United States Senate

WASHINGTON, DC 20510

September 22, 2025

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

Dear Administrator Zeldin:

We write in united opposition to the Environmental Protection Agency (EPA)'s proposal to rescind its 2009 finding that greenhouse gases endanger the public health and welfare of current and future generations (the "endangerment finding").[1] This proposed action represents an abdication of EPA's duty, a violation of Supreme Court precedent and Congressional directive, and a blatant failure to protect the American people.

In 1896, Swedish scientist Svante Arrhenius concluded that greenhouse gas emissions from human activities contribute to a global "greenhouse effect", driving global warming.[2] One hundred and twenty-nine years later, the reality of human-caused climate change is not up for debate. Scientists,[3] financial experts,[4] international governments,[5] and the American public[6] agree that climate change is a looming crisis. Greenhouse-gas driven climate change is driving extreme weather,[7] flooding,[8] erosion,[9] sea-level rise,[10] heat waves,[11] drought,[12] catastrophic

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[1] In this rulemaking, *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 Fed. Reg. 36288 (Aug. 1, 2025), EPA proposes to rescind the *Endangerment and Cause or Contribute Finding for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66496 (Dec. 15, 2009).

[2] *See, e.g.*, Ian Sample, "The Father of Climate Change", *The Guardian* (July 30, 2025), https://perma.cc/8M57-YX26.

[3] *See, e.g.*, National Aeronautics and Space Administration (NASA), "Climate Change: Evidence", (last updated: Oct. 23, 2024), https://perma.cc/ZQA3-LKT8 (stating that "scientific evidence for warming of the climate system is unequivocal.")

[4] *See, e.g.*, Senate Budget Committee, "Uncovering the Economic Costs of Climate Change" (Dec. 2024), https://perma.cc/X5LS-7LQK (Summarizing evidence from a "range of experts about the looming economic, financial, and budgetary risks of climate change.")

[5] The Paris Agreement, United Nations Framework Convention on Climate Change, https://perma.cc/7T49-MX8D.

[6] According to a 2024 Gallup poll, 61% of U.S. adults are concerned about climate change "a great deal" (40%) or a "fair amount" (21%), while 45% expect that climate change will "pose a serious threat to themselves or their way of life in their lifetime." *See* "Are Americans Concerned About Global Warming?", Gallup (Dec. 13, 2024), https://perma.cc/XP8V-G5QM.

[7] NASA, "Extreme Weather and Climate Change" (last updated Oct. 23, 2024), https://perma.cc/P5CT-LQXV.

[8] United States Environmental Protection Agency, "Climate Change Indicators: Coastal Flooding" (last updated April 18, 2025), https://perma.cc/N2LT-LE2W; Raymond Zhong, "As the World Warms, Extreme Rain Is Becoming Even More Extreme", *The New York Times* (July 5, 2025), https://www.nytimes.com/2025/07/05/climate/texas-flood-climate-change.html.

[9] United States Geological Survey, "Coastal Erosion is More Severe Under Climate Change" (Jan. 27, 2022), https://perma.cc/PLU2-4GXM.

[10] NASA, "The Effects of Climate Change" (last updated: Oct. 23, 2024), https://perma.cc/RD86-8FRC.

wildfires,[13] famine,[14] smog pollution[15] and other disasters. These effects drive illness,[16] hospital visits,[17] and deaths,[18] as well as displacement,[19] asset loss,[20] infrastructure damage,[21] rising insurance premiums,[22] declining home values,[23] and long-term destabilization of the national economy.[24] The United Nations considers greenhouse gas-driven climate change a "global emergency."[25] The United States Department of Defense has called greenhouse gas-driven climate change a "threat multiplier" whose destabilizing effects can "enable terrorist activity and other forms of violence."[26] The United States emits over eleven percent of all greenhouse gas emitted by all 195 countries in the world,[27] and has emitted over 400 billion tons of carbon dioxide since 1750, by far the most of any country.[28] And yet, in this proposal, EPA proposes to abdicate all responsibility to address this dangerous pollution.

Apart from being a dereliction of duty, EPA's action here is one of breathtaking hubris: the agency presents a series of alternative arguments defending its proposal, all of which are directly at odds with Supreme Court precedent, Congressional directive, and the facts.

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[11] World Meteorological Organization (WMO), "Climate Change and Heatwaves" (Sep. 21, 2023), https://perma.cc/8URM-D378; Andrew Freedman and Mary Gilbert, "US Heat Wave Exposes Infrastructure, Health Vulnerabilities – And It's Not Quite Over Yet", *CNN* (June 25, 2025), https://perma.cc/7FLM-C9A5.

