

February 18, 2025

**Via U.S. Mail and Electronic Mail: Zeldin.Lee@epa.gov**

The Honorable Lee Zeldin, Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20004

**Re: Review of EPA’s 2009 Greenhouse Gases Endangerment Finding under Executive Order No. 14154**

Administrator Zeldin:

The Environmental Defense Fund is writing with deep concern about the review of EPA’s 2009 finding that greenhouse gas pollution endangers public health and welfare, 74 Fed. Reg. 66,496 (Dec. 15, 2009) (Endangerment Finding), directed by section 6(f) of President Trump’s “Unleashing American Energy,” Exec. Order No. 14154 (Jan. 20, 2025). With this letter, we submit information that strongly supports EPA’s Endangerment Finding and that EPA must consider as part of any such review.

Extensive as it is, this information we provide represents a small fraction of the “ocean of evidence” that supports EPA’s Endangerment Finding, *Coalition for Responsible Regulation, Inc. v. EPA.*, 684 F.3d 102, 123 (D.C. Cir. 2012), *cert denied in relevant part sub nom. Chamber of Commerce of the U.S. v. EPA*, 571 U.S. 951 (2013). Furthermore, climate disruption and resulting harms to communities and natural resources have increased enormously since 2009; as EPA has noted several times, the evidence of endangerment has only become more extensive and compelling.

The 2009 Endangerment Finding concluded that carbon dioxide and five other well-mixed greenhouse gases can reasonably be anticipated to endanger public health and public welfare. 74 Fed. Reg. at 66,497. EPA promulgated the Finding in the wake of the landmark Supreme Court decision in *Massachusetts v. EPA*, 549 U.S. 497 (2007). There, the Court held that EPA has clear authority to regulate greenhouse gas pollution under the Clean Air Act, and that EPA must make a science-based determination as to whether greenhouse gas pollution endangers public health and welfare (or explain why the evidence is insufficient to allow such a determination to be made). *Id.* at 532-33.

Following the Supreme Court’s decision in *Massachusetts*, the agency embarked on a lengthy evaluation process that involved several rounds of public input—including over 380,000 comments and two public hearings, rigorous peer review, and an exhaustive investigation of contemporary climate science literature. 74 Fed. Reg. at 66,510, 66,500. The final Finding rests on a vast body of rigorous, peer-reviewed scientific research confirming that greenhouse gas pollution is driving destructive changes in our climate that pose a grave and growing threat to Americans’ health, security, and economic well-being. Since 2009, the science supporting the

Endangerment Finding has only grown stronger and more conclusive—as both EPA and the federal government’s own scientific agencies have repeatedly recognized.

President Trump’s “Unleashing American Energy” Executive Order directs you, by February 19, 2025, and “in collaboration with the heads of any other relevant agencies” to “submit joint recommendations to the Director of [the White House Office of Management and Budget] on the legality and continuing applicability of the [Endangerment Finding].” Exec. Order No. 14154, § 6(f) (Jan. 20, 2025). Notably, the Executive Order cites no statutory authority or other basis for ordering this review, nor discusses any process for public participation. Notwithstanding the February 19 deadline, we are not aware of any attempt by EPA or any of “other relevant agencies” to notify the public about its actions under the Executive Order.

As an initial matter, the lack of transparency and public engagement associated with EPA's review of the Endangerment Finding are inconsistent with basic principles of good, and open, government and in stark contrast to the extensive public participation that characterized the agency’s 2009 adoption of the Finding. At the very time when it is supposed to be engaged in a review of the Endangerment Finding, EPA has recently fired its independent Scientific Advisory Board. Termination of the Board is especially troubling because the Board’s experts possess extensive knowledge related to the scientific foundation for EPA’s Endangerment Finding. Moreover, EPA has not identified its collaborating agencies or provided notice to the public of the content, scope, or timing of the review. Nor, to our knowledge, has EPA provided any process for affected people and regulated businesses with substantial reliance interests, and those with relevant scientific, technical, and legal expertise, to provide input on the Endangerment Finding. Further, we are not aware of any public commitment by EPA to publish the final joint recommendations and any supporting documentation, including records related to your coordination with other agencies.

