September 22, 2025

Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Comments on Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, EPA-HQ-OAR-2025-0194, 90 FR 36288

Introduction

Mountain States Legal Foundation, Montana Petroleum Association, Panhandle Producers & Royalty Owners Association, Permian Basin Petroleum Association, and Texas Alliance of Energy Producers respectfully submit these comments in support of the Environmental Protection Agency's (EPA) proposal, "Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards," 90 Fed. Reg. 36,288 (Aug. 1, 2025) (the Proposed Rule).

The Clean Air Act (Act or CAA) requires EPA to "from time to time revise" its endangerment findings, 42 U.S.C. § 7521(a)(1), and the 2009 Endangerment Finding is worth reconsidering and revising. As a matter of "revising," EPA is correct to repeal "all greenhouse gas . . . emission standards for light-duty, medium-duty, and heavy-duty vehicles and engines to effectuate the best reading of Clean Air Act (CAA) section 202(a)." *See* 90 Fed. Reg. at 36288. The 2009 Endangerment Finding, which EPA and the federal government published at 74 Fed. Reg. 66,496 on December 15, 2009, is unconstitutional, unlawful, and on those grounds worth "revising" out of existence.

As EPA now explains, the U.S. Supreme Court in *Massachusetts v. EPA*¸549 U.S. 497 (2007), did not order EPA to find that any single or mix of greenhouse gases "may reasonably be anticipated to endanger public health or welfare," *see* 42 U.S.C. § 7521(a)(1). And when EPA made the 2009 Endangerment Finding, EPA did not implement the CAA, rather it used the Act as a point of departure and essentially attempted—on its own—to massively enlarge its regulatory authority. But the CAA is a cooperative-federalism statute, *see, e.g.*, 42 U.S.C. § 7410, with many *limits* on EPA's federal regulatory authority; it is not a blank canvas inviting unbounded federal regulation. And it is not a request by Congress to EPA to impose devastating economic damages nationwide. *See Michigan v. EPA*, 576 U.S. 743, 752 (2015) ("One would not say that it is even rational . . . to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits."); *see also* 42 U.S.C. § 7521(a)(2) (requiring EPA to consider "the cost of compliance").

As explained by the Proposed Rule, EPA must rescind the 2009 Endangerment Finding for at least three reasons: *First*, EPA exceeded its statutory authority under Section 202(a), which does not grant the agency power to regulate global climate change. This overreach is particularly evident in light of the Supreme Court's rejection of *Chevron* deference in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), and the clarification of the Major Questions Doctrine in *West Virginia v. EPA*, 597 U.S. 697 (2022); *see also Biden v. Nebraska*, 600 U.S. 477, 514 (2023) (Barrett, J., concurring) ("Just as we would expect a parent to give more than a general instruction if she intended to authorize a babysitter-led getaway, we also 'expect Congress to speak clearly if it wishes to assign to an agency decisions of vast 'economic and political significance.'").

Second, the 2009 Endangerment Finding suffered from procedural defects, most notably EPA's failure to obtain a mandatory peer review from its own Science Advisory Board. It was an attempt by a prior iteration of EPA to enlarge its authority without regard to the constitution and law. And now, we can see that the 2009 Endangerment Finding is obsolete, unreliable, and arbitrary, as it rested on a policy of avoiding critical review despite the novelty of its supposedly supporting scientific findings on greenhouse gases (GHGs). A better procedure was required from the start.

Third, the regulations stemming from the 2009 Endangerment Finding are futile—they impose significant harm to public welfare with no measurable benefit to the global climate, and the current Administration is correct to reconsider them.

For these reasons, Mountain States and the commenters joining this letter urge EPA to complete the Proposed Rule and rescind the 2009 Endangerment Finding.

