNE certification. It stipulates that agencies must be able "to answer the following types of questions: Which small entities will be affected? Have adequate economic data been obtained? What are the economic implications/impacts of the proposal or do the data reveal a significant economic impact on a substantial number of small entities?"[52] And just as importantly, agencies must be prepared to provide a factual basis for the answers they offer to these questions.[53]

The EPA's Flawed Threshold Analysis for the Proposed Reconsideration

The Proposed Reconsideration falls well short of what is described in the 2017 guidance, however. Instead, the EPA asserts in conclusory fashion:

> [T]he impact of concern for this rule is any significant adverse economic impact on small entities, and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule.[54]

Buried within that assertion are two errors. First, the EPA is incorrect that it can only consider "adverse" impacts as part of its threshold analysis. Indeed, the 2017 Guidance makes clear that the concept of "impact" is neutral, encompassing effects on that are both "beneficial and adverse."[55] As such, it directs to agency to "consider both beneficial and adverse impacts" as part of the threshold analysis.[56]

The second error, which flows from the first, is the EPA's pat assertion that just because a particular planned action is framed as "deregulatory" or as a "rescission" of an existing regulation that it by definition does not have a "significant economic impact." That, of course, ignores the beneficial impacts that even deregulatory actions could have on

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[51] 5 U.S.C. 605(b).
[52] Off. of Advocacy, U.S. Small Bus. Admin., How to Comply with the Regulatory Flexibility Act: A Guide for Government Agencies 11 (2017), *available at* https://advocacy.sba.gov/wp-content/uploads/2019/07/How-to-Comply-with-the-RFA-WEB.pdf.
[53] *Id*.
[54] Reconsideration, 90 Fed. Reg. at 36328.
[55] Off. of Advocacy, *supra* note 52 at 23.
[56] *Id*.

affected small businesses, which, as noted above, agencies are required to consider. As the 2017 Guidance explains, considering these impacts is important because it "lends credibility to the alternatives selected by the agency."[57] In other words, they are necessary for understanding the tradeoffs between any different regulatory options an agency may be considering beyond its preferred alternative. Also, importantly, the 2017 guidance observes that in many cases such consideration can be accomplished "with minimal effort and without necessarily triggering the need for an IRFA."[58]

There is another problem with this second error, and it arises from the fact that this Proposed Reconsideration would repeal several existing rules relating to greenhouse gas emissions standards for different classes of automobiles and trucks. In issuing these earlier standards, the EPA was obliged to consider both the adverse and beneficial impacts of the rules on affected small businesses, as noted above. In those cases, though, it committed the same error of only accounting for adverse impacts.[59]

We now have plenty of evidence of the significant benefits that have accrued to relevant small businesses as a result of these standards. They take the form of the substantial revenues these businesses generate by producing the parts necessary for future cars to meet the emissions limits set in these standards. Notably, the 2017 Guidance identifies "percentage of revenue or percentage of gross revenue" as a key measuring for determining impact of a rule on small businesses.[60] A 2017 report from BlueGreen Alliance and the Natural Resources Defense Council, for instance, found that there were more than 1,200 manufacturer facilities supplying green technology for the automobile industry at that time.[61] And that number has only grown in the last eight years thanks to the Inflation Reduction Act.[62] Unsurprisingly, many of those facilities are small businesses, which are nimble enough to drive rapidly evolving technological innovation in the sector.[63]

One inescapable impact of the Proposed Reconsideration is that all those benefits would be eliminated in the future. Put differently, this lost revenue unquestionably qualify