We urge you immediately to rectify these failures by, at a minimum, making public any recommendations submitted to OMB, the basis for those recommendations, and all records that informed those recommendations, including any communications between EPA and other agencies or with external stakeholders.

In any event, as outlined below, “the legality and continuing applicability” of the Endangerment Finding are clear. As to its “continuing applicability,” endangerment findings do not expire, and so the Finding certainly continues to apply. Indeed, accumulating and overwhelming evidence makes clear that the harms and risks posed by climate pollution are even more immediate and severe than was the case in 2009. As to its legality, in making the Endangerment Finding and succeeding reaffirmations thereof, EPA followed the statute and provided extensive process and thorough, exhaustive reasoning. The agency’s determinations were subject to multiple rounds of judicial review in which courts affirmed the findings’ soundness. The Endangerment Finding’s legality is also beyond question.

## I. The Endangerment Finding Is Firmly Grounded in Statutory Authority and Extensive Scientific Evidence

The Endangerment Finding is supported by nearly two decades' worth of EPA findings grounded in extensive record evidence. The Administrator relied primarily on climate assessments prepared by the United States Global Change Research Program (USGCRP), National Research Council (NRC), and the Intergovernmental Panel on Climate Change (IPCC) as the basis for her determination. 74 Fed. Reg. at 66,510. These three assessments themselves analyzed thousands of individual peer-reviewed studies to develop and publish the syntheses of climate science that inform EPA's findings. *Id.* at 66,511. EPA's Inspector General confirmed in 2011 that EPA's 2009 finding "met statutory requirements for rulemaking and generally followed requirements and guidance related to ensuring the quality of the supporting technical information."<sup>1</sup>

EPA has twice denied petitions for reconsideration of the finding (75 Fed. Reg. 49,556 (Aug. 13, 2010); 87 Fed. Reg. 25,412 (Apr. 29, 2022)), both times firmly re-establishing that the science is "robust, voluminous, and compelling, and has been strongly affirmed by recent scientific assessment." EPA, Decision Document 1 (Apr. 2022), Doc. ID No. EPA-HQ-OAR-2022-0129-0053. The Agency's decision to deny those petitions relied upon the continued advancement and accumulation of scientific evidence, including several major scientific assessments from the National Academies, the USGCRP, and the IPCC. These assessments are the result of integrating thousands of peer-reviewed studies and undergoing multiple rounds of review and, according to EPA, continue to provide "clear support regarding the current and future dangers of climate change." *Id.* at 13. Over time, these assessments add to the depth of understanding of these dangers and also provide a growing body of evidence of the breadth of the impacts, including the interdependence of climate, ecosystems, and humans. *Climate Change 2022: Impacts, Adaptation and Vulnerability*, Working Group II contribution to the IPCC Sixth Assessment Report (2023). In denying petitions for reconsideration, EPA relied on scores of additional peer-reviewed scientific studies and assessments improving upon and confirming our understanding of the overall evidence of climate changes and impacts—to human health and welfare, to ecosystems, and to the ocean and cryosphere—and of the temperature record and records of other key climate indicators.