[12] Center for Climate and Energy Solutions, "Drought and Climate Change", https://perma.cc/E39J-CLHY.

[13] NASA, "Wildfires and Climate Change" (last updated May 28, 2025), https://perma.cc/U7F8-TM7Q.

[14] World Food Program USA, "How Climate Change Is Causing World Hunger" (Apr. 29, 2024), https://perma.cc/4ED6-3FC6.

[15] Erin McDuffie et al., "The Social Cost of Ozone-Related Mortality Impacts From Methane Emissions", *Earth's Future* (Sep. 11, 2023), https://perma.cc/3E29-LP9U.

[16] Centers for Disease Control and Prevention (CDC), "Effects of Climate Change on Health" (Feb. 29, 2024), https://perma.cc/KKA5-PCT2; CDC, "Effects of Climate Change on Health: Air Pollution" (Mar. 2, 2024), https://perma.cc/4NYT-UAD4.

[17] *Id.*

[18] *Id.*

[19] Adam Smith, "2024: An active year of U.S. billion-dollar weather and climate disasters", National Oceanic and Atmospheric Administration (NOAA) (Jan 10., 2024), https://perma.cc/Y9DF-6F4T.

[20] Michael Sheldrick, "New Data Reveals Climate Change Risks to Corporate Assets in the United States", *Global Citizen* (Jul. 17, 2023), https://perma.cc/FY87-6LWE.

[21] Senate Budget Committee, "Uncovering the Economic Costs of Climate Change" (Dec. 2024), https://perma.cc/X5LS-7LQK at 14-18.

[22] "Coastal Mortgage Value Collapse", *Risk & Insurance* (Apr. 7, 2017), https://perma.cc/4XF7-3TEW, "Climate Change, Disaster Risk, and Homeowner's Insurance", Congressional Budget Office (Aug. 2024), https://perma.cc/YZC3-X4EZ.

[23] "As the Seas Have Been Rising, Home Values Have Been Sinking", *First Street* (Jul. 25, 2018), https://perma.cc/45HY-LESD.

[24] *See generally* Senate Budget Committee Staff Report (2024).

[25] United Nations, "Climate Action: The Paris Agreement", https://perma.cc/7HXF-CAG3.

[26] Department of Defense, Quadrennial Defense Review 2014 (Mar. 4, 2014), at 8.

[27] European Commission Emissions Database for Global Atmospheric Research, "GHG emissions of all world countries 2024 Report" (2024), https://edgar.jrc.ec.europa.eu/report_2024#emissions_table.

[28] Michon Scott, "Does it matter how much the United States reduces its carbon dioxide emissions if China doesn't do the same?, NOAA (Aug. 30, 2023), https://perma.cc/7JWC-RPUH (this NOAA-published article finds that the answer to the answer posed by its title is a resounding yes).

First, EPA argues that the Clean Air Act is ambiguous as to whether the EPA may "regulate… GHG [greenhouse gas] emissions in response to global climate change concerns,"[29] and that this issue constitutes a "major question". The agency further argues that in light of the Supreme Court's decisions in *Loper Bright v. Raimondo*,[30] which overturned the doctrine of *Chevron* deference, and *West Virginia v. EPA*,[31] which formalized the concept of a major questions doctrine, the agency may not regulate GHGs absent a clear statement authorizing such action.[32] But *Massachusetts v. EPA*,[33] the controlling Supreme Court case on EPA greenhouse gas regulation, left no room for ambiguity: the Court in that case found that "[c]arbon dioxide, methane, nitrous oxide, and hydrofluorocarbons are without a doubt" air pollutants under the Clean Air Act's definition, and that "[t]he statute is unambiguous" on this point.[34]

Willfully blind to this clear legal precedent, EPA argues that the term "air pollutant", as employed throughout the Clean Air Act, refers to those pollutants that "cause or contribute to air pollution for which the air pollution *itself,* through local or regional exposure to humans and the environment, endangers public health or welfare."[35] This argument that EPA may regulate only air pollutants with direct local impacts on human health ignores both Supreme Court directive and the plain text of the statute itself. The Clean Air Act does not exclusively or even primarily address pollution on a local basis: programs like the interstate air pollution program[36] and the national ambient air quality standards program[37] specifically address pollution that transcends local and regional borders. Other programs, including mobile source regulation under section 202, are even broader, directing EPA to address "any air pollution"[38] with deleterious impacts on "public health or welfare."[39] Notably, "welfare" is defined to include not only economic and ecological wellbeing but also specifically "effects on…weather…and climate"[40]—a point that the Supreme Court highlighted in *Massachusetts v. EPA*.[41]

