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LEGISLATIVE HEARING ON S. 3135

THE COLD WEATHER DIESEL RELIABILITY ACT OF 2025

BEFORE THE ENVIRONMENT & PUBLIC WORKS COMMITTEE

U.S. SENATE

March 11, 2026

Thank you, Chairman Capito and Ranking Member Whitehouse for the opportunity to testify today. My name is John Walke, and I am the Federal Clean Air Director and a senior attorney for the Natural Resources Defense Council (NRDC). NRDC is a nonprofit organization of scientists, lawyers, and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than three million members and online activists nationwide, served from offices in New York, Washington, Santa Monica, San Francisco, and Chicago.

I have worked at NRDC since 2000. Before that I was a Clean Air Act attorney in the Office of General Counsel for the U.S. Environmental Protection Agency ("EPA"). Prior to that, I was an attorney in private practice where I represented corporations, industry trade associations and individuals. Having worked on air pollution issues for the entirety of my career, I believe today's bill is unnecessary and harmful to the health of Alaskans and other Americans and should not advance.

I. INTRODUCTION

All Americans want safe, clean air. All members of Congress want the same. Unfortunately, Americans are being let down by a congressional failure to conduct crucial oversight and pushback against an executive branch carrying out

historically sweeping, harmful attacks on public health and air quality safeguards guaranteed to all of us by the Clean Air Act. The Clean Air Act of 1990 passed with overwhelming bi-partisan majorities—89-10 in the Senate and 401-21 in the House—yet the current administration is systematically dismantling safeguards guaranteed in that law, including protections against smog, soot, sulfur dioxide, methane, carbon dioxide, and hazardous air pollution that causes cancer, brain damage, miscarriages and infertility.

The current head of the Environmental Protection Agency (EPA), Administrator Lee Zeldin actively boasts that he is executing the largest enterprise of deregulation in U.S. history while paying lip service to clean air and clean water.[1] This EPA has proposed or finalized rules to roll back stronger clean air limits and thereby allow dangerous air pollution to increase not just by thousands of *tons*, not just by tens of thousands of tons, but by *hundreds of millions* of tons. *See infra* Section III. At the same time, Administrator Zeldin appears to have signed just one rule to reduce air pollution beyond limits in current regulations—and even that action marks a substantial retreat from the stronger proposed rule by the prior administration.[2]

And what have the consequences been so far? Last year, U.S. power plants that burn coal *increased* dangerous air pollution by the second most that they have over the past thirty years.[3] The increases were staggering, by historic standards: sulfur dioxide emissions nationally increased by 18%, with emissions in several states increasing by more. By contrast, this type of air pollution fell by seven percent in 2024 before the current administration took office. Smog-forming nitrogen oxides (NO_x) increased by nearly eight percent and carbon dioxide emissions increased by four percent. For NO_x and SO_2 emissions, increases were greater than the increase in power production from those plants, meaning that the average amount of coal-fired electricity generation was dirtier in 2025 than in 2024. This is the

[1] U.S. EPA, News Release, *EPA Launches Biggest Deregulatory Action in U.S. History* (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.

[2] Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Voluntary Remand Response and Five-Year Review, (Mar. 5, 2026) Dkt. No. EPA-HQ-OAR-2017-0183, https://www.epa.gov/system/files/documents/2026-03/large-municipal-waste-combustors-final-rule-prepub_0.pdf; *see infra* note 43.

[3] The largest increase occurred in 2021, when the U.S. economy was coming out of the historically unprecedented COVID lockdowns. This makes the coal power sector's emissions increases during this administration's first year the worst in thirty years occurring in normal economic conditions.

result of more coal being burned to generate electricity, and also a sign that power plant owners dialed back or turned off air pollution control equipment on their plants more last year.

The transportation sector is a major source of dangerous air pollution in the United States. Diesel pollution accounts for over 60% of all smog-forming NO_x and 70% of fine particulate matter from all U.S. transportation sources.[4] Because the transportation sector accounts for nearly half (45%) of total NO_x pollution in the U.S., diesel vehicles alone account for 27% of all NO_x pollution nationwide.[5] Earlier this year, EPA completely eliminated greenhouse gas (GHG) motor vehicle emissions standards (which will add, by EPA's own emission, 410 million metric tons of GHG's into the atmosphere[6] and impose a net cost of $180 billion, while costing Americans over a trillion dollars in increased fueling and maintenance costs; these figures do not even include additional health and climate costs[7]). Aaron Szabo, EPA's Assistant Administrator for the Office of Air and Radiation, has said publicly that additional deregulatory actions will occur in 2026, including the 2022 Heavy-Duty Engine and Vehicle NO_x rule.[8]

I will briefly discuss S. 3135 and why I do not believe that it is warranted to grant exemptions from Clean Air Act emissions control standards for diesel vehicles and equipment.

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[4] *Diesel Engines and Public Health*, Union of Concerned Scientists (Sept. 26, 2024), https://www.ucs.org/resources/diesel-engines-public-health#:~:text=Health%20impacts%20of%20diesel%20pollution,all%20fine%20particulate%20matter%20(PM2.

[5] U.S. EPA, *Smog, Soot, and Other Air Pollution from Transportation*, https://www.epa.gov/transportation-air-pollution-and-climate-change/smog-soot-and-other-air-pollution-transportation (last updated Aug. 7, 2025).

[6] U.S. EPA, Projected Criteria, Air Toxics, and GHG Emissions Impacts for the "Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act" Final Rule 18 (Feb. 18, 2026), Dkt. No. EPA-HQ-OAR-2025-0194-31055, https://www.regulations.gov/document/EPA-HQ-OAR-2025-0194-31055.

[7] U.S. EPA, Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act: Regulatory Impact Analysis 22, 28 (Feb. 18, 2026), Dkt. No. EPA-HQ-OAR-2025-0194-31090, https://www.regulations.gov/document/EPA-HQ-OAR-2025-0194-31090.

[8] Aaron Szabo, *EPA will keep its foot on the gas in 2026, ending burdensome regulations*, The Hill (Dec. 19, 2025), https://thehill.com/opinion/energy-environment/5653704-epa-will-keep-its-foot-on-the-gas-in-2026-ending-burdensome-regulations/.

II. S. 3135

To meet EPA NO_x emissions standards and better protect Americans from smog-forming NO_x, manufacturers build diesel engines to include a selective catalytic reduction (SCR) emissions control system.[9] As the vehicle runs, engine components inject diesel emission fluid (DEF) from a tank inside the engine into the exhaust stream. There, it reacts with NO_x and breaks it down into harmless nitrogen and water.[10] This process can reduce NO_x emissions by as much as 90%.[11]

Diesel vehicle drivers purchase DEF and refill the tanks when necessary—for diesel trucks, this is about once every 3,500 to 5,000 miles,[12] and for cars, about once every 5,000 to 7,000 miles.[13] To ensure compliance with federal requirements, diesel engines build in "inducements" to prevent the driver from neglecting to replace the DEF. In practice, this means that diesel engines are designed to derate and enter so-called "limp-mode," which caps the top speed of the vehicle for a set period of time after the DEF tank runs out or the system fails. Limp mode usually starts by capping speed around 50 mph, but if the driver fails to address the underlying problem within several hours of driving in limp mode, the vehicle may slow to five mph.