Interests of the Commenters

Mountain States Legal Foundation is a nonprofit, public-interest law firm dedicated to promoting limited government, individual liberty, and the constitutional separation of powers. For decades, Mountain States has challenged unlawful regulatory overreach by federal agencies, including EPA. We have represented landowners, energy producers, working communities, and individuals across the United States who have been burdened by legally unjustified regulations that exceed agency authority. Our clients include those who work in and depend upon the very industries targeted by the regulatory regime arising from the 2009 Endangerment Finding—which is another way of saying that the Finding targeted the Nation's entire economy without regard to the deleterious effects it would have on American prosperity and energy. Mountain States has a long history of litigating against federal actions that, like 2009 Endangerment Finding, stray from constitutional limits and statutory text. Fidelity to the law is paramount and that agencies must work within the clear boundaries set by Congress. The 2009 Endangerment Finding violated these principles, illustrating an agency untethered from its statutory mission in hopes of massively enlarging its own regulatory authority. Mountain States exists exactly to push back on and defeat such efforts.

The **Montana Petroleum Association** (MPA) represents over 150 member companies involved in all aspects of the oil and natural gas industry. MPA's members include producers, refiners, suppliers, pipeline operators, and transporters, as well as service and supply companies that support all segments of the industry and employ a great number of people in our great state Montana. MPA works with elected officials, business groups, regulatory boards and agencies to promote policies which incentivize revenue-generating resource production and opposes rules and regulations which hamper opportunities for future oil.

The **Panhandle Producers & Royalty Owners Association** (PPROA) is a non-profit trade association founded in 1929. PPROA represents the interests of independent oil and gas producers, mineral royalty owners, and industry support companies throughout Texas, Oklahoma, and New Mexico. The association is dedicated to advocating for its members before political parties, legislative and regulatory bodies at both the state and federal levels, and to promoting policies that support responsible energy production and protect the rights of its diverse membership. PPROA provides current industry information through its newsletter "The Pipeline," educates the public on the petroleum sector's community impacts and promotes business opportunities while opposing regulations that hinder growth and economic contributions to the region.

The **Permian Basin Petroleum Association** (PBPA) is the largest regional oil and gas association in the United States and has served as the voice of the Permian Basin since 1961. Its mission is to promote the safe and responsible development of our oil and gas resources while providing legislative, regulatory, and educational support

services for the petroleum industry. PBPA's membership includes the smallest exploration and services companies as well as some of the largest companies with world-wide operations. The Permian Basin is the largest inland oil and gas reservoir and the most prolific oil and gas producing region in the world but, unfortunately, has been greatly impacted by the 2009 Endangerment Finding. PBPA supports reconsideration of the 2009 Endangerment Finding, which extended the Clean Air Act far beyond its original intent and created an overly broad regulatory framework. The finding has imposed costly and duplicative federal requirements that undermine state authority, hinder American energy development, and jeopardize our Nation's energy dominance.

The **Texas Alliance of Energy Producers** is an oil and gas trade association based in Texas representing over 2,600 individuals and member companies in the upstream oil and gas industry; its members are oil and gas operators/producers, service and drilling companies, royalty owners, and a host of affiliated companies and industries in Texas and beyond. The vast majority of our oil and gas producer member companies are small- to mid-size independent companies who are hit the hardest by unnecessary and costly regulatory burdens. In addition to the direct impact the 2009 Endangerment Finding had on our members via increased costs of vehicles due to unnecessary fuel efficiency standards and the like, the indirect impact it had on our members by setting the precedent that EPA had the authority to regulate greenhouse gases, which then led to methane emission regulations on the oil and gas industry that could potentially lead to tens of thousands of marginal producing oil and gas wells in Texas being prematurely shut-in due to higher regulatory costs, is much greater. The Alliance is a fierce advocate for our members and their continued existence and flourishing, which ensures American energy independence, so we must speak up and ask that the 2009 Endangerment Finding be rescinded.

Mountain States and these commenters view the Proposed Rule as a necessary and long-overdue effort to rein in the agency and confine it to the powers granted by Congress. This action is not merely a policy correction, but a restoration of the rule of law. Rescinding the 2009 Endangerment Finding will reassert the proper balance of power between the executive and legislative branches and protect the economic liberty of countless Americans who have been harmed by this regulatory overreach.

Arguments for Reconsideration of the 2009 Finding

I. EPA Lacks Statutory Authority to Regulate Global GHG Emissions Under CAA Section 202(a).

The 2009 Finding was premised on a novel and incorrect interpretation by EPA of the authority Congress gave it in CAA § 202(a). Recent Supreme Court decisions have confirmed that EPA's assertion of authority was unlawful from its start. The agency's attempt to regulate global phenomena through a provision designed for conventional pollutants was an act of administrative invention, not statutory interpretation.