In numerous actions over the last fifteen years, EPA has considered and reviewed the scientific basis supporting the harms climate pollution poses and explained that the best, newly available evidence has only further reaffirmed the soundness of the Endangerment Finding. For example, in 2016, EPA made a finding that greenhouse gas emissions from aircraft likewise cause or contribute to pollution endangering public health and welfare under section 231 of the Clean Air Act. 81 Fed. Reg. 54,422 (Aug. 15, 2016). EPA concluded that "the body of scientific evidence amassed in the record for the 2009 Endangerment Finding also compellingly supports an endangerment finding under CAA section 231(a)(2)(A)," "science assessments released since 2009 ... strengthen and further support the judgment," and "[n]o information or assessments

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<sup>1</sup> EPA Office of Inspector General, Procedural Review of EPA's Greenhouse Gases Endangerment Finding Data Quality Processes (Sept. 26, 2011), <https://www.epa.gov/sites/production/files/2015-10/documents/20110926-11-p-0702.pdf>.

published since late 2009 suggest that it would be reasonable for the EPA to now reach a different or contrary conclusion.” *Id.* at 54,424.

In addition, in actions to reduce pollution from the power sector, transportation sector, oil and gas sector, and landfills, EPA has set forth extensive scientific information and affirmed that climate pollution from these sectors and sources cause endangerment. *See, e.g.*, 89 Fed. Reg. 16,820, 16,837 (Mar. 8, 2024); 89 Fed. Reg. 39,798, 39,809 (May 9, 2024); 89 Fed. Reg. 29,440, 29,475 (Apr. 22, 2024) (cataloguing climate change harms like increasingly severe droughts, wildfires, storms, and sea-level rise that have already occurred in the United States).

- Power Sector Standards. EPA’s 2015 and 2024 new source performance standards for power plants stated that recent studies “confirm and strengthen” the basis for the Finding, noting new information on factors including the heightened vulnerability of children and older people to climate-exacerbated health harms. *See* 80 Fed. Reg. 64,510, 64,518 (Oct. 23, 2015); *id.* at 64,517-22, 64,530-31; *see also, e.g.*, 89 Fed. Reg. at 39,807-10.
- Transportation Sector Standards. EPA has affirmed that greenhouse gas emissions endanger public health and welfare in the agency’s past emissions standards for on-road vehicles. *See, e.g.*, 75 Fed. Reg. 25,324, 25,398 (May 7, 2010); 76 Fed. Reg. 57,106, 57,294 (Sept. 15, 2011); 77 Fed. Reg. 62,624, 62,894 (Oct. 15, 2012); 81 Fed. Reg. 73,478, 73,486 (Oct. 25, 2016); 89 Fed. Reg. 27,842, 27,862-64 (Apr. 18, 2024); 89 Fed. Reg. 29,440, 29,474-75 (Apr. 22, 2024). For instance, in the 2024 multi-pollutant emissions standards for passenger vehicles, the agency stated that since the endangerment finding “major scientific assessments continue to be released that further advance our understanding of the climate system and the impacts that greenhouse gases have on public health and welfare.” 89 Fed. Reg. at 27,862. EPA cited recent literature on sea-level rise and decreased sea ice, increased frequency of heatwaves, extreme weather, and drought resulting from future temperature changes. *Id.* at 27,862-64.
- Oil and Gas Sector Standards. EPA reaffirmed that greenhouse gas emissions endanger public health and welfare in 2016 and 2024 standards to address methane pollution from the oil and gas sector. In 2016, EPA reviewed scientific climate assessments conducted since the 2009 Endangerment Finding and concluded that the “findings of the recent scientific assessments confirm and strengthen the conclusion that GHGs endanger public health, now and in the future.” 81 Fed. Reg. 35,824, 35,834 (June 3, 2016). In 2024, EPA again reviewed recent scientific assessments, and concluded that “[t]hese scientific assessments, the EPA analyses, and documented observed changes in the climate of the planet and of the U.S. present clear support regarding the current and future dangers of climate change and the importance of GHG emissions mitigation.” 89 Fed. Reg. at 16,841. And by 2024, threats foreseen in prior years were increasingly a present reality. *Id.* at 16,837 (“These and other trends are examples of the risks discussed the [sic] 2009 and 2016 Endangerment Findings that have already been experienced.”).
- Landfill Standards. EPA reaffirmed that greenhouse gas emissions endanger public health and welfare in its 2016 standards for municipal solid waste landfills, where it concluded

that “recent scientific assessments confirm and strengthen the science that supported the 2009 Endangerment Finding.” 81 Fed. Reg. 59,332, 59,338 (Aug. 29, 2016).