Diesel emission fluid can freeze when temperatures fall below 12 degrees Fahrenheit.[14] EPA and engine manufacturers have known this for at least two

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[9] *Selective Catalytic Reduction*, Engine Tech. Forum, https://enginetechforum.org/selective-catalytic-reduction-scr (last visited March 9, 2026).
[10] *Id.*
[11] Md. Dep't of the Env't, *Facts About Selective Catalytic Reduction (SCR)*, https://mde.maryland.gov/programs/air/MobileSources/documents/selective%20catalytic%20reduction%20_scr_%20fact%20sheet.pdf (last visited March 9, 2026).
[12] Lawrence Tolman, *Diesel Exhaust Fluid: Everything You Need to Know*, Diesel Power Products (Feb. 10, 2025), https://dieselpowerproducts.com/blogs/blogs/diesel-exhaust-fluid#:~:text=Given%20that%20an%20average%20tank,year%20before%20it%20goes%20bad.
[13] Kevin Buchaly, *What is DEF? How diesel exhaust fluid works and why it's essential for fleets*, Geotab (July 17, 2025), https://www.geotab.com/blog/how-diesel-exhaust-fluid-works/.
[14] It is worth noting that DEF does not freeze until 12 degrees Fahrenheit, *see* Shelby Thompson, *DEF Tank Heaters: Storage and Beyond*, Power Blanket (Dec. 17, 2018), https://www.powerblanket.com/blog/def-tank-heaters-storage-beyond/, but the Cold Weather Diesel Reliability Act purports to require exemptions for operations at 32 degrees Fahrenheit and below.

decades.[15] However, pursuant to EPA guidance from 2007,[16] DEF tanks are continuously heated by the engine while the vehicle operates.[17] The DEF tanks therefore cannot freeze while the vehicle is running unless the engine itself experiences a catastrophic failure independent from the DEF system.[18] Since 2009, EPA has directed manufacturers to design engines to be able to run without NO_x controls for 70 minutes, during which time the fluid can thaw, and the system can start to work as intended.[19] While the vehicle is running, the heat of the engine keeps the DEF liquid and flowing. In response to concerns that after 70 minutes, truck engines are programmed to "de-rate" or operate at slower speeds, last fall, EPA published guidance to manufacturers, calling for a software update for all new and existing diesel engines, allowing them to drive for thousands of miles without working NO_x pollution controls before de-rating occurs.[20] EPA took both actions, in 2009 and in 2025, without Congress needing to change the Clean Air Act. What's more, EPA has indicated it will write this into upcoming heavy-duty truck standards, again without a change in the statute.

The new EPA guidance directed manufacturers to update their sensor software, building in a significant additional "grace period" between DEF system failure and limp mode activation.[21] EPA has "urg[ed] engine and equipment manufacturers to revise their DEF system software in existing vehicles and equipment to reduce derates."[22] Under the new guidance, heavy duty diesel trucks would operate for

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[15] Letter from U.S. EPA, "Certification Procedure for Light-Duty and Heavy-Duty Diesel Vehicles and Heavy-Duty Diesel Engines Using Selective Catalytic Reduction (SCR) Technologies" 10 (Mar. 27, 2007) https://dis.epa.gov/otaqpub/display_file.jsp?docid=16677&flag=1.

[16] *Id.*

[17] *See, e.g.*, Shelby Thompson, *DEF Tank Heaters: Storage and Beyond*, Power Blanket (Dec. 17, 2018), https://www.powerblanket.com/blog/def-tank-heaters-storage-beyond/.

[18] *Id.*; *DEF System Deep Dive: How It Works + Symptoms of Failure*, North Texas Truck Stop (Nov. 21, 2025), https://www.northtexastruckstop.com/blog/blog-def-system-how-it-works-symptoms-of-failure/ ("The system is designed to be proactive—meaning it alerts you *long before* damage happens." (emphasis added)).

[19] Letter from U.S. EPA, "Revised Guidance for Certification of Heavy-Duty Diesel Engines Using Selective Catalyst Reduction (SCR) Technologies" (Dec. 30, 2009), https://dis.epa.gov/otaqpub/display_file.jsp?docid=20532&flag=1.

[20] U.S. EPA, Revised Guidance for Light Duty Vehicles, Heavy-Duty Diesel Engines and Nonroad Compression-Ignition (CI) Engines Using Selective Catalyst Reduction (SCR) Technologies (Aug. 11, 2025), https://www.epa.gov/system/files/documents/2025-08/def-ltr-manufacturer-2025-0811.pdf.

[21] *Id.*

[22] U.S. EPA, *Fact Sheet: Diesel Exhaust Fluid (DEF Guidance)* (Aug. 2025), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101HKDJ.pdf.

8,400 miles, or 160 hours, before capping at 25 mph.[23] That's enough time to drive across the entire United States three and one half times. This software update applies to both new and existing vehicles.[24]

On February 3, 2026, Administrator Zeldin took further action to address perceived concerns around DEFs by "demanding information from major diesel engine manufacturers on critical data from DEF system failures. The data collected will allow EPA to independently evaluate ongoing system failures and help inform next steps the agency takes in 2026…" with the stated goal of "taking another step to address any potential insufficiencies with system parts to better advance future rulemaking and reduce system failures."[25] Manufacturers must provide this information within 30 days (as authorized under Section 208(a) of the Clean Air Act).[26] It would be prudent for EPA to release the information they have collected, as public release of this information would help stakeholders understand the breadth and scope of DEF issues.

Administrator Zeldin has expressed that EPA is committed to "continue to work with all stakeholders to ensure practical, durable solutions that simultaneously support emissions reductions and reliable operations."[27]

Even if there are additional problems with DEF at very cold temperatures that EPA and manufacturers have not accounted for already, NRDC believes the better course of action is for EPA, manufacturers, diesel vehicle representatives, other stakeholders and interested members of the public to engage in technical, deliberative conversation about additional solutions. The present legislation short-circuits those discussions and solutions with one proposed solution that is overly broad. Further technical conversations beyond my expertise (and the expertise of Congress) may conclude that the proposed solution is over-inclusive, ripe for

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[23] U.S. EPA, News Release, *At Iowa State Fair, EPA Administrator Zeldin Announces Diesel Exhaust Fluid (DEF) Fix* (Aug. 12, 2025), https://www.epa.gov/newsreleases/iowa-state-fair-epa-administrator-zeldin-announces-diesel-exhaust-fluid-def-fix.

[24] U.S. EPA, *Fact Sheet: Diesel Exhaust Fluid (DEF Guidance)* (Aug. 2025), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101HKDJ.pdf.

[25] U.S. EPA, News Release, *Administration Zeldin Takes Additional Measures to Address Diesel Exhaust Fluid (DEF) Issues for American Farmers and Truckers*, (Feb. 3, 2026), https://www.epa.gov/newsreleases/administrator-zeldin-takes-additional-measures-address-diesel-exhaust-fluid-def-issues

[26] *Id.*

[27] U.S. EPA, News Release, *At Iowa State Fair, EPA Administrator Zeldin Announces Diesel Exhaust Fluid (DEF) Fix* (Aug. 12, 2025), https://www.epa.gov/newsreleases/iowa-state-fair-epa-administrator-zeldin-announces-diesel-exhaust-fluid-def-fix.

unintended consequences, unjustified, or justified with available solutions short of legislation. As discussed above, EPA is currently addressing the perceived issues through guidance to manufacturers, data collection, and a forthcoming regulatory process, making the proposed legislation unnecessary. A public regulatory process, which would include public notice-and-comment opportunities, can solicit important data and information on issues related to technology, cold weather challenges, and NO_x emissions from regulated entities and their impact on the public.

Having been a Clean Air Act attorney for over thirty years, I have learned to be wary of categorical exemptions from the law, such as the bill's exemption from diesel exhaust fluid system requirements for what is in effect an entire state. I am unaware of any other Clean Air Act provision (or even legislation) that exempts an entire state from any of the law's requirements, and the case has not been made to start here. Opening up the law to broad carveouts below a certain temperature, or in certain parts of the United States, can quickly erode public health. These are not idle concerns, as there already is harmful Senate legislation that would bar EPA from setting any pollution standards, anywhere in the United States, that require "the installation or maintenance of emissions control devices or onboard diagnostic systems on motor vehicles or motor vehicle engines."[28]

III. The Administration's Rollbacks and Attacks on Clean Air Act Protections

The EPA under this administration, and EPA Administrator Lee Zeldin, are executing a historically reckless, persistent, and harmful campaign to roll back clean air safeguards, increase dangerous air pollution, worsen air quality and public health, flout the reality of climate change, eliminate air pollution monitoring, and diminish enforcement of the Clean Air Act. These are the harmful actions that Congress should be investigating, condemning, countering and reversing. The following is just a partial list of the most sweeping, concerted and damaging rollbacks and attacks on U.S. clean air protections undertaken by any administration in EPA's history—all of which have occurred after January 20, 2025.

[28] *See* Diesel Truck Liberation Act of 2025, S. 3007, 119th Cong. (2025),https://www.congress.gov/bill/119th-congress/senate-bill/3007/text.