A. The Best Reading of Section 202(a) Limits EPA's Authority to Local and Regional Air Pollution.

The text, structure, and historical application of CAA Section 202(a) show that Congress intended to grant EPA authority to regulate air pollution causing local or regional harm, such as smog and other criteria pollutants that directly endanger public health through exposure. The statute was designed to address tangible threats like particulate matter, pollutants whose harmful effects are linked to their concentration in the air people breathe. The entire framework of the CAA, with its focus on ambient air quality standards and state implementation plans, is built around this concept of managing identifiable, geographically bound pollution. Before 2009, EPA consistently applied this provision to address such harms, not asserting that it had congressional authority to regulate substances based on their supposed radiative effects in the global atmosphere.

The 2009 Endangerment Finding left this established understanding by radically wielding *Massachusetts v. EPA* and inventing the concept that the "air pollution" Congress authorized EPA to regulate encompassed elevated global concentrations of GHGs in the upper atmosphere. This interpretation stretched the statutory language beyond its plain meaning and was inconsistent with decades of agency practice. *See, e.g.*, *Massachusetts v. EPA*, 549 U.S. at 535 (Roberts, C.J. dissenting) ("Apparently dissatisfied with the pace of progress on this issue in the elected branches, petitioners have come to the courts claiming broad-ranging injury, and attempting to tie that injury to the Government's alleged failure to comply with a rather narrow statutory provision.").

GHGs are non-toxic at ambient concentrations, globally mixed, and their alleged harm is indirect, attenuated, and speculative, working through—even in the plainest telling—a complex causal chain involving global climate systems. To run outside the lines with *Massachusetts* and treat them as equivalent to pollutants like lead or sulfur dioxide is to ignore the fundamental structure and purpose of the CAA.

This improper redefinition of "air pollution" was an attempt to fit a square peg into a round hole, contorting the statute to address a policy issue—whether to do something about supposed global climate change and, if yes, then what?—that Congress never intended Section 202(a) to cover. EPA effectively claimed that any substance emitted into the air that could, through a long and complex series of events, potentially affect welfare somewhere on the planet, could be regulated by American federal regulators as "air pollution." This reading creates a limitless grant of power, turning the CAA into an all-purpose tool for global environmental policy and federal policing, a result Congress would have clearly explained had it been Congress's purpose. The best reading of the statute confines EPA's authority to the kind of direct, localized pollution it was supposed to combat.

B. The Finding Is Invalid After Loper Bright v. Raimondo.

The Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which explained that federal courts cannot outsource statutory interpretation to federal regulators under the guise of "*Chevron* deference," is further fatal to the legal assumption of power embodied in the 2009 Endangerment Finding. Under the now-defunct *Chevron* framework, federal courts stood by while federal regulators used real or made-up silences in statutes as platforms for claiming broad discretionary powers without fear that federal courts would hold them accountable for their unlawful behavior.

In the 2009 Endangerment Finding, EPA explicitly justified its novel approach by claiming that statutory "silence" and "ambiguity" on the issue of global pollutants granted it "procedural discretion" to expand its authority and regulate GHGs. *See* 74 Fed. Reg. 66501–02. This was a quintessential flex of *Chevron* empowerment: the agency had no fear that a court would independently interpret and apply the law.

Loper Bright repudiates that approach. *E.g.*, *id.* at 603 U.S. at 396 ("The deference that *Chevron* requires of courts reviewing agency action cannot be squared with the APA."). The Court made clear that statutes have a single, best meaning and that it is the judiciary's role to decide that meaning. Agencies may not invent their own authority; they must adhere to the "best reading" of the statute. This requires a faithful analysis of the text, structure, and historical context of the law.

Here, the best reading of Section 202(a) is that it applies to traditional pollutants causing local and regional harm, not global and atmospherically mixed GHGs. The statute's focus on emissions from specific "class or classes of new motor vehicles" contributing to pollution that "endangers" public health points to a direct, traceable harm, not the diffuse, global, and indirect effects attributed to climate change.

