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*Sent via electronic form and email to a-and-r-Docket@epa.gov*

U.S. Environmental Protection Agency, EPA Docket Center  
OAR Docket, Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**Docket ID No. EPA-HQ-OAR-2025-0194**

**Re: NAACP COMMENTS ON PROPOSED RULE, RECONSIDERATION OF 2009 ENDANGERMENT FINDING AND GREENHOUSE GAS VEHICLE STANDARDS, 90 FED. REG. 36,288 (August 1, 2025)**

The NAACP submits these comments in strong opposition to the U.S. Environmental Protection Agency's (EPA) proposed rule, Reconsideration of the 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards. This proposal departs from settled science, longstanding judicial precedent, and the agency's own prior findings. The EPA has a continuing duty under the Clean Air Act to protect public health and welfare from air pollution and their causes. Rescinding the Endangerment Finding would directly abandon that duty, and exacerbate the disproportionate environmental burdens borne by Black people, low income, rural and other vulnerable communities. The cumulative effects of pollution, climate change, and underinvestment in infrastructure compound health, environmental, and economic harms in these communities.

The NAACP has a long history of advocating alongside communities to highlight the intersection of environmental and climate issues as civil rights issues within communities. The NAACP recognizes that although the EPA has not always centered the most vulnerable communities, the NAACP has pushed to ensure that the EPA's mission to protect the human health of all people is realized. This advocacy includes recognizing the harm that unregulated greenhouse gas emissions have caused across the country and world.

## **I. Background on Climate Science**

In 2009, EPA issued its Endangerment Finding, determining that six greenhouse gases – carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride – “endanger both the public health and the public welfare of current and future generations.”<sup>1</sup> That determination rested on an overwhelming body of scientific evidence showing that “elevated concentrations of heat-trapping greenhouse gases are the root cause of recently observed climate change.”<sup>2</sup>

Since then, the evidence has only grown stronger. Greenhouse gases are now understood with even greater precision to fuel climate-related harms, including extreme heat, degraded air quality, heavy precipitation, intense wildfires, drought, flooding and other severe weather events.<sup>3</sup> Between 2016 and 2020, these extreme weather events cost the United States more than \$600 billion, alongside the far-reaching costs to public health.<sup>4</sup> According to recent studies, fossil fuel pollution contributed to 350,000 premature deaths in the U.S. in 2018.<sup>5</sup> Air pollution from oil and gas was linked to nearly 91,000 premature deaths annually, 216,000 new cases of childhood asthma each year, and 10,350 preterm births.<sup>6</sup>

Previous federal scientific reporting has demonstrated that Black communities, other communities of color, and low-income white communities disproportionately bear the health and environmental burdens of pollution and climate change.<sup>7</sup> In the Gulf South and Southeast, communities face heightened risks from rising sea levels, repeated flooding, and some of the highest cancer risks in the nation due to proximity to petrochemical facilities.<sup>8</sup> In the Southwest, prolonged drought and extreme heat compound water insecurity and threaten public health, particularly in rural and tribal communities.<sup>9</sup> In the Great Lakes region, climate-driven shifts in water levels and increased flooding jeopardize drinking water quality and public infrastructure.<sup>10</sup> For more than fifteen years, the Endangerment Finding has been the legal and scientific foundation for federal action to protect the public from these dangers. Any effort to rescind it disregards settled science and the disproportionate impacts of climate change on vulnerable communities across the country.

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<sup>1</sup> Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66496 (Dec. 15, 2009).

<sup>2</sup> *Id.* at 66518.

<sup>3</sup> IPCC, Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II, and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (“IPCC AR6”).

[https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_LongerReport.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf)

<sup>4</sup> NOAA's Nat'l Ctrs. for Envtl. Info. (NCEI), *Billion-Dollar Weather and Climate Disasters*, Climate Monitoring, <https://www.ncei.noaa.gov/access/billions/> (last visited Sept. 14, 2025).

<sup>5</sup> *Id.*

<sup>6</sup> Karn Vohra, et al., *The Health Burden and Racial-Ethnic Disparities of Air Pollution from the Major Oil and Gas Lifecycle Stages in the United States*, Sci. Adv., Aug. 22, 2025, <https://doi.org/10.1126/sciadv.adu2241>

<sup>7</sup> Alique G. Berberian, David J. X. Gonzalez & Lara J. Cushing, Racial Disparities in Climate Change-Related Health Effects in the United States, 9 Curr. Environ. Health Rep. 451 (2022), <https://doi.org/10.1007/s40572-022-00360-w>

<sup>8</sup> Human Rights Watch, *We're Dying Here: The Fight for Life in a Louisiana Fossil Fuel Sacrifice Zone* (Jan. 25, 2024), available at <https://www.hrw.org/report/2024/01/25/were-dying-here/fight-life-louisiana-fossil-fuel-sacrifice-zone#:~:text=At%20least%20a%20dozen%20facilities,pregnancy%20and%20birth%2C%20and%20infertility.>