A. Denying Americans the Right to Safe Air

Reinstating an unsafe health standard for deadly soot pollution. Administrator Zeldin wants to abolish the more protective annual health standard for fine particulate matter pollution that EPA determined will save lives and improve public health.[29] In 2024, EPA strengthened the annual health standard for tiny soot pollution from a level of 12 micrograms per cubic meter to 9 micrograms per cubic meter.[30] Prior to 2024, soot standards had not been improved since 2012.[31] Upon taking office, Administrator Zeldin made clear his intent to reinstate the unsafe 2012 health standard that medical science and EPA's official, independent science advisors confirm will result in many thousands of preventable deaths and hundreds of thousands of cases of avoidable asthma symptoms.[32] Indeed, this EPA has reversed its position in federal court to take the side of industrial polluters fighting to overturn the safer health standard for soot, and repudiated EPA's positions on the overwhelming scientific evidence for the safer standard. The agency and Administrator Zeldin have even taken the extraordinary, unprecedented step of asking the federal court to void the safer 2024 standard, peremptorily, *without* reaching the merits of the lawsuit that EPA fully briefed and argued in 2024 *in support* of that standard.[33]

B. Increasing Hazardous Air Pollution

The administration's actions to roll back standards limiting some of the most dangerous air pollution emitted by industrial facilities are noteworthy for their unprecedented, sweeping, emissions-increasing impacts.

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[29] *See* U.S. EPA, *Fact Sheet: Final Rule to Strengthen the National Air Quality Health Standard for Particulate Matter* (Feb. 2024), https://www.epa.gov/system/files/documents/2024-02/pm-naaqs-overview.pdf ("Strengthened standards will result in significant public health net benefits that could be as high as $46 billion in 2032. Health benefits will include up to 4,500 avoided premature deaths, 800,000 avoided cases of asthma symptoms, and 290,000 avoided lost workdays (in 2032).").

[30] Reconsideration of the National Ambient Air Quality Standards for Particulate Matter, 89 Fed. Reg. 16,202 (Mar. 6, 2024).

[31] *Id.*

[32] *See* U.S. EPA, *Fact Sheet: Final Rule to Strengthen the National Air Quality Health Standard for Particulate Matter* (Feb. 2024), https://www.epa.gov/system/files/documents/2024-02/pm-naaqs-overview.pdf.

[33] Respondents' Motion for Vacatur at 1, *Kentucky et al., v. U.S. EPA et al.*, No. 24-1050 (D.C. Cir. Nov. 24, 2025).

Exemptions from stronger hazardous air pollution standards granted to 180 large industrial facilities by President Trump and EPA. Since April of 2025, President Trump has issued seven different presidential proclamations across six industries, exempting 180 facilities from EPA hazardous air pollution standards.[34] These exemptions have not been tailored to individual facilities or specific standards under exceptional circumstances, but rather to entire industrial sectors or large segments of industries, covering:

- one-third of all U.S. coal-fired power plants;
- one-quarter of all U.S. chemical manufacturers;
- nearly half of the U.S. commercial sterilization industry;
- one of the nation's two primary copper smelters;
- the entire U.S. taconite ore processing industry; and
- the entire U.S. coke oven industry.

These exemptions allow companies to evade stronger hazardous air pollution standards (including better pollution limits and controls, monitoring, recordkeeping and reporting requirements) for at least two years, and to continue to emit dangerous levels of cancer-causing air pollutants, neurotoxins, respiratory irritants, and a range of other hazardous air pollutants.

To exempt these facilities, President Trump exploited a narrowly defined provision of the Clean Air Act: Section 112(i)(4) allows the president to grant exemptions from air toxics regulations in very limited circumstances.[35] A president may only grant an exemption where he determines (1) that the technology to implement the standard is "not available" *and* (2) that an exemption "is in the national security interests of the United States."[36] In the 35 years since Congress enacted Section 112(i)(4), no president had exercised this exemption authority. But, in 2025 alone, President Trump invoked this authority seven times. And not one of the presidential proclamations provides a meaningful, legitimate technological or national security basis for the exemptions.[37]

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[34] *See generally* NRDC, *A Free Pass to Polluters: Presidential Exemptions Using the Clean Air Act*, https://www.nrdc.org/court-battles/free-pass-polluters-presidential-exemptions-clean-air-act (last updated Mar. 3, 2026).
[35] 42 U.S.C. §7412(i)(4).
[36] *Id.*
[37] For example, President Trump exempted the entire coke ovens industry just weeks after EPA stated: "EPA does not believe that the currently available information supports a conclusion that regulated parties would face significant immediate compliance challenges" meeting the updated coke ovens standards. National Emission Standards for Hazardous Air Pollutants for Coke

These exemptions represent an abuse of authority. Safeguards based on public comment, extensive scientific review, and technical agency expertise have been suspended via unilateral executive action—a presidential proclamation—without notice to nearby communities, without an opportunity for meaningful engagement, without scientific review, and without any guardrails. The adverse health impacts are stark—delaying safeguards against hazardous air pollution that would, for example: reduce cancer risk for communities living near chemical manufacturers by 96%; and reduce cancer risk for communities living near commercial sterilizers by more than 92%.[38]

The result is not just weaker environmental protection but also a fundamental breakdown in democratic governance. Instead of regulations developed by an expert agency through public notice and comment and a scientifically backed rulemaking process, governed by statutory standards, pollution limits have been stalled by unsupported fiat.

Letting power plants that burn coal and oil emit more hazardous air pollution and evade continuous emissions monitors. In February 2026, EPA repealed the strengthened 2024 Mercury and Air Toxics Standards (MATS) for coal- and oil-fired power plants. The repeal allows these plants to emit more brain-damaging mercury and lead, as well as toxic soot pollution made up of heavy metals like

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Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Rescission of Extension of Compliance Deadlines for Coke Oven Facilities, 90 Fed. Reg. 56,010, 56,011 (Dec. 5, 2025). Moreover, EPA found that seven commercial sterilizers already met every one of the standards in that strengthened rule. National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Emissions Standards for Sterilization Facilities Residual Risk and Technology Review, 89 Fed. Reg. 24,090, 24,138 (Apr. 5, 2024). Most coal-burning power plants subject to the Mercury and Air Toxics Standards already had achieved the rule's stronger toxic soot pollution limit with installed air pollution controls. U.S. EPA, Fact Sheet: EPA's Final Rule to Strengthen and Update the Mercury and Air Toxics Standards for Power Plants, (Apr. 2024), https://www.epa.gov/system/files/documents/2024-04/fact-sheet_mats-rtr-final_rule_2024.pdf ("93% of coal-fired capacity without known retirement plans before the compliance period has already demonstrated an fPM emissions rate at or below" the 2024 standard).

[38] U.S. EPA, *Fact Sheet: EPA Issues Final Rule to Reduce Toxic Air Pollution from the Synthetic Organic Chemical Manufacturing Industry and the Polymers and Resins Industries* (Apr. 2024), https://www.epa.gov/system/files/documents/2024-04/chem-sector-final-rule.-overview-fact-sheet_0.pdf; National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Emissions Standards for Sterilization Facilities Residual Risk and Technology Review, 89 Fed. Reg. 24,090, 24,095 (Apr. 5, 2024).

arsenic, nickel, chromium and cadmium.[39] Those emissions put the public at greater risk of heart and lung disease, cancer, miscarriages, infertility, and premature death.[40] At the same time, EPA also eliminated a common-sense requirement that power plants install cost-effective systems to continuously monitor the amount of pollution they emit—depriving communities of a powerful tool for ensuring power plants comply with air pollution standards and provide real-time data on their emissions. *See infra* Section III.E. As noted above, this move followed a two-year exemption granted by the administration to roughly one-third of the industry, despite most of the exempted facilities already having demonstrated their ability to meet the stronger standards.

Rolling back clean air safeguards for hazardous air pollutants from numerous large industrial sectors comprising hundreds of major polluting facilities. Upon the launch of the administration's self-proclaimed 'biggest deregulatory action in U.S. history,' Administrator Zeldin announced his plan to roll back protections against hazardous air pollution for many other large industrial sectors in addition to power plants.

These sectors include: integrated iron and steel manufacturing, rubber tire manufacturing, synthetic organic chemical manufacturing industry, commercial sterilizers, lime manufacturing, coke ovens, copper smelting, and taconite ore processing.[41]

These important standards all were strengthened by EPA pursuant to the Congressional directive in the Clean Air Act to conduct a technology review of

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[39] U.S. EPA, National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units: Final Repeal, 91 Fed. Reg. 9,088 *et seq.* (Feb. 24, 2026).