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[57] *Id*. at 24
[58] *Id*.
[59] *See, e.g.,* Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles, 88 Fed. Reg. 29184, 29404-05 (May 5, 2023) (to be codified at 40 CFR pts. 85, 86, 600, 1036, 1037, and 1066).
[60] Off. of Advocacy, *supra* note 52 at 18
[61] Natural Res. Defense Counsel & BlueGreen Alliance, Supplying Ingenuity II: U.S. Suppliers of Clean, Fuel-Efficient Vehicle Technologies (2017), *available at* https://www.bluegreenalliance.org/wp-content/uploads/2017/05/Supplying-Ingenuity-vFINAL-low-res.pdf.
[62] E2, Clean Economy Works: Inflation Reduction Act Two-Year Analysis (2024), *available at* https://e2.org/wp-content/uploads/2024/08/E2-Clean-Economy-Works-IRA-Two-Year-Review_August-2024.pdf.
[63] *See, e.g.*, Cassandra Stephenson, *Tennessee's Small Auto Manufacturers to Get Federal Funds to Re-Tool for Electric Vehicle Market*, Tenn. Lookout, Dec. 19, 2024, https://tennesseelookout.com/2024/12/19/tennessees-small-auto-manufacturers-could-receive-federal-dollars-to-re-tool-for-electric-vehicle-market/ (last visited Sept. 22, 2025).

as “adverse impacts” within the clear meaning of the Regulatory Flexibility Act. And this is true for “engine and vehicle manufacturers,” which the Proposed Reconsideration identifies as the “regulated entities that are subject to the regulations they are proposed to remove.”[64]

In this way, the Proposed Reconsideration illustrates another reason why it is important for agencies to consider the beneficial impacts of their planned regulatory actions under the Regulatory Flexibility Act, even if doing so would not suffice to trigger the Act’s applicability. That analysis will be available in the future for the agency to consider if it intends to weaken or rescind those regulatory actions. As it is, without such analysis, it raises the risk that the agency can pretend that these adverse impacts do not exist, much as the EPA is attempting to do now.

More broadly, such comprehensive analysis of adverse and beneficial impacts is especially important for regulations affecting industrial sectors, such as automobile and engine manufacturing, that are far from monolithic. Even within a given industry, a particular regulatory action has the potential to create significant winners and losers among the small firms within that industry. The EPA defeats both the letter and spirit of the Regulatory Flexibility Act by focusing only on a narrow slice of the industry that it happens to prefer for ideological reasons.

Remedial Actions That the EPA Should Take

The Regulatory Flexibility Act makes clear that any regulatory action that fails to comply with its requirements can be remanded to the agency and the its enforcement stayed pending the satisfactory completion of the Act’s requirements.[65] For the reasons described above, the SEISNSE certification offered in the Proposed Reconsideration falls well short of what is required under the Regulatory Flexibility Act, putting this action at substantial risk of adverse judgment on judicial review.

At the very least, the EPA should temporarily halt this action and reconduct the threshold analysis for SEISNSE certification consistent with the requirements described above. Once completed, the EPA may then consider re-releasing its Proposed Reconsideration with the revised SEISNSE certification for a new round of public comment.

More likely, though, the threshold analysis will find that the SEISNSE certification is not warranted for this action. As such, the EPA should commit to restarting the entire process for its Proposed Reconsideration, beginning with the full SBAR process and a full IRFA to accompany the Proposed Reconsideration.

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[64] Reconsideration, 90 Fed. Reg. at 36328.
[65] 5 U.S.C. 611(a)(4).

Conclusion

Given prior Supreme Court precedent and tools of statutory construction, the 2009 Endangerment Finding was not legally deficient. In fact, the relevant provisions of the Clean Air Act unambiguously call for this endangerment finding given the overwhelming evidence of negative impacts from greenhouse gases. The Proposed Reconsideration is arbitrary, capricious, and an abuse of discretion, and will not survive a court challenge. Moreover, the Proposed Reconsideration suffers from several procedural deficiencies that would provide additional grounds for remand on judicial review.

The EPA's core mission is to protect human health and the environment. Rescinding the 2009 Endangerment Finding would abdicate that responsibility. We urge the EPA to withdraw this proposal and instead reaffirm its commitment to science-based policymaking and climate action.

Sincerely,

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