The Endangerment Finding also has survived numerous legal challenges and searching judicial review. First, it was upheld by the D.C. Circuit Court of Appeals in 2012 (a decision the Supreme Court declined to review). *See Coal. for Responsible Regulation v. EPA*, 684 F.3d 102 (D.C. Cir. 2012), *cert. denied in relevant part sub nom. Chamber of Commerce of the U.S. v. EPA*, 571 U.S. 951 (2013). There, industry groups challenged EPA’s use of scientific assessments, but the court held that EPA’s findings were supported by substantial evidence, and that the agency had considered the scientific evidence before it in “a rational manner.” *Id.* at 122. More recently, the D.C. Circuit again rejected challenges to the Finding, and the Supreme Court again denied review. *See Judgment, Concerned Household Electricity Consumers Council v. EPA*, No. 22-1139 (D.C. Cir. May 25, 2023), 2023 WL 3643436, *cert. denied*, 144 S. Ct. 497 (2023).

## **II. Greenhouse Gas Pollution Continues to Endanger Public Health and Welfare**

In addition to the records supporting EPA’s Finding, denials of requests to reconsider that finding, and affirmations of that finding in many sets of standards to reduce climate pollution, scientific evidence has continued to accumulate that even more strongly supports EPA’s Endangerment Finding.

### *A. The latest science continues to reaffirm the Endangerment Finding*

At the time of the 2009 Endangerment Finding, the anticipated “dangers of greenhouse gas emissions” included harms such as “heat-related deaths; coastal inundation and erosion”; “more frequent and intense hurricanes, floods, and other ‘extreme weather events’”; and “drought due to reductions in mountain snowpack and shifting precipitation patterns.” *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 417 (2011). And since that Finding, new science research continues to reaffirm that humanity’s greenhouse gas emissions have rapidly increased Earth’s temperature and changed Earth’s climate, and that temperature rise is now significantly affecting Americans.

The most recent IPCC report reaffirms that “[h]uman activities, principally through emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching [2.0 degrees Fahrenheit] above [the] 1850-1900 [temperature] in 2011-2020,” and “[g]lobal greenhouse gas emissions have continued to increase.” IPCC, *Climate Change 2023: AR6 Synthesis Report* at 4 (2023) (“IPCC-SR”). Indeed, today’s atmospheric concentrations of greenhouse gases are higher than they have been in hundreds of thousands of years. *Id.* at 42.

The National Climate Assessment (NCA) is a comprehensive synthesis of climate science prepared by experts across the United States Government. These assessments are required by Congress in the Global Change Research Act of 1990, *see* 15 U.S.C. § 2936, which calls for analyses of, among other topics, “the effects of global change on the natural environment, agriculture, energy production and use, land and water resources, transportation, human health and welfare, human social systems, and biological diversity,” *id.* Each NCA reflects the work of hundreds of experts to summarize how climate change is affecting the United States.

The most recent NCA has also confirmed the impact of human-caused emissions, noting “observed global warming of about 2 [degrees Fahrenheit] over the industrial era is unequivocally caused by greenhouse gas emissions from human activities, with only very small effects from natural sources,” and with “[a]bout three-quarters of total emissions and warming ... hav[ing] occurred since 1970.” USGCRP, *Fifth National Climate Assessment* 1-40 (2023) (“Fifth-NCA”). The report goes on to explain that “global warming observed over the industrial era is unequivocally caused by greenhouse gas emissions from human activities—primarily burning fossil fuels.... No natural processes known to science could have caused this long-term temperature trend. The only credible explanation for the observed warming is human activities.” *Id.* at 1-13, 2-4. It also concluded that without persistent efforts to reduce greenhouse gas emissions, global temperatures could continue to increase dramatically, leading to physical and ecological impacts that would be irreversible for thousands of years, if ever. *Id.*