[40] Maxine Joselow, *E.P.A. Weakens Limits on Mercury From Coal Plants*, N.Y. Times (Feb. 20, 2026), https://www.nytimes.com/2026/02/20/climate/epa-mercury-coal-plants.html ("Among adults, high levels of exposure to mercury can cause heart disease as well as severe damage to the brain and central nervous system. Among fetuses and babies, it can cause significant developmental delays, leading to lower I.Q. scores and impaired motor skills.…Besides mercury, the change would relax limits on other heavy metals released by burning coal, including cadmium, chromium, lead and nickel. These other pollutants are linked to a range of health risks, including cancer, infertility and neurological damage.").

[41] U.S. EPA, News Release, *Trump EPA Announces Reconsideration of Air Rules Regulating American Energy, Manufacturing, Chemical Sectors (NESHAPs)* (Mar. 12, 2025), https://www.epa.gov/newsreleases/trump-epa-announces-reconsideration-air-rules-regulating-american-energy-manufacturing.

hazardous air pollution standards.[42] In all cases, EPA found that technology was available to better protect Americans. Administrator Zeldin and his EPA are moving to reverse that progress and allow increases in hazardous air pollution across the country.[43]

Letting industries increase hazardous air pollution and escape the law's safeguards against hazardous air pollution. Recognizing the especially dangerous, cancer-causing nature of hazardous air pollution, Congress directed EPA in the Clean Air Act to set standards reflecting the "maximum degree of reduction" of those emissions, including their "eliminat[ion]."[44] Flouting these statutory

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[42] 42 U.S.C. § 7412(d)(6).

[43] On March 6, 2026, Administrator Zeldin signed what appeared to be his first rule reducing air pollution beyond the regulatory status quo, in this case, a badly inadequate 20-year-old regulation for municipal waste combustors. This broke with the pattern of proposed and final rules under this administration that increase air pollution above regulatory baselines. U.S. EPA, Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Voluntary Remand Response and Five-Year Review, https://www.epa.gov/system/files/documents/2026-03/large-municipal-waste-combustors-final-rule-prepub_0.pdf; *see also supra* note 2. Nonetheless, the final rule represents a substantial retreat from the stronger proposed rulemaking by the prior administration. Consistent with this administration's harmful PFAS "forever" chemical policies elsewhere, the final EPA rule refuses to regulate or monitor PFAS from waste combustors. *Id.*

EPA in 2024 had projected that the stronger proposed rule abandoned by Administrator Zeldin would deliver *net* health benefits valued at up to *$14 billion* over 20 years, due to reductions in particulate matter and ozone alone. *See* U.S. EPA, Regulatory Impact Analysis for the Proposed Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors 1-13 (Jan. 2024), https://www.epa.gov/system/files/documents/2024-01/ria_lmwc_proposal_20240109_formatted.pdf. The final rule signed by Administrator Zeldin projected compliance costs to industry of approximately $210 million over a 19-year period, and … *no* net benefits, indeed no valued benefits at all to Americans, based on the administration's new policy to assign zero value to ozone and $PM_{2.5}$ reductions and their associated health benefits. *See* U.S. EPA, Fact Sheet: Final Rule: Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors, https://www.epa.gov/system/files/documents/2026-03/factsheet_lmwc_final-rule.pdf; *see also* U.S. EPA, Regulatory Impact Analysis for the Final Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors 0-10 (Mar. 2026), https://www.epa.gov/system/files/documents/2026-03/lmwc_ria_final_2026-03.pdf ($0 benefits from NO_x reductions); *see also infra* Section III.E. In this way, EPA masked the harmful consequences and the foregone health benefits (up to $14 billion) of Administrator Zeldin's retreat from the stronger 2024 proposal; instead, this EPA calculated only the $11 million annual industry compliance costs. *Id.*

[44] 42 U.S.C. § 7412(d)(2).

commands and other provisions of the Act, this EPA is fighting in court to let industrial facilities across the country *increase* their hazardous air pollution above the levels achieved by the maximum reductions or elimination of emissions.[45] Instead, EPA wants to let these facilities escape the Clean Air Act's hazardous air pollution standards altogether, including the emissions limits, control requirements, monitoring, recordkeeping, reporting, and even the law's operating permit program.[46] EPA does not dispute that this exemption would allow a previously regulated industrial facility to increase highly toxic air pollution by over 49,000 pounds, where the toxicity of such air pollution is measured at tiny fractions of an ounce or less. EPA does not contest that there is nothing *preventing* facilities from increasing hazardous air pollution above levels achieved by maximum reductions in or the elimination of emissions. Instead, EPA responds drily that it does not think facilities will increase emissions.[47]

C. Increasing Smog and Soot Pollution

Denying Americans the right to safe health standards for tiny soot pollution means polluting industries will be allowed to increase that deadly pollution. One clear result of Administrator Zeldin's plan to abolish the safer health standard for tiny soot pollution, *supra* Section III.A, is that industrial facilities and motor vehicles will be permitted to emit more of that dangerous air pollution rather than less. EPA's responsibility to establish national air-quality health standards that sufficiently protect Americans must be followed by EPA and states developing regulations and cleanup plans requiring industries to reduce fine particle pollution to safe levels everywhere in the country. Because Administration Zeldin wants to reinstate an unsafe health standard for deadly fine particles, those pollution reductions would not happen and, indeed, soot pollution would be allowed to increase.

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[45] Consider a facility complying with an EPA hazardous air pollution rule that reduced its emissions from 50,000 pounds per year to 1,000 pounds per year by using pollution control equipment to meet the emissions limits in the rule. Under EPA's rollback rulemaking, however, this same facility now can *increase* its hazardous air pollution emissions from 1,000 pounds per year to 49,900 pounds per year, by turning off or turning down the pollution control equipment. The rollback rule now allows this facility to escape the original hazardous air pollution rule, including its emissions limits, pollution control requirements, monitoring, recordkeeping and reporting requirements. The facility also is now eligible to escape the Clean Air Act's operating permit program. The EPA rollback rule allows these harms to occur across the country.

[46] *See generally* Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act, 85 Fed. Reg. 73,854 (Nov. 19, 2020).

[47] *Id.* at 73,857.

Abolishing required smog and soot air pollution controls that protect national parks and wilderness areas from regional haze. Congress has set "as a national goal" clearing the nation's parks and wilderness areas of human-caused haze pollution and returning these areas to their natural state.[48] Accordingly, the Clean Air Act requires state haze plans enforced by EPA that must begin with a determination of the emission reductions "necessary to make reasonable progress" in "any" Class I area where pollution from within the state "may reasonably be anticipated to cause or contribute to any impairment of visibility."[49] And yet, the National Parks and Recreation Association reports that in the United States, "98% of national parks suffer from hazy skies, and on average, park visitors miss out on 50 miles of scenery because of haze pollution—a distance equal to the length of Rhode Island."[50]

This EPA is making hazy skies at national parks worse, not better. EPA has rubber-stamped a series of do-nothing state haze plans that require no pollution control measures at all for any source to ensure reasonable progress.[51] These states and EPA are foregoing available, affordable pollution controls and improvements at existing control systems that would deliver significant pollution reductions. In doing so, this EPA is reversing prior agency disapprovals[52] of state haze plans that fail to comply with the Act and EPA's Regional Haze Rule. This administration's reversal is based on an extreme new policy and departure from EPA rules that allows states to require *zero* reductions in haze-causing pollution.[53] EPA's retreat will mean more fine particulate matter, more sulfur dioxide, and more nitrogen oxides emissions from fossil fuel combustion, which react in the atmosphere to form haze pollution that occurs many miles from national parks and surrounding communities.[54]

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[48] 42 U.S.C. § 7491(a)(1).
[49] *Id.* § 7491(b)(2); 40 C.F.R. § 51.308(f).
[50] Nat'l Parks Conservation Ass'n, *Reducing haze pollution to protect parks & communities*, https://www.npca.org/reports/regional-haze (last visited Mar. 9, 2026).
[51] *See, e.g.*, Air Plan Approval; West Virginia Regional Haze Implementation Plan for the Second Implementation Period, 90 Fed. Reg. 29,737 (Jul. 7, 2025).
[52] *See, e.g.*, Air Plan Disapproval; West Virginia; Regional Haze State Implementation Plan for the Second Implementation Period, 90 Fed. Reg. 6,932, 6,951 (proposed Jan. 21, 2025) (EPA disapproval of inadequate, unlawful West Virginia haze plan).
[53] *See generally* Air Plan Approval; West Virginia; Regional Haze State Implementation Plan for the Second Implementation Period, 90 Fed. Reg. 16,478, 16,483 (proposed Apr. 18, 2025).
[54] *See, e.g.*, Protection of Visibility: Amendments to Requirements for State Plans, 82 Fed. Reg. 3,078, 3,093 (Jan. 10, 2017).