Without the shield of *Chevron* deference, the 2009 Endangerment Finding collapses. EPA can no longer rely on statutory silence to justify a massive expansion of its regulatory power. The agency must prove that its authority is affirmatively granted by the text of the Clean Air Act. Given the statute's history and design, it cannot meet this burden. The Finding was an artifact of an era of judicial deference that has now ended. Its rescission is a necessary consequence of the Supreme Court's reaffirmation that judges cannot let federal regulators invent their own statutory authorizations.

C. The 2009 Endangerment Finding Violated the Major Questions Doctrine.

The Major Questions Doctrine holds that an administrative agency cannot decide issues of vast "economic and political significance" without "clear congressional authorization." *West Virginia v. EPA*, 597 U.S. 697, 721–23 (2022); *Utility Air Regulatory Group v. EPA*, 573 U.S. 302 (2014). This doctrine serves as a vital check

on administrative power, ensuring that foundational policy decisions are made by the elected representatives of the people in Congress, not by unelected bureaucrats. *See Biden v. Nebraska*, 600 U.S. at 508 (Barrett, J., concurring) ("[T]he major questions doctrine is a tool for discerning—not departing from—the text's most natural interpretation."). Whether we as a Nation should take the steps in and triggered by the 2009 Endangerment Finding—to restructure the Nation's transportation and energy sectors to address global climate change—is a quintessential "major question." Few policy issues today carry greater economic and political weight.

Notwithstanding the CAA, the 2009 Endangerment Finding invented a regulatory regime affecting virtually every aspect of the American economy, from the cars people drive to the electricity that powers their homes and businesses. This is the kind of transformative assertion of power that the Supreme Court has said requires a clear statement from Congress. *E.g.*, *Biden v. Nebraska*, 600 U.S. at 514 (Barrett, J., concurring) ("This expectation of clarity is rooted in the basic premise that Congress normally intends to make major policy decisions itself, not leave those decisions to agencies."). Yet EPA based its power grab on Section 202(a)'s vague and general authority to "prescribe . . . standards" for vehicle emissions. Such "modest words" and "subtle devices" are not the clear and explicit authorization required by the doctrine. An agency cannot use a long-extant, ancillary provision of a statute to enact a fundamental reordering of the national economy. *West Virginia*, 597 U.S. at 747 (Gorsuch, J., concurring) ("[A]n agency's attempt to deploy an old statute focused on one problem to solve a new and different problem may also be a warning sign that it is acting without clear congressional authority.").

Further, Congress's repeated consideration and rejection of comprehensive climate legislation over the past decades serves as powerful evidence that it has not delegated this authority to EPA. Lawmakers have debated and chosen *not* to pass numerous bills aimed at creating a cap-and-trade system or a carbon tax. This legislative decision is not an invitation for an agency like EPA to fill the void. On the contrary, it confirms that Congress has reserved the authority to address climate change for itself. EPA's 2009 Endangerment Finding was an attempt to usurp that authority, and under the Major Questions Doctrine, it cannot stand.

D. EPA Misinterpreted Massachusetts v. EPA.

The 2009 Endangerment Finding was based on a fundamental misreading and over-extension of the Supreme Court's decision in *Massachusetts v. EPA*, 549 U.S. 497 (2007). Proponents of the Finding have long treated this case as a green light for expansive GHG regulation, but the holding was narrower. The Court simply held that greenhouse gases *could* be considered "air pollutants" under the Act's broad, catch-all definition in Section 302(g). The decision did not, however, conclude that GHGs *must* be regulated, or that they meet the endangerment criteria of Section 202(a). The Court went out of its way to say that it was not compelling any particular outcome:

"We need not and do not reach the question whether on remand EPA must make an endangerment finding." *Id.* at 534. Instead, the Court's opinion was strictly related to procedural arguments, which required EPA to provide a reasoned, statutory-based explanation for its decision to regulate or not regulate, rather than relying on policy justifications outside the Act. Nevertheless, EPA took this narrow procedural ruling and drove a bulldozer through it, unjustifiably expanding it into a substantive mandate to create a sweeping new regulatory program that—EPA claimed—let the agency police every aspect of American life.