The *Massachusetts* Court agreed that under the clear terms of the Act, climate pollution is subject to EPA regulation. The Court wrote, "[u]nder the clear terms of the Clean Air Act, EPA

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[29] 90 Fed. Reg. 36288 at 36299.
[30] 603 U.S. 369 (2024).
[31] 597 US 697 (2022).
[32] 90 Fed. Reg. 36288 at 36299.
[33] 549 U.S. 497 (2007).
[34] *Id.* at 528-529.
[35] 90 Fed. Reg. at 36300 (emphasis in original).
[36] *See* 42 U.S.C. at § 7410 (a)(2)(D).
[37] *See id.* at § 7408.
[38] *Id*. at § 7521(a)(1) ("[t]he Administrator shall by regulation prescribe…standards applicable to the emission of *any air pollutant* from any class or classes of new motor vehicles or new motor vehicle engines…") (emphasis added)
[39] *See, e.g.*, 42 U.S.C. at § 7521(a)(1) (establishing that "[t]he Administrator shall by regulation prescribe… 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."); *id.* at § 7411(b)(1)(A) (establishing that "[t]he Administrator shall…publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.")
[40] *Id.* at §7602(h).
[41] *See* 549 U.S. at 506.

can avoid [making an endangerment finding] only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do." Furthermore, the Court declared, "[i]f EPA makes a finding of endangerment, the Clean Air Act requires the Agency to regulate emissions of the deleterious pollutant" [42] under section 202(a). In refusing to make an endangerment finding, the Court held, the EPA then, as now, "refused to comply with [a] clear statutory command."[43]

Moreover, Congress has contemplated tackling climate change under the Clean Air Act since the 1970s. The Act's Statement of Purpose, noting the "mounting dangers" that air pollution poses to the "public health and welfare,"[44] declares that the "purpose" of the Act is to protect the same. As noted above, "welfare" includes effects on weather and climate.[45] Since *Massachusetts*, Congress has confirmed the Court's interpretation by passing legislation affirming that greenhouse gases are pollutants under the Act, and authorizing programs to address this pollution.[46]

Finally, in addition to its legal arguments, EPA suggests that the endangerment finding was based on faulty science, and that "the projections [the finding] relied upon…appear unduly pessimistic in light of empirical observations made after it was finalized in 2009 through 2024."[47] In making this argument, EPA relies upon a report solicited and published by Department of Energy Secretary Chris Wright and written in less than two months[48] by professional climate skeptics with established ties to the fossil-fuel industry.[49] EPA's arguments, and those of the report's authors, are unavailing. Climate science developed since 2009 only suggests more dire implications than were reflected in the agency's 2009 findings. As reported by the World Meteorological Organization in 2023, the rate of climate change "surged alarmingly" between 2011 and 2021.[50] During this decade—the hottest ever recorded—sea level rise accelerated, ocean heat and acidification increased, and extreme weather increased in frequency and intensity.[51] In its Sixth Climate Assessment in 2021, the Intergovernmental Panel on Climate Change (IPCC) found that the "evidence is unequivocal: climate change is a grave and mounting

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[42] 549 U.S. at 533.
[43] *Id.*
[44] 42 U.S.C. § 7401(a)(2).
[45] 42 U.S.C. § 7602(h).
[46] *See* 42 U.S.C. § 7432-38.
[47] 90 Fed. Reg. at 36308
[48] John Christy, et al., *A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate* at x, Dep't of Energy Climate Working Group (Jul. 23, 2025), https://www.energy.gov/sites/default/files/2025-07/DOE_Critical_Review_of_Impacts_of_GHG_Emissions_on_the_US_Climate_July_2025.pdf (stating that the report's authors "began working in early April with a May 28 deadline to deliver a draft for internal DOE review.")
[49] *Id.* at 36292n.10, acknowledging that EPA received a draft version of the DOE report in May, and that EPA "reviewed and relied upon" the report in drafting this proposal. John Christy, Judith Curry, Steven Koonin, Ross McKitrick, and Roy Spencer, PhDs, are cited as authors on the final DOE report. All of these individuals are associated with fossil fuel-funded organizations, and some have worked directly in or for the fossil-fuel industry.
[50] WMO, "Rate and Impact of Climate Change Surges Dramatically in 2011-2020" (Dec. 5, 2023), https://perma.cc/9G4A-H39U.
[51] *Id.*

threat to human wellbeing and the health of the planet."[52] The IPCC further warned that "[a]ny further delay in concerted global action will miss a brief and rapidly closing window to secure a liveable future."[53] It is also worth dispensing with EPA's argument that because the endangerment finding did not consider our capacity to adapt to a rapidly shifting climate—which could include migration and projects such as sea walls and pumps—the finding itself should be discredited.[54] This is tantamount to suggesting that EPA can set weaker standards for air pollution by assuming the public could wear gas masks.