Letting dirtier industrial facilities increase smog and soot in communities and evade air pollution controls and pollution offsets. This EPA is fighting in court to roll back air pollution permitting safeguards and let large industrial polluters increase harmful smog, soot, sulfur dioxide and lead emissions by significant amounts into U.S. communities while evading modern air pollution controls and pollution offsets. EPA's legal argument is rooted in the absurd position that these significant emissions increases are not … "increases." In that litigation, EPA does not contest that its rollback rule would allow significant increases in real-world pollution that bypass pollution controls and pollution offsets, following a source-wide assessment of all emissions changes at a facility.[55] And EPA does not dispute the rule consequently permits industrial changes that can violate air-quality health standards to proceed without prior review by regulators and the public. This rollback tramples on the national health standards that a unanimous Supreme Court has recognized to be the very heart of the Clean Air Act.[56]

Failing to protect Americans from dangerous interstate smog and soot pollution: Downwind states like those in the Northeast and Mid-Atlantic need active leadership by EPA and strong federal safeguards to protect them from harmful smog and soot pollution that travels from upwind states in the Midwest and Southeast. This interstate air pollution causes or contributes to unsafe air in the downwind states. Congress understood that federal measures by EPA are needed since the downwind states have no jurisdiction over the pollution sources in upwind states.

EPA under the current administration has proposed steps that effectively render the Clean Air Act's 'good neighbor' program a dead letter—adopting a worse test to

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[55] Indeed, in the lawsuit, this EPA does not contest that its rule would allow an existing industrial facility to add a new methane gas boiler that increases regulated air pollution by many hundreds of tons—and claim that the facility is not even "increasing" air pollution, because the operator says it will shut down a coal boiler already emitting many hundreds of tons *five years later*. Mind you, during this five-year period, the two concurrently operating boilers will have *doubled* harmful emissions into the community from boiler operation. This EPA says that is not an emissions "increase." The Clean Air Act thresholds for an entirely new, major industrial facility are 250 tons per year, 100 tons per year, or even less in areas suffering unsafe air quality. *See* 42 U.S.C. §§ 7475(a), 7479(1) & 7503. So, this facility will have added the equivalent of a brand new, second major facility's emissions into the surrounding community—and this EPA says that is not an emissions "increase." Accordingly, in EPA's view, the new methane gas boiler can escape *any* air pollution controls; escape offsetting pollution measures in areas already suffering unsafe air quality; and the plans for the new methane gas boiler need not even be reported to the public. *See generally Env't Def. Fund v. U.S. EPA*, No. 18-1149 (D.C. Cir.).

[56] *See generally Whitman v. Am. Trucking Ass'ns, Inc.*, 531 U.S. 457 (2001).

determine if upwind states' emissions are linked to pollution problems in downwind states; proposing to approve eight inadequate state implementation plans (SIPs) previously disapproved by EPA; and refusing to finalize earlier proposed "corrections" of two additional SIPs.[57] Indeed, none of the state plans that EPA now proposes to rubber-stamp require *any* additional steps to reduce smog-forming air pollution. Instead, EPA leaves downwind states to suffer and grapple with harmful air pollution created within their own borders *and* pollution carried to those borders from upwind pollution sources. In the process, of course, EPA allows these upwind industrial sources to remain dirtier to the detriment of Americans in downwind and upwind states, alike.

Allowing dangerous increases of sulfur dioxide emissions. Newly released data by the EPA indicates that air pollution from coal-burning power plants rose significantly last year, with those plants that were given a presidential exemption, *see supra* Section III.B., emitting on average almost twice as much as their counterparts that received no exemption.[58] NRDC analysts reviewed EPA's new data, and determined that:

> "Carbon dioxide emissions rose by 3.9 percent, nitrogen oxide emissions by 7.4 percent, and sulfur dioxide emissions by [] 18.3 percent between 2024 and 2025. For context: **While power generation from coal was up 11 percent, the sulfur dioxide emissions from those coal plants rose by more than 18 percent.**
>
> **[T]he 18 percent increase is the second-largest increase in sulfur dioxide emissions since the EPA started publishing this data 30 years ago."[59]**

While these numbers are shocking in themselves, the power plants that received presidential exemptions from EPA's Mercury and Air Toxics standards saw an even bigger increase in their emissions:

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[57] Interstate Transport Plan Review for the 2015 Ozone NAAQS, 91 Fed. Reg. 4,026 (proposed Jan. 30, 2026). Remarkably, the proposal even invites comment on adopting a test that is *twice* as lax as the already worse test used in the proposal. *Id.* at 4034 (noting wanly that the even more lax test would capture "notably less [upwind contribution] at most receptors than the amount captured with [the proposed lax test], and therefore emission reductions from states linked at that higher threshold may be insufficient to address collective upwind state contribution to downwind air quality problems.")

[58] Amanda Levin, *Coal Pollution Spikes After Trump's Free Pass to Pollute*, NRDC (Mar. 5, 2026), https://www.nrdc.org/media/coal-pollution-spikes-after-trumps-free-pass-pollute.

[59] *Id.* (emphasis in original).

> "Overall, the 71 plants given exemptions [by President Trump] saw their sulfur dioxide pollution go up by **24 percent**, nearly twice the rate of that of other coal plants.
>
> The six Texas power plants that received presidential exemptions collectively increased their sulfur dioxide emissions last year by 48 percent (compared to 2024), while the rest of the state's power plants actually saw their overall sulfur dioxide emissions decline in 2025.
>
> The spike in emissions is due to two reasons: The plants ran more hours than they had in past years, and the power they produced was dirtier because they either were not running their pollution controls, running them less, or burning dirtier coal."[60]

The total sulfur dioxide pollution from just the six exempted Texas plants contributed to 667 premature deaths just last year, using EPA analytic tools and NRDC's analysis.[61]

These data are some of the first that we have from EPA on the emissions implications of its deregulatory agenda so far, and the results are chilling. This analysis looks at just one of the myriad rollbacks described in today's testimony. Each of the rollbacks undertaken by this EPA and outlined here has real world, damaging pollution impacts—and real-world consequences like asthma, heart disease, and even death.

D. Increasing Climate-Changing Air Pollution

Pretending climate change is a hoax and allowing more air pollution. This EPA and Administrator Zeldin recently repealed the core determination by the agency dating to 2009 that climate change endangers our health and welfare.[62] This marks the biggest attack ever on federal authority to tackle the climate crisis. Nearly 20 years after the Supreme Court confirmed EPA's authority to act, the

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[60] *Id.*

[61] NRDC, Press Release, *Coal Pollution Spiked After Trump Administration's "Free Pass to Pollute,"* (Feb. 26, 2026), https://www.nrdc.org/press-releases/coal-pollution-spiked-after-trump-administrations-free-pass-pollute.

[62] Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act, 91 Fed. Reg. 7,686 (Feb. 18, 2026).

administration is trying to bury its head in the sand and leave American families to deal with the consequences. Some of those consequences facing millions of Americans include stronger storms and hurricanes, more flooding, hotter heat waves, and more dangerous wildfires. With these will come more heat-related deaths, asthma attacks, and respiratory illnesses—and higher insurance costs and economic losses.

Abolishing limits on climate-changing carbon dioxide air pollution from fossil fuel power plants. This EPA has proposed to repeal a key set of standards designed to limit carbon emissions from new and existing fossil fuel power plants.[63] The proposals would eliminate standards for carbon pollution—some of strongest national actions ever taken to curb climate pollution from the power sector, which is the second-largest source of greenhouse gas emissions in the United States. Repealing the standards would hand a free pass to some of the country's worst polluters, accelerating climate change and prolonging reliance on heavily polluting fossil fuels.