Considering later Supreme Court decisions, EPA's broad interpretation of *Massachusetts* is untenable. Cases like *Utility Air Regulatory Group* and *West Virginia* have clarified the limits of EPA's authority and emphasized the importance of statutory context and the Major Questions Doctrine—that is, actually letting the Constitution do the job it is supposed to do. These later decisions have shown EPA that *Massachusetts* had limits, whether EPA liked it or not, and they have made it clear that just because a molecule fits within the general definition of "air pollutant," that fact alone does not automatically grant EPA authority to regulate a substance under every provision of the CAA. The 2009 Endangerment Finding has never been able to address this critical problem and had a flawed legal premise from the start. It cannot be interpreted as a wholesale delegation of authority to regulate the entire economy in the name of climate change.

II. The Procedure That Led to the 2009 Endangerment Finding Was Flawed.

In the 2009 Endangerment Finding, EPA relied on a one-sided and now-outdated scientific narrative that ignored critical countervailing evidence and context, which helps explain why EPA should have first submitted its Nation-changing proposal to its Science Advisory Board (Board or SAB). A better procedure might have prevented EPA from charging forward in its attempt to enlarge its own regulatory authority.

A. EPA Did Not Submit the 2009 Endangerment Finding to the Science Advisory Board.

Federal law, 42 U.S.C. § 4365(c)(1), requires the EPA Administrator send proposals like the 2009 Endangerment Finding to the SAB for peer review if that proposal is also provided to any other federal agency for formal review. This duty is not discretionary. *Am. Petroleum Inst. v. Costle*, 665 F.2d 1176, 1188 (D.C. Cir. 1981). The legislative history of the SAB statute shows that Congress created the Board to serve as an independent, expert check on the agency's scientific judgments, precisely to prevent policy goals from trumping scientific rigor. The SAB's review is a procedural safeguard designed to ensure the scientific and technical basis of EPA's actions is sound. But as EPA now admits, 90 Fed. Reg. at 36296, it tried to avoid SAB review when it made the 2009 Endangerment Finding.

EPA submitted the 2009 Finding to the Office of Management and Budget (OMB) for formal review under Executive Order 12866, as acknowledged in the final rule, 74 Fed. Reg. at 66,545. This action should have also led EPA to seek review of its scientific conclusions that, it said, justified massively expanding its regulatory authority. Yet EPA did not seek peer review. This was a violation of the law. The agency's justification—that its decision was not a "standard" or "regulation" in the traditional sense—was simple evasion. The 2009 Endangerment Finding had the force and effect of a regulation, as it triggered what EPA considered a non-discretionary duty to regulate every sector of the American economy under the CAA.

EPA's evasion of SAB review was a fatal procedural flaw that. This omission bypassed essential scientific scrutiny required by Congress and allowed a politically motivated outcome to go ahead unchecked. Given the immense complexity and uncertainty of climate science—a fact EPA itself acknowledged—the input of the SAB would have been of central relevance. By avoiding this review, EPA tried to massively expand its own authority while hiding its weak scientific foundation from the very experts Congress tasked with evaluating it.

B. EPA Improperly Delegated Research and Relied on Flawed Assessments.

Amplifying the questions raised by EPA's civics-as-science experiment, EPA did not conduct its own independent and rigorous scientific assessment; rather, EPA abdicated its duty to exercise independent judgment. The agency admitted to "heavily" relying on external, quasi-governmental assessment reports from the Intergovernmental Panel on Climate Change (IPCC) and the U.S. Global Change Research Program. For such a prominent issue, this amounted to an unlawful delegation of the agency's core analytical responsibilities. EPA should have made its own reasoned scientific judgment and then submitted that judgment to peer review; it should not have rubber-stamped the conclusions of outside bodies. EPA's near-total reliance on these outside groups was a dereliction of duty. It was tasked with making a sober, independent assessment of risk and then getting a peer-review of that assessment, but it chose to adopt the narrative of external organizations, sidestepping the work of confronting conflicting evidence inherent in climate science.