<sup>9</sup> Heather Tanana, *Protecting Tribal Public Health From Climate Change Impacts*, 15 Northeastern University Law Review 89 (2023), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1366&context=scholarship>

<sup>10</sup> Alliance for the Great Lakes, Climate Change and the Great Lakes, *Alliance for the Great Lakes* (visited Sept. 21, 2025), <https://greatlakes.org/issues/climate-change-and-the-great-lakes/>

## II. EPA Claim that the Clean Air Act does not Authorize Regulation of Greenhouse Gas Emissions is Inconsistent with Statutory Text and Controlling Precedent

Section 202(a)(1) of the Clean Air Act unambiguously requires EPA to set standards for emissions of “any air pollutant” from new motor vehicles which “cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.”<sup>11</sup> In 2003, the EPA declined to regulate greenhouse gases under this provision.<sup>12</sup> The Supreme Court rejected that position in *Massachusetts v. EPA*, 549 U.S. 497 (2007), holding that greenhouse gases fall within the Act’s “capacious definition” of “air pollutant,” which extends to “any physical, chemical, biological, [or] radioactive substance or matter which is emitted into or otherwise enters the ambient air.”<sup>13</sup> Characterizing this definition as “sweeping” and “unambiguous,” the Court directed EPA to regulate greenhouse gases unless it could provide a reasoned, science-based justification for declining to do so.<sup>14</sup>

Consistent with that mandate, the EPA issued the 2009 Endangerment Finding, determining that greenhouse gases are “air pollutants” that pose the very dangers Congress intended the Clean Air Act to address.<sup>15</sup> *Massachusetts* and the Endangerment Finding together reflect a proper interpretation of Congressional intent, as the statutory text defines “welfare” to include “effects on weather and climate.”<sup>16</sup> EPA has since correctly reaffirmed this interpretation in multiple rulemakings, each time supported by an increasingly robust scientific record.

Nevertheless, this EPA’s proposed rescission revives the narrow and incorrect statutory reading the Agency advanced in 2003, which limited the definition of “pollution” to direct local and regional harms. Moreover, it does not reflect the reality of the current climate crisis. The Supreme Court already rejected this reading in *Massachusetts v. EPA*.<sup>17</sup> The 2009 Endangerment Finding likewise rests on domestic impacts: “the Administrator looked first at impacts in the United States itself and determined that these impacts are reasonably anticipated to endanger the public health and the welfare of the U.S. population.”<sup>18</sup> While the EPA now invokes later Supreme Court decisions when urging this narrow reading (including *Utility Air Regulatory Group v. EPA*,<sup>19</sup> *West Virginia v. EPA*,<sup>20</sup> and *Loper Bright*<sup>21</sup>), none of these decisions disturb *Massachusetts* or the Endangerment Finding, as each of these cases addresses a distinct question without revisiting the Court’s determination that greenhouse gases are “air pollutants” under the Clean Air Act. Indeed, it is more clear than ever that the country’s increasing reliance on greenhouse gas emissions will endanger the public health and welfare of communities across the country.

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<sup>11</sup> 42 U.S.C. §7521(a)(1)(2018).

<sup>12</sup> Control of Emissions from New Highway Vehicles and Engines, 68 Fed. Reg. 52922 (Sept. 8, 2003).

<sup>13</sup> *Massachusetts v. EPA*, 549 U.S. 497, 500 (2007).

<sup>14</sup> *Massachusetts*, 549 U.S. at 528-29.

<sup>15</sup> 74 Fed. Reg. 66496.

<sup>16</sup> 42 U.S.C. §7602(h).

<sup>17</sup> 549 U.S. at 528-29.

<sup>18</sup> 74 Fed. Reg. at 66514.

<sup>19</sup> 573 U.S. 302, 318–19 (2014).

<sup>20</sup> 597 U.S. 697, 722 (2022).

<sup>21</sup> 603 U.S. 369 (2024).

The EPA's attempt to segment and minimize vehicle emissions by requiring each source category to cause endangerment on its own fares no better under the statute. Section 202(a)(1) requires standards for emissions of "any air pollutant" that "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare,"<sup>22</sup> and Section 302(g) defines "air pollutant" to include a "combination of" "air pollution agent[s]."<sup>23</sup> In 2007, the Court in *Massachusetts* expressly rejected the EPA's argument that "a small incremental step, because it is incremental" is necessarily non-actionable.<sup>24</sup> The EPA's proposed parsing, which would require a demonstration that a single vehicle class alone produces the entire endangerment, rests on the very premise the Court found erroneous. Thus, it must be rejected.

The EPA is also proposing to rescind the Endangerment Finding on policy grounds, asserting that the 2009 finding failed to consider costs or regulatory effectiveness. But Section 202(a)(1) directs that the endangerment determination rests on "scientific judgment," not policy considerations.<sup>25</sup> Questions of cost enter only at the state of determining *how* to regulate not *whether* to regulate. Despite this Administration's attempts, agencies cannot disregard statutory obligations or judicial mandates because they prefer a different policy outcome. And even if costs were relevant here, the economic, environmental, and human costs of unchecked climate change far exceed the costs of regulatory action.