Abolishing limits on climate-changing methane and air pollution from oil and gas operations. This EPA has delayed compliance deadlines[64] for oil and gas operations' methane limits until January 2027 (an additional 10 months)—presumably in order to buy themselves time to weaken or abolish those limits, entirely. "The decision pushes back critical clean air protections regarding methane, a highly potent greenhouse gas with 80 times the heat-trapping potential of carbon dioxide in the first 20 years post-emission. Oil and gas operations are the largest source of methane production in the country, and delaying these safeguards will further damage Americans' health and worsen the effects of climate change."[65]

E. Hiding the Truth

Refusing to tell Americans that they live in areas with unsafe soot. In February, this EPA missed and thereby violated the Clean Air Act deadline[66] to alert Americans

[63] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25,752 (proposed June 17, 2025).
[64] U.S. EPA, 2025 Interim Final Rule to Extend Compliance Deadlines, https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/2025-interim-final-rule-extend-compliance (last updated Dec. 4, 2025).
[65] NRDC, *White House Watch: Tracking Attacks on Our Environment & Health* (Mar. 5, 2026), https://www.nrdc.org/resources/white-house-watch-tracking-attacks-our-environment-health.
[66] *See* 42 U.S.C. § 7407(d)(1)(B) & (d)(2).

whether they live in areas that fail to meet the strengthened 2024 national air quality health standard for tiny particle pollution, or soot. The obligation to alert Americans marks the first step toward bringing dangerous soot pollution levels down into compliance with health-based standards, which the EPA itself projected would save thousands of lives annually. EPA's reason for this refusal is even more reckless: because Administrator Zeldin wants to *abolish* the more health-protective annual health standard for fine particulate matter pollution that EPA determined will save lives and improve public health. *See supra* Section III.A.

Refusing to value human health benefits from reducing dangerous air pollution and assigning those wide-ranging, massive benefits, $0—while continuing to count and bias industrial compliance costs. In January, this EPA abruptly stopped accounting for the benefit of saving lives as it dismantles limits on dangerous smog and soot pollution. Buried in accompanying materials for a final rollback rule on gas turbines, EPA announced it was reversing course on a practice it has followed for 45 years: this administration's EPA will no longer be "monetizing benefits from $PM_{2.5}$ and ozone" pollution reductions. This means EPA will stop valuing the health benefits from clean air safeguards—including avoided deaths, strokes, heart and asthma attacks, bronchitis and more—and will assign those numerous, important benefits zero dollars in the cost-benefit analysis required by executive orders.[67] Instead, in its future analyses of the costs and benefits of air pollution controls, EPA announced that it will *only* consider the costs incurred by industry for cleaning up their own pollution – not the very real human benefits of clean air.

The EPA's mandate is to protect public health, not to ignore the science in order to eliminate clean air safeguards that save lives and improve health. By pretending real health benefits do not count, EPA wants to open the door for industry to pollute more through its rollbacks and simultaneously hide the harmful consequences of those rollbacks and worsened air pollution. Meanwhile, Americans will pay the price in asthma attacks, heart disease, and premature deaths—a price that this administration now says is zero.

For decades, EPA's own analyses have shown trillions of dollars of economic benefits from protecting public health and welfare under the Clean Air Act. *See infra* Section V. No prior EPA or administration has disputed this. These benefits came from strong health protections that vastly outweigh polluter compliance costs. While "different administrations have used different estimates of the

[67] New Source Performance Standards Review for Stationary Combustion Turbines and Stationary Gas Turbines, 91 Fed. Reg. 1910, 1964 (Jan. 15, 2026).

monetary value of a human life in cost-benefit analyses[,]… until now, no administration has counted it as zero."[68]

Abolishing monitoring for climate-changing air pollution: The administration is keeping data on companies' climate-changing air pollution hidden from the public,[69] while simultaneously taking steps to repeal the pollution-reporting program entirely. The current administration does not want Americans to know which companies contribute to the increasing risks of heat waves, storms, drought, and floods—impacts that millions are suffering each year.

Abolishing monitoring for toxic soot pollution from coal-burning power plants. This EPA abolished the requirement for all coal-burning power plant equipment that emits toxic soot air pollution (including lead and other heavy metals that cause cancer) to operate continuous emissions monitors to alert communities and regulators what the plants' toxic emissions are and whether they are in compliance. The Zeldin EPA admitted that continuous monitors resulted in "more efficient pollution abatement and increased transparency" of emissions but said that they "no longer believes that those advantages outweigh the increased cost" of continuous monitors.[70] And what are those increased costs, according to EPA? $2.9 million per year *for the entire universe of U.S. companies that generate electricity from coal.*[71] The total operating revenue of just U.S. investor-owned electric companies in 2024 was $403 billion.[72]

What is that added cost for a continuous monitor at each piece of emitting equipment at an individual power plant? $14,000 per year—a shocking figure buried in the fine print of EPA's own rollback rulemaking.[73] Operators for U.S.

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[68] Maxine Joselow, *E.P.A. to Stop Considering Lives Saved When Setting Rules on Air Pollution*, N.Y. Times (Jan. 12, 2026), https://www.nytimes.com/2026/01/12/climate/trump-epa-air-pollution.html.

[69] *See* Extending the Reporting Deadline Under the Greenhouse Gas Reporting Rule for 2025, 91 Fed. Reg. 9,712 (Feb. 27, 2026).

[70] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units: Final Repeal,91 Fed. Reg. 9,088, 9,102 (Feb. 24, 2026).

[71] *Id.*

[72] *See* Edison Electric Institute, *Industry Data: Overview*, https://www.eei.org/en/resources-and-media/industry-data#:~:text=Projected%20Transmission%20Investment-,Financial,Hardening%2C%20and%20Resilience%20(AHR) (last visited on Mar. 9, 2026).

[73] *See* U.S. EPA, Regulatory Impact Analysis for the Final Repeal of Amendments to National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units 2-11 (Feb. 2026), https://www.epa.gov/system/files/documents/2026-02/ria-mats-final-repeal-of-amendments-2026-02.pdf.

power plants that burn coal spend $1.5 billion on coal in just one month.[74] But this administration's EPA and Administrator Zeldin say that $1,167 per month costs too much to disclose to Americans the amounts of toxic emissions being released into U.S. communities and too much to improve pollution control performance and compliance.

F. **Pro-Pollution Federalism**

Rewarding states that roll back protections, punishing states that want to better protect their residents. This EPA has blocked Colorado's plan to cut coal-burning power plant air pollution that drives regional haze under the Clean Air Act's visibility program. "The state's plan includes retirement deadlines for coal plants that several utilities voluntarily proposed and asked the state to include in its plan. The plan was broadly supported by the state, utilities, industry, and environmental groups."[75] Unable to identify any authority in the Clean Air Act itself for the disapproval, EPA took the extraordinary desperate step of invoking the Takings Clause of the 5th Amendment to the U.S. Constitution to justify disapproval.[76]

At the same time, as noted above, EPA has proposed to approve eight inadequate state implementation plans (SIPs) for interstate air pollution that the agency previously disapproved, while refusing to finalize earlier proposed "correction" of two additional SIPs.[77] None of the state plans that EPA now proposes to rubber-stamp require *any* additional steps to reduce smog-forming air pollution. This administration's actions show that federalism will be "cooperative" when a state

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[74] *See* U.S. Energy Info. Admin., *Summary Statistics: Receipts and Cost of Fossil Fuels for the Electric Power Industry by Sector, Physical Units, 2025 and 2024*, https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=table_es2a (last visited Mar. 9, 2026).

[75] Nat'l Parks & Conservation Ass'n, *EPA Rejects Colorado's Regional Haze Plan, Including Coal Plant Retirement Dates* (Jan. 12, 2026), https://www.npca.org/articles/11282-epa-rejects-colorado-s-regional-haze-plan-including-coal-plant-retirement.

[76] Air Plan Disapproval; Colorado; Regional Haze Plan for the Second Implementation Period, 91 Fed. Reg, 3,048, 3,050 *et seq.* (Jan. 26, 2026).