III. Regulation Stemming from the 2009 Endangerment Finding is Futile and Harmful to Public Welfare.

The regulatory regime that EPA built upon the 2009 Endangerment Finding—that is, EPA's implementation of a massively expanded regulatory authority that it created for itself—is not only ineffective at addressing global climate change, but also actively harmful to the American public. It imposes enormous costs on society for a benefit that is scientifically undetectable, making it a paradigmatic case of unreasonable government action. *See* 5 U.S.C. § 706.

A. The 2009 Endangerment Finding and EPA's Attempts to Implement It Have Been Unreasonable.

CAA § 202(a)(2) requires that emission standards be based on a "requisite technology" while also considering the "cost of compliance." This statutory language is not meaningless; it means that the technology must be capable of addressing the identified danger and otherwise be reasonable to implement considering the costs associated with implementing it. If a technology cannot solve or significantly mitigate the problem, it is not "requisite." And if it otherwise costs more than it's worth, then it is still not reasonable. EPA tried to dodge good governance by claiming that the 2009 Endangerment Finding was *only* a finding rather than a "trigger" that would enable the agency to expand its regulatory authority massively and unlawfully. The resulting regulations over the past decade-plus have shown why EPA should have been more modest.

U.S. motor vehicles contribute a small and decreasing percentage of total global GHG emissions. The entire U.S. transportation sector accounts for only a fraction of U.S. emissions, which in turn are a fraction of global emissions, a share that continues to shrink as emissions from developing nations grow rapidly. Alan Reynolds, *Blaming U.S. Passenger Vehicles for Climate Change Is Ignorant but Lucrative*, CATO AT LIBERTY (Sept. 10, 2021) ("U.S. passenger vehicles contribute only 16.4% to the country's 15% share of global greenhouse gas emissions – less than 2.5%.")[1]; Hannah Ritchie & Max Roser, *Who has contributed most to global CO2 emissions?*, OUR WORLD IN DATA (last updated Sept. 29, 2023) (noting that despite the United States being a large emitter historically, "many of the large annual emitters today – such as India and Brazil – are not large contributors in a historical context.").[2] In their analysis, Hannah Ritchie and Max Roser address the complex responsibility of early industrial nations like the United Kingdom. They note that even though these countries were historically the largest polluters, they have since been surpassed by developing nations. This creates a difficult situation, as their own cuts now have a smaller global impact:

> Reductions here will have a relatively small impact on emissions at the global level – or at least fall far short of the scale of change we need. This creates tension with the argument that the largest contributors in the past should be those doing the most to reduce emissions today.

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[1] https://www.cato.org/blog/blaming-us-passenger-vehicles-climate-change-ignorant-lucrative-1 (last accessed Sept. 9, 2025).

[2] https://ourworldindata.org/contributed-most-global-co2#:~:text=The%20USA%20has%20emitted%20the,over%20the%20last%20266%20years (last accessed Sept. 9, 2025).

Id. Put another way, even the complete elimination of GHG emissions from all U.S. vehicles—an economically catastrophic undertaking—would have a miniscule impact on global climate trends. The U.S. Supreme Court considers points like this one to be important. *See Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 422 (2011) ("emissions in New Jersey may contribute no more to flooding in New York than emissions in China").

Because the impact is negligible, no "requisite technology" exists that can solve the problem as EPA defined it for purposes of the 2009 Endangerment Finding. Mandating electric vehicles or other costly technologies in the way EPA imagined in 2009 is—today as it was then, *see Am. Elec. Power Co.*, 564 U.S. at 422—an exercise in futility. It imposes immense burdens on manufacturers and consumers for a symbolic gesture that has no bearing on the global climate. This disconnect between the regulatory means and the stated ends makes the entire regulatory enterprise further unreasonable in addition to being unlawful.

B. The 2009 Endangerment Finding and Its Regulations Harm Public Welfare.

Far from protecting public welfare, the GHG standards stemming from the 2009 Endangerment Finding have harmed it. The most direct impact has been a significant increase in the cost of new vehicles. *See*, *e.g.*, Ben Lieberman, *Costlier Cars Help the Poor, According to EPA*, CEI Blog (Oct. 24, 2023) (discussing the economic consequences of a recent EPA rule designed to accelerate the transition to electric vehicles, "Thus, the EV agenda not only involves the higher sticker price relative to gasoline-powered vehicles, but also the additional cost of a conventional vehicle to back it up.").[3] This reduces consumer choice and affordability, and it disproportionately harms lower- and middle-income households. *Id*. EPA's repeated attempts to mandate, or let California mandate, a production-shift toward more expensive vehicles has worsened this problem.

