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Submitted Electronically

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U.S. Environmental Protection Agency
Administrator Lee Zeldin
1200 Pennsylvania Ave NW
Washington, DC 20004

Dear Mr. Zeldin:

On behalf of the United States Conference of Catholic Bishops (USCCB) we respectfully submit the following comments on the U.S. Environmental Protection Agency (EPA) Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, issued August 1, 2025 ("Proposed Rule" or "Reconsideration").[1]

The Reconsideration repeals the 2009 Endangerment Finding,[2] which effectively eliminates all greenhouse gas (GHG) emission standards for motor vehicles and engines under Section 202(a) of the Clean Air Act (CAA). The EPA primarily relies upon *Loper Bright* to argue that the EPA used unreasonable authority under the CAA to implement the Endangerment Finding. It also asserts the 2009 Finding runs afoul of the major questions doctrine, relying on *West Virginia v. E.P.A.* The EPA offers further statutory and policy reasons for unreliable science and economic welfare considerations to inform its change in course.

But these legal rationales do not flow from the best reading of the statute. USCCB disagrees that EPA's interpretation is the best reading and respectfully requests EPA to rescind its Proposed Rule. Our concerns with the Reconsideration are founded on the Catholic Church's commitment to environmental justice and care for creation, as it is an integral component of Catholic faith. As Sacred Scripture states, reflecting on His creation, "God looked at everything he had made, and found it very good."[3] He gave us the gift of clean air and the breath of life.[4] In this same vein, Pope Francis instructed, "[l]iving our vocation to be protectors of God's handiwork is essential to a life of virtue; it is not an optional or a secondary aspect of our Christian experience."[5] Pope Leo XIV has also emphasized the importance of environmental justice "[i]n a world where the most vulnerable of our brothers and sisters are the first to