[77] *See, e.g.*, Interstate Transport Plan Review for the 2015 Ozone NAAQS, 91 Fed. Reg. 4,026 (proposed Jan. 30, 2026). Remarkably, the proposal even invites comment on adopting a test that is *twice* as lax as the already worse test used in the proposal. *Id.* at 4034 (noting wanly that the even more lax test would capture "notably less [upwind contribution] at most receptors than the amount captured with [the proposed lax test], and therefore emission reductions from states linked at that higher threshold may be insufficient to address collective upwind state contribution to downwind air quality problems.")

rolls back safeguards and increases air pollution, not when a state like Colorado wants to better protect people by reining in pollution from coal-fired power plants and other industrial sources.

IV. EPA's "500 Environmental Wins": Failing to Protect Air Quality, Failing to Mention Sweeping, Reckless Rollbacks of Clean Air Safeguards.

In January 2026, this EPA published a list of "200 newly announced accomplishments" as part of a public relations campaign that the agency calls "500 Environmental Wins During President Trump's First Year Back in the White House."[78] What's most remarkable about this list, insofar as air quality is concerned, is the near-total absence of actual EPA regulatory steps to cut air pollution of any kind by any amount.

Of these 200 supposed 'environmental wins,' about 35 concern air pollution and the Clean Air Act. Six were actual rollbacks of stronger air pollution controls or approvals of state exemptions from pollution controls. Not environmental wins. Six were routine monitoring by EPA regional offices. Not exactly wins.

Eleven items on the list consisted of routine bureaucratic approvals by EPA regions of state plans. Note that some of these, too, were quiet rollbacks by approving more lax pollution controls. Not wins. There was one tiny grant issued.

There were two enforcement settlements for very modest amounts. There were three bigger air settlements. Note that settlement of these enforcement cases almost certainly concerned cases begun by EPA under the previous administration, because of the length of time it takes to investigate, develop, file, negotiate and settle cases. So, let us call these cases wins, but probably not because EPA under the current administration initiated the investigations and cases.

This EPA awarded itself 'environmental wins' for issuing a permit on tribal land, conducting 'air permitting review' in Puerto Rico, and conducting 'Air Quality Flag Program' outreach to over 300 students in the agency's Region VIII.

[78] U.S. EPA, News Release, *EPA Delivers 500 Environmental Wins During President Trump's First Year Back in the White House* (Jan. 20, 2026), https://www.epa.gov/newsreleases/epa-delivers-500-environmental-wins-during-president-trumps-first-year-back-white.

Finally, in the biggest category of activity, the EPA list trumpets 'environmental wins' from conducting inspections in the EPA regions. Traditionally, this has been called part of EPA's job. Not 'environmental wins,' in the absence of any information about improved pollution control practices or better monitoring or pollution reductions. Did these inspections cut air pollution? EPA does not say. EPA does not know.

What else is missing from this list of 200 so-called 'environmental wins' by this EPA? There is not even one rulemaking proposal or final rule signed by EPA Administrator Lee Zeldin that reduces even one additional ounce of any kind of air pollution. Ponder the defining significance of that reality, not to mention its sheer improbability.

Also missing? The more than a dozen actions by this EPA and Administrator Zeldin under the Clean Air Act that will increase harmful air pollution by staggering amounts: many millions of tons of climate-changing carbon and methane pollution; tens of thousands of tons of smog and soot; thousands of tons of the most hazardous air pollutants, from brain poisons like lead & mercury, to acid gases and cancer-causing substances like benzene, asbestos, nickel and formaldehyde. Unsurprisingly, the list also omits every other harmful Clean Air Act rollback and attack on clean air safeguards mentioned in this testimony.

A recent report by the Center for American Progress detailed how EPA policies under Administrator Zeldin and this administration "would allow corporate polluters to emit more toxins and chemicals, exposing more than 2 million kids to pollutants that increase the likelihood of lifelong health concerns—such as asthma, autism, ADHD, and cancer—while undercutting the administration's own 'Make America Healthy Again' agenda."[79] In response, an EPA spokesperson ignored the report's content and simply dubbed it, "fake news."[80]

[79] Ctr. for Am. Progress, *How the Trump Administration's Embrace of Oil, Gas, and Chemical Industry Interests Will Endanger Children's Health* (Feb. 4, 2026), https://www.americanprogress.org/article/how-the-trump-administrations-embrace-of-oil-gas-and-chemical-industry-interests-will-endanger-childrens-health/.

[80] Dharna Noor, *Trump's environmental rollbacks contradict RFK Jr's healthy America promise, report finds*, The Guardian (Feb. 4, 2026), https://www.theguardian.com/us-news/2026/feb/04/trump-environmental-rollbacks-maha-promise.

The EPA spokesperson went on to assert "[i]t's simply wrong to claim that EPA's actions will worsen air quality."[81]This is a facially preposterous claim in light of more than a dozen proposed or finalized rollbacks that even this administration has admitted will increase air pollution.[82] The spokesperson continued by arguing, "America's air is the cleanest it has been in decades" *Id.*

Apart from this being demonstrably untrue in key, concerning respects,[83] the EPA response (and non-response) is revealing: to the extent that air quality is safer and cleaner than in earlier decades, that is due to steps by the states and EPA under prior administrations, not this administration. It is due in part to progress that *this* administration is systematically, furiously reversing—by attacking & rolling back clean air protections in a self-described campaign of the biggest deregulation in U.S. history.[84] This administration and Administrator Zeldin are rolling back safeguards, increasing harmful air pollution, making Americans worse off and telling us to ignore what's happening before our eyes.

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[81] *Id.*

[82] *See, e.g.*, U.S. EPA, Regulatory Impact Analysis for the Final Repeal of Amendments to National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units ES-3-ES-4 (Feb. 2026), https://www.epa.gov/system/files/documents/2026-02/ria-mats-final-repeal-of-amendments-2026-02.pdf (acknowledging repeal will increase emissions of mercury and non-mercury hazardous air pollutant metals, including "antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel, and selenium"); U.S. EPA, Projected Criteria, Air Toxics, and GHG Emissions Impacts for the "Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act" Final Rule tbls. 4, 8, and 12 (Feb. 18, 2026), Dkt. No. EPA-HQ-OAR-2025-0194-31055, https://www.regulations.gov/document/EPA-HQ-OAR-2025-0194-31055 (rolling back greenhouse gas standards (GHGs) for medium-duty & heavy-duty motor vehicles will mean that by CY 2055 the United States will see *annual* increases of 410 million metric tons of GHG emissions (CO_2e), 112,809 tons of smog-forming nitrogen oxides, 154,945 tons of smog-forming volatile organic compounds, and 2,081,697 tons of carbon monoxide)

[83] *See supra* note 58 and generally Section III.C (summarizing alarming increases in sulfur dioxide, nitrogen oxides, and carbon dioxide emissions in 2025 from power plants that burn coal and oil); Am. Lung Ass'n, *State of the Air 2025: Key Findings*, https://www.lung.org/research/sota/key-findings (last visited Mar. 9, 2026) ("46% of Americans—156.1 million people—are living in places that get failing grades for unhealthy levels of ozone or particle pollution. This is nearly 25 million more people breathing unhealthy air compared to last year's report, and more than in any other 'State of the Air' report in the last ten years").

[84] U.S. EPA, News Release, *EPA Launches Biggest Deregulatory Action in U.S. History* (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.