Recent science reaffirms that the Earth is warming at an unprecedented rate. *See* IPCC-SR at 46; *see also* Fifth-NCA at 1-17 (“Global temperature has increased faster in the past 50 years than at any time in at least the past 2,000 years.”). And according to the National Oceanic and Atmospheric Administration (NOAA), the last ten years have been the warmest ten years on record since measurements using thermometers began in the mid-1800s.<sup>2</sup>

The current 2-degree Fahrenheit increase in temperature has already had extraordinary and harmful impacts across the United States. The Fifth-NCA notes that already today, “climate change threats, including increases in extreme precipitation, extreme temperatures, sea level rise, and more intense storms, droughts, and wildfires, are damaging infrastructure and operations and affecting human lives and livelihoods.” Fifth-NCA 5-4; *see also id.* at 1-23 (“Climate changes are making it harder to maintain safe homes and healthy families; reliable public services; a sustainable economy; thriving ecosystems, cultures, and traditions; and strong communities.”); *id.* at 1-16 (“As extreme events and other climate hazards intensify, harmful impacts on people across the United States are increasing. Climate impacts—combined with other stressors—are leading to ripple effects across sectors and regions that multiply harms, with disproportionate effects on underserved and overburdened communities.”).

A recent amicus brief from expert climate scientists summarized, based upon references to the latest research, six key trends associated with progressing climate warming in the United States: “(1) extreme heat and heatwaves, (2) rising sea levels, and accompanying coastal flooding, (3) increases in the frequency and intensity of storms producing heavy precipitation, including hurricanes and typhoons, (4) more intense and longer droughts, (5) wildfires, and (6) habitat degradation increasing risk of local extinctions and biodiversity loss.” Climate Scientists Amicus Br. 14, *Kentucky v. EPA*, No. 24-1087 (D.C. Cir. Dec. 6, 2024), ECF#2088455.<sup>3</sup> The

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<sup>2</sup> *See 2024 Was the World’s Warmest Year on Record*, NOAA (Jan. 10, 2025), <https://www.noaa.gov/news/2024-was-worlds-warmest-year-on-record#:~:text=Earth's%20average%20land%20and%20ocean,NOAA's%201850%2D2024%20climate%20record>.

<sup>3</sup> *Available at* <https://www.vermontlaw.edu/wp-content/uploads/2024/12/Climate-Scientist-Amicus-Dec-6-2024.pdf>.

experts describe in detail each of these six impact categories, with references to recent scientific studies. *Id.* at 14-29.

Climate change is also projected to worsen air quality across the United States - especially in heat- and drought-prone regions - harming human health. Extreme heat events can lead to elevated concentrations of air pollution, including ozone and fine particulates. Some regions could see a doubling of the number of severe ozone episodes by the 2050s relative to the early 2000s. Fifth-NCA at 14-1. The risk of exposure to wildfire smoke will also increase with warmer and drier conditions in some regions and as wildfire activity increases, “mortality rates and respiratory hospitalizations attributable to wildfires are also expected to increase.” *Id.* at 14-2.

Recent science also reaffirms that absent action, more severe consequences are expected. Global surface temperature will continue to increase until at least 2050 under any reasonable emissions scenario. IPCC-SPM at 14. Without meaningful action, “the risks of extreme weather, compound events, and other climate impacts will continue to grow,” Fifth-NCA at 2-33. And the physical and ecological impacts of climate change are essentially permanent, including changes to ocean temperature and permafrost, which “are irreversible for centuries to millennia.” IPCC-SPM at 21. The list of potential harms that could occur over the next half century if we fail to act is immense. The Fifth-NCA devotes more than 20 chapters and hundreds of pages to describe the breadth of the impact. *See* Fifth-NCA chs. 4-30. Climate change will continue to cause severe damage to public health, the environment, national security and our national economy—and some of the most extreme outcomes are unpredictable, putting our nation at even greater risk. *Id.*