Congress established the Clean Air Act to protect the public health and welfare, and the Supreme Court confirmed that this includes EPA's obligation to regulate greenhouse gases to the extent they endanger the same. The science is clear that they do so. We ask that you withdraw this proposal and reverse your decision to rescind the 2009 endangerment finding.

Sincerely,

Sheldon Whitehouse
United States Senator

Charles E. Schumer
United States Senator

Jeffrey A. Merkley
United States Senator

Kirsten Gillibrand
United States Senator

Angus S. King, Jr.
United States Senator

Richard Blumenthal
United States Senator

Mazie K. Hirono
United States Senator

Brian Schatz
United States Senator

[52] IPCC, Opening remarks by the IPCC Chair at the IPCC-SBSTA Special Event on the Working Group II contribution to the Sixth Assessment Report (June 6, 2022), https://perma.cc/S8DG-Q5RF.
[53] *Id.*
[54] 90 Fed. Reg. at 36309.

Jack Reed
United States Senator

Elissa Slotkin
United States Senator

Patty Murray
United States Senator

Angela D. Alsobrooks
United States Senator

Ben Ray Luján
United States Senator

Tammy Duckworth
United States Senator

Jeanne Shaheen
United States Senator

Adam B. Schiff
United States Senator

Peter Welch
United States Senator

Ron Wyden
United States Senator

Richard J. Durbin
United States Senator

Amy Klobuchar
United States Senator

Martin Heinrich
United States Senator

Tina Smith
United States Senator

Christopher A. Coons
United States Senator

Edward J. Markey
United States Senator

Lisa Blunt Rochester
United States Senator

Chris Van Hollen
United States Senator

Maria Cantwell
United States Senator

Jacky Rosen
U.S. Senator

Ruben Gallego
United States Senator

Mark R. Warner
United States Senator

Catherine Cortez Masto
United States Senator

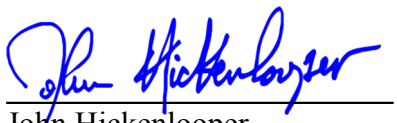
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United States Senator

Christopher S. Murphy
United States Senator

Gary C. Peters
United States Senator

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United States Senator

Mark Kelly
United States Senator



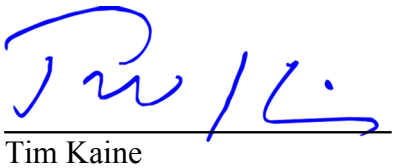
John Hickenlooper
United States Senator



Michael F. Bennet
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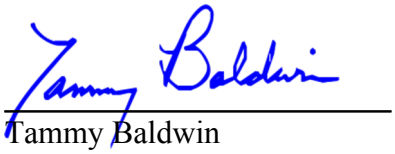
Bernard Sanders
United States Senator



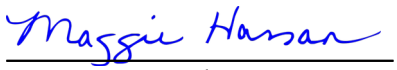
Tim Kaine
United States Senator



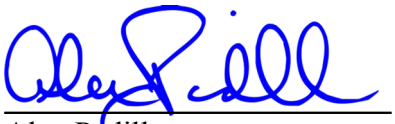
Elizabeth Warren
United States Senator



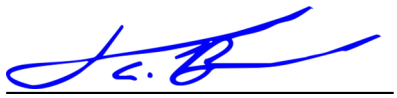
Tammy Baldwin
United States Senator



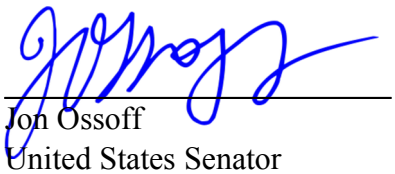
Margaret Wood Hassan
United States Senator



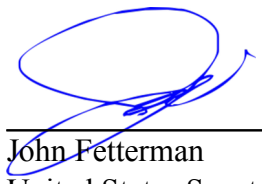
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United States Senator



Cory A. Booker
United States Senator



Jon Ossoff
United States Senator



John Fetterman
United States Senator