V. Clean Air Progress Coupled with Strong Economic Growth

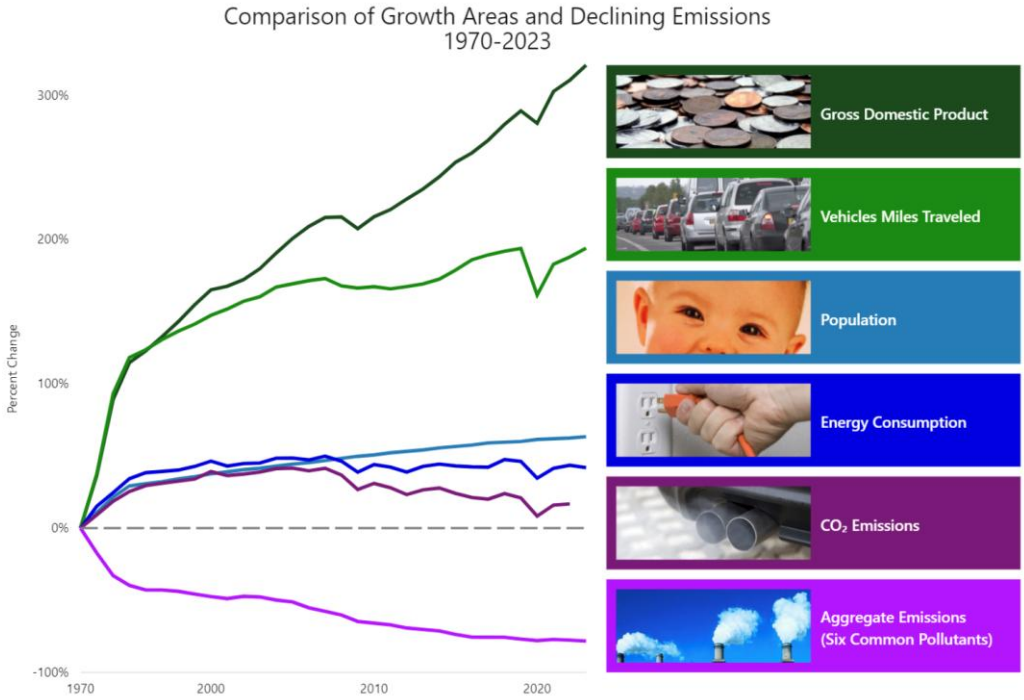
The Clean Air Act has been a remarkably successful and cost-effective law *because* its foundation is clean air standards based on health considerations and medical science alone. From 1980 to 2024, the "criteria air pollutants" that the Clean Air Act regulates have dropped by impressive amounts: 75% reductions in smog-forming nitrogen oxides, 61% reductions in smog forming volatile organic compounds (VOCs), and 63% reductions in direct particle pollution (PM_{10}).[85]

Percent Change in Emissions

Pollutant	1980 vs 2024	1990 vs 2024	2000 vs 2024	2010 vs 2024
Carbon Monoxide	-77	-71	-60	-30
Lead*	-99	-88	-78	-36
Nitrogen Oxides (NO_x)	-75	-73	-69	-55
Volatile Organic Compounds (VOC)	-61	-49	-30	-11
Direct PM_{10}	-63	-28	-26	-16
Direct $PM_{2.5}$	---	-29	-36	-13
Sulfur Dioxide	-94	-93	-90	-76

[85] *See* U.S. EPA, *Air Quality—National Summary*, https://www.epa.gov/air-trends/air-quality-national-summary (last updated Feb. 19, 2026).

That success in reducing harmful emissions and improving Americans' health has occurred during periods of impressive U.S. economic growth and steady population growth:



(Charts taken from https://www.epa.gov/air-trends/air-quality-national-summary)

In fact, the Clean Air Act, in Section 812, requires EPA to undertake regular studies and report on the impacts of the Act. In the first twenty years of the Clean Air Act, EPA estimated that the benefits of the Act exceeded its costs by approximately 42:1.[86] From 1990 to 2010, EPA undertook a prospective study, and, after an "extensive peer review during which independent panels of distinguished economists, scientists, and public health experts provided in-depth assessment and advice throughout the study's design, implementation, and documentation,"[87] the Agency concluded that: in 2010, the Amendments of 1990 will prevent 23,000 Americans from dying prematurely and avert over 1,700,000

[86] U.S. EPA, Benefits and Costs of the Clean Air Act, 1970 to 1990 56 (Oct. 1997), https://www.epa.gov/sites/default/files/2015-06/documents/contsetc.pdf.
[87] U.S. EPA, Press Release, *First Clean Air Act Benefits and Costs Prospective Study*, (Nov. 16, 1999), https://www.epa.gov/clean-air-act-overview/first-clean-air-act-benefits-and-costs-prospective-study-press-release.

incidences of asthma attacks and aggravation of chronic asthma.[88] In addition, in 2010, they will prevent 67,000 incidences of chronic and acute bronchitis, 91,000 occurrences of shortness of breath, 4,100,000 lost workdays, and 31,000,000 days in which Americans would have had to restrict activity due to air pollution related illness.[89] Plus, 22,000 respiratory-related hospital admissions would be averted, as well as 42,000 cardiovascular (heart and blood) hospital admissions, and 4,800 emergency room visits for asthma.[90]

The most recent prospective study, done in 2011, followed up on this work and examined the period from 2010 to 2020. EPA found that their "central benefits estimate exceeds costs by a factor of more than 30 to one, and the high benefits estimate exceeds costs by 90 times. Even the low benefits estimate exceeds costs by about three to one."[91] Looking forward to 2020, the report found that "[in] 2020, the Clean Air Act Amendments will prevent over 230,000 early deaths. Most of the economic benefits (about 85 percent) are attributable to reductions in premature mortality associated with reductions in ambient particulate matter."[92] Economists studying the Clean Air Act and its costs and benefits have reached another revealing conclusion that has proven true time and time again: "One defining feature of the research on the costs of the Clean Air Act is that predicted costs of the regulations are often higher than the costs that actually occur."[93]

There is still much work to be done, however. Over 156.1 million Americans live in areas that suffer unsafe levels of ozone (smog) pollution or fine particle pollution or both.[94] Over 88,000 Americans die prematurely every year due to just fine particle pollution, according to the renowned Global Burden of Disease

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[88] U.S. EPA, The Benefits and Costs of the Clean Air Act 1990 to 2010: EPA Report to Congress, (Nov. 1999), https://www.epa.gov/sites/default/files/2015-07/documents/fullrept.pdf.
[89] *Id.* at 61.
[90] *Id.*
[91] U.S. EPA, The Benefits and Costs of the Clean Air Act from 1990 to 2020 (Apr. 2011), https://www.epa.gov/sites/default/files/2015-07/documents/fullreport_rev_a.pdf.
[92] U.S. EPA, *Benefits and Costs of the Clean Air Act 1990-2020, the Second Prospective Study*, https://www.epa.gov/clean-air-act-overview/benefits-and-costs-clean-air-act-1990-2020-second-prospective-study (last updated May 15, 2025).
[93] Janet Currie & Reed Walker, *What Do Economists Have to Say about the Clean Air Act 50 Years after the Establishment of the Environmental Protection Agency?*, 33 J. of Econ. Persps. 3, 19 (2019), https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.33.4.3.
[94] Am. Lung Ass'n, State of the Air 2025 Report 12 (2025), https://www.lung.org/research/sota/key-findings.

report.[95] Hazardous air pollution (regulated outside the National Ambient Air Quality Standards program) causes cancer, brain damage, birth defects, infertility, heart diseases and a wide range of other chronic conditions including premature death.[96]

Nonetheless, as my colleague Dr. Vijay Limaye notes:

> "One law – the Clean Air Act – has added nearly a year and a half to the average American lifespan and helps prevent more than 350,000 early deaths each year, making it the most successful public health safeguard in our nation's history. It keeps dangerous pollution out of the air we breathe by deploying a toolbox of science, policy, and enforcement to monitor, evaluate, and cut lethal pollution from coast to coast.
>
> Yes, that's right: Our lives will be, on average, 17 months longer all because of one law. The health gains from cleaning up soot and smog have delivered trillions of dollars in economic benefits to our nation.
>
> […][T]here is mountains of evidence confirming that efforts to clean up our air are sensible, moral, and hugely cost-effective, with the benefits outweighing costs by a factor of more than thirty to one. This is an issue that shouldn't even be up for debate."[97]

The Clean Air Act is and should continue to be a bright spot of bipartisanship and legislative achievement. It has transformed our nation's air and our nation's health, and Congress should commit to ensuring that trend continues, opposing efforts like those undertaken by this EPA to weaken and corrupt its safeguards.

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[95] Aaron J. Cohen *et al.*, *Estimates and 25-year trends of the global burden of disease attributable to ambient air pollution: an analysis of data from the Global Burden of Diseases Study 2015*, The Lancet 1914 (May 2017), https://pmc.ncbi.nlm.nih.gov/articles/PMC5439030/pdf/main.pdf.

[96] *See generally* U.S. EPA, *What are Hazardous Air Pollutants*, https://www.epa.gov/haps/what-are-hazardous-air-pollutants (last updated Nov. 5, 2025) ("Hazardous air pollutants, also known as air toxics, are those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects."); 42 U.S.C. § 7412.

[97] Dr. Vijay Limaye, *Chokehold: The Trump administration's stealth plan to unleash poisonous air*, The New Lede (Mar. 4, 2026), https://www.thenewlede.org/2026/03/chokehold-the-trump-administrations-stealth-plan/.