*B. Apart from these scientific findings, Americans across the country are increasingly suffering real and devastating harms due to climate change*

Between 1980–2024, there were 403 confirmed weather/climate disaster events in the United States with losses exceeding \$1 billion each. These events, which included 32 drought events, 45 flooding events, 9 freeze events, 203 severe storm events, 67 tropical cyclone events, 23 wildfire events, and 24 winter storm events, resulted in the deaths of over 16,000 people and had significant economic effects. The annual average number of events across the nation from 1980–2024 was 9 events (CPI-adjusted); however, the annual average for the most recent 5 years (2020–2024) is 23 events (CPI-adjusted)—nearly three times higher—pointing to the impact of climate change.<sup>4</sup>

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<sup>4</sup> *U.S. Billion-Dollar Weather and Climate Disasters, United States Summary*, NOAA (Feb. 13, 2025), <https://www.ncei.noaa.gov/access/billions/state-summary/US>; *see also* Fifth-NCA at 1-17 (“In the 1980s, the country experienced, on average, one (inflation-adjusted) billion-dollar disaster every four months. Now, there is one every three weeks, on average. Between 2018 and 2022, the US experienced 89 billion-dollar events. Extreme events cost the US close to \$150 billion each year—a conservative estimate that does not account for loss of life, healthcare-related costs, or damages to ecosystem services.”).

One of largest disasters in the last few years was Hurricane Ian in 2022, which cost the nation nearly \$120 billion and led to over 150 deaths.<sup>5</sup> More recently, Hurricane Helene in 2024 has cost the nation nearly \$80 billion and led to more than 230 fatalities across six states. Tampa saw historic damage with peak storm surge levels over 6 feet. Rainfall totals were generally 6-12 inches in the Florida Panhandle while western North Carolina recorded upwards of 30 inches over a 3-day period, causing devastating and long-lasting impacts including major river flooding, severe erosion of highways and interstates, mudslides, downed trees, and catastrophic damage to homes and businesses. Communities lost power, internet, and water and were only accessible by air following the storm. And the nation’s largest climate data center, the NOAA National Centers for Environmental Information, located in Asheville, North Carolina, was forced to shut down.<sup>6</sup>

Studies have consistently shown that climate change is increasing the intensity and damage from hurricanes impacting the United States.<sup>7</sup> For Hurricanes Ian and Helene, analyses concluded climate change made the storms worse and greatly contributed to harms felt by impacted communities.

The devastating Los Angeles wildfires early this year destroyed more than 16,000 structures and killed at least 28 people. Thousands of people are still displaced, and the estimated cost of the wildfire is now more than \$250 billion making it one of the most expensive natural disasters in U.S. history.<sup>8</sup> Severe drought in Southern California caused in part by climate change made the fires more likely to happen and increased their intensity. According to climate researchers “human-induced warming from burning fossil fuels” increased the probability of wildfire disaster in the Los Angeles area by 35% and the intensity by 6%.<sup>9</sup>

As explained above, there is unequivocal scientific evidence that climate change is affecting the hydrological cycle and increasing the frequency and intensity of storms—contributing to harms including drought, wildfires, hurricanes, floods, landslides, disease outbreaks, and more.

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<sup>5</sup> Adam B. Smith, *2022 U.S. billion-dollar weather and climate disasters in historical context*, NOAA (Jan. 10, 2023), <https://www.climate.gov/news-features/blogs/beyond-data/2022-us-billion-dollar-weather-and-climate-disasters-historical>.

<sup>6</sup> Emily Powell, Florida Climate Ctr., *Hurricane Helene Post Storm Summary Report* (Oct. 7, 2024), <https://climatecenter.fsu.edu/images/docs/Hurricane-Helene-Summary-Report.pdf>.