The higher costs have a secondary effect: they slow fleet turnover. When new cars become too expensive, consumers keep their older, more dangerous, and higher-emitting vehicles on the road for longer. This outcome is contrary to the CAA's core goals of improving air quality and protecting public health and safety. In its quest to regulate a global, hypothetical danger, EPA has implemented a policy that worsens tangible, immediate dangers to the American public.

This perverse outcome underscores the irrationality of the entire regulatory scheme. The 2009 Endangerment Finding has led to rules that make Americans poorer and less safe, all in the name of addressing a global problem that these rules have no

[3] https://cei.org/blog/costlier-cars-help-the-poor-according-to-epa/ (last accessed Sept. 9, 2025).

power to affect. This is not a reasonable exercise of regulatory authority; it is a policy that is contrary to the public interest.

C. The Administration Has Announced a Commitment to Government Efficiency.

On February 19, 2025, President Trump signed Executive Order 14219, entitled "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative."[4] The Executive Order announced the "commence[ment of] the deconstruction of the overbearing and burdensome administrative state." *See id.*, Section 1 (Purpose).

Setting politics aside, reigning in an agency's attempt to "touch[] almost every aspect of daily life" is a noble goal. *See Buffington v. McDonough*, 143 S. Ct. 14, 21 (2022) (Gorsuch, J., dissenting from the denial of cert). Undoubtedly, as part of this regulatory review process, the 2009 Endangerment Finding will have its defenders who criticize what Mountain States and the commenters here argue is the lawful, reasonable correction that EPA must make. Respectfully, however, EPA here is doing the right thing by recognizing and rescinding an unconstitutional and unlawful attempt to accrue by its own *fiat* a massive increase in federal, regulatory police power. *See* EO 14219, Section 1 (Purpose) ("Ending Federal overreach and restoring the constitutional separation of powers is a priority of my Administration."). While EPA was mistaken from the start in making the 2009 Endangerment Finding, it is good that EPA is now trying to fix the mistake.

Conclusion

The 2009 Endangerment Finding violated the Clean Air Act and the Constitution. It was enacted through a procedurally flawed process, and it is based on an obsolete and unreliable scientific foundation. It was and has led to regulatory overreach that has imposed substantial costs on the American economy for no discernible environmental benefit. It was a civics and policy decision in search of a legal and scientific justification, and it had neither.

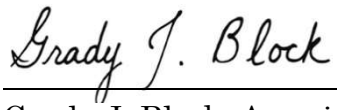
Mountain States and the commenters on this letter fully support the Proposed Rule and urge EPA to rescind the 2009 Endangerment Finding promptly.

signatures on following page

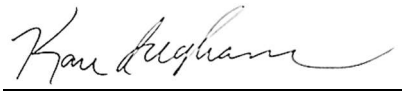
[4] https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-lawful-governance-and-implementing-the-presidents-department-of-government-efficiency-regulatory-initiative/ (last visited Sept. 9, 2025).

Respectfully submitted,

Ivan L. London, Senior Attorney



Grady J. Block, Associate Attorney
MOUNTAIN STATES LEGAL FOUNDATION
2596 South Lewis Way
Lakewood, Colorado 80227



Karr Ingham, President
TEXAS ALLIANCE OF ENERGY PRODUCERS
1000 West Avenue, Suite B
Austin, Texas 78701

/s/ Ben Shepperd

Ben Shepperd, President
PERMIAN BASIN PETROLEUM ASSOCIATION
601 N Marienfeld St
Suite 200
Midland, TX 79701

/s/ Richard Beyea

Richard Beyea, Chairman of the Board
PANHANDLE PRODUCERS & ROYALTY OWNERS ASSOCIATION
3131 Bell St., Suite 209
Amarillo, Texas 79106

/s/ Sonny Capece

Sonny Capece, Executive Director
MONTANA PETROLEUM ASSOCIATION
900 N. Montana Avenue
Suite A3
Helena, Montana 59601