In its final argument, the EPA asserts that there is insufficient reliable information to support climate science. In support, the EPA relies on a Department of Energy report prepared by a handful of scientists, in a matter of months, without peer review, and representing a minority view among climate scientists. This report selectively cites data in ways that fundamentally misrepresent the consensus understanding of climate science. For instance, the EPA suggests that the 2009 Finding overlooked potential benefits of climate change, such as increased plant growth or reduced cold-related mortality. In fact, the 2009 Finding explicitly considered these factors, weighed them against the adverse impacts, and concluded that the overall effect would be net harm. Indeed, even without the 2009 study, greenhouse gas emissions have exacerbated harm to overburdened communities in a manner that is increasing the mortality rate exponentially. The EPA cannot simply ignore the urgency of this documented notice that communities have continued to highlight in civil rights complaints, public comments, and other readily available evidence of the harm these emissions cause.

### **III. EPA has Failed to Consider the Expertise and Lived Experiences of Communities Disproportionately Harmed by Pollution and Climate Change**

The EPA's proposed rule disregards the reality that climate change and air pollution do not affect all communities equally. Because of redlining and other discriminatory housing, zoning, and permitting practices, Black communities are more likely to live near major highways, industrial facilities and power

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<sup>22</sup> 42 U.S.C. §7521(a)(1)(2018).

<sup>23</sup> 42 U.S.C. §7602(g)(2018).

<sup>24</sup> *Massachusetts*, 549 U.S. at 524.

<sup>25</sup> 549 U.S. at 533.

plants.<sup>26</sup> More recently, data centers are becoming an increasing source of pollution for Black communities.<sup>27</sup> As a result, they are exposed to disproportionate levels of pollution that compound the risks of climate-related disasters.<sup>28</sup> Weakening vehicle greenhouse gas standards will worsen these already unequal burdens. The NAACP has filed comments with the EPA on the importance of swiftly reducing greenhouse gas emissions regarding vehicles and mass transit previously because of the broad implications of higher concentrations of emissions in communities where NAACP members live across the country.

These harms are not abstract. They are evident in higher asthma rates, increased vulnerability to extreme heat, and disproportionate loss of housing and livelihoods in the aftermath of floods, storms, and wildfires.<sup>29</sup> Ignoring these impacts does not make them any less real.

The NAACP has documented and challenged environmental racism for decades, including the disproportionate pollution burdens borne by Black neighborhoods. Through this work, we have seen firsthand how communities already overburdened by cumulative pollution are pushed further into crisis by climate-driven disasters. The EPA must give full weight to the expertise, civil rights and other environmental complaints and comments filed from members of the global majority and lived experience of these communities when evaluating the consequences of this proposal.

#### **IV. The NAACP urges EPA to Withdraw the Proposed Rule and Maintain the 2009 Endangerment Finding and Strong Vehicle Greenhouse Gas Standards**

The EPA's attempt to rescind the Endangerment Finding and weaken vehicle greenhouse gas standards disregards clear statutory text, Supreme Court precedent, decades of scientific consensus, and the lived experiences of communities most affected by pollution and climate change. The Agency should withdraw the proposed rule, reaffirm the Endangerment Finding and ensure its regulatory decisions advance, not undermine, climate action.

This includes directing investment toward clean mobility and infrastructure in frontline communities, where the health, economic, and social benefits of pollution reduction are most urgently needed. The costs of delay fall most heavily on those with the fewest resources to bear them. The EPA should act swiftly to withdraw this proposal and recommit to its mission to “protect human health and the environment.”

We are available to discuss any of the above information, including the clear departure of the law and public policy and the civil rights implications of this decision, the NAACP's evidence of public health

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<sup>26</sup> American Chemical Society, “Highways Through Historically Redlined Areas Likely Cause Air Pollution Disparities Today,” ACS PressPacs, Feb. 21, 2024, <https://www.acs.org/pressroom/presspacs/2024/february/highways-through-historically-redlined-areas-cause-air-pollution-disparities.html> (last visited Sept. 14, 2025).

<sup>27</sup> Justine Calma, *Tech companies ‘be on alert,’ NAACP says with new guiding principles for data centers*, The Verge, Sept. 4, 2025, available at <https://www.theverge.com/exclusive/770650/data-center-ai-naacp-guiding-principles>.

<sup>28</sup> American Chemical Society, “Highways Through Historically Redlined Areas Likely Cause Air Pollution Disparities Today,” ACS PressPacs, Feb. 21, 2024, <https://www.acs.org/pressroom/presspacs/2024/february/highways-through-historically-redlined-areas-cause-air-pollution-disparities.html> (last visited Sept. 14, 2025).

<sup>29</sup> *Id.*

concerns regarding greenhouse gas emissions that has been highlighted for the EPA for years, and the NAACP's concerns regarding the ramping up of the climate crisis that this decision will surely cause.

Sincerely,

*Abre' Conner*

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