<sup>7</sup> See, e.g., Karthik Balaguru et al., *Increased U.S. coastal hurricane risk under climate change*, 9 *Sci. Advances* (2023), <https://www.science.org/doi/full/10.1126/sciadv.adf0259>.

<sup>8</sup> See Roger Vincent, *Estimated cost of fire damage balloons to more than \$250 billion*, Los Angeles Times (Jan. 24, 2025) <https://www.latimes.com/business/story/2025-01-24/estimated-cost-of-fire-damage-balloons-to-more-than-250-billion>.

<sup>9</sup> *Climate Change Increase the Likelihood of Wildfire Disaster in Highly Exposed Los Angeles Area*, World Weather Attribution (Jan. 28, 2025), <https://www.worldweatherattribution.org/climate-change-increased-the-likelihood-of-wildfire-disaster-in-highly-exposed-los-angeles-area/>.



According to the most recent studies, the hydroclimatic conditions that intensified the California fires are expected to occur with increasing frequency in our warming climate.<sup>10</sup>

This is by no means an exhaustive list of considerations supporting the continued applicability of the Endangerment Finding that EPA should consider. That is why it is critically important that EPA enable all interested stakeholders to understand and engage with EPA if the agency considers any action related to this issue of paramount public importance. We have also attached to these comments an Appendix that includes more details on the information EPA considered and relied on in making the Endangerment Finding, EPA's subsequent denials of reconsideration, EPA's affirmation that climate pollution endangers public health in numerous actions to address that pollution, and more recent scientific evidence, all of which we hereby incorporate by reference.

### **III. EPA Cannot Amend or Suspend the Endangerment Finding Without Following Clean Air Act Requirements**

In your confirmation hearing before the U.S. Senate, you stated that *Massachusetts* “authorizes” but does not “require” regulation of greenhouse gas emissions; but you failed to acknowledge that the agency’s subsequent Endangerment Finding, where it applies, has *required* EPA to regulate greenhouse gas emissions since the Finding was finalized in 2009. There is no question as to the lawful status of the Endangerment Finding today. EPA thus must continue to give effect to the duly adopted Finding and all subsequent actions that rely upon it. Whatever the conclusions of your extra-statutory review and recommendations under Executive Order No. 14154, the Clean Air Act does not permit EPA to undo, suspend, or otherwise amend rulemakings based solely on a new administration’s changed policy views.

Section 307(d) of the Clean Air Act, 42 U.S.C. §7607(d), outlines the rulemaking procedure that governed the 2009 Endangerment Finding. Broadly, the statute requires the publishing of a notice of proposed rulemaking in the Federal Register with an accompanying statement of basis and purpose, the maintenance of a rulemaking docket, and that the Administrator allow all interested persons the opportunity to submit comments. The final rule must include the agency’s response to significant comments and any additional data submitted during the rulemaking process. Section 307 also provides directions for parties wishing to raise objections to the rulemaking.

This is the same process that EPA must undertake if it wishes to amend the Endangerment Finding in any way. And as discussed above, the evidence underlying the Endangerment Finding—and the additional supporting evidence that has amassed since 2009—is so overwhelming that EPA could provide no well-reasoned justification for such an action.

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<sup>10</sup> See, e.g., Swain et al., *Hydroclimate Volatility on a Warming Earth*, 6 *Nature Reviews Earth & Env’t* 35 (2025); Daniel Swain, *Hydroclimate Volatility on a Warming Earth*, *Weather West* (Jan. 15, 2025), <https://weatherwest.com/archives/43181>.

For all of the above reasons, we urge EPA: 1) to commit immediately to incorporating transparency and meaningful public participation into any action related to the Endangerment Finding under Executive Order No. 14154, and 2) in any resulting recommendations, to affirm without equivocation the legality and continued applicability of the Endangerment Finding.

Respectfully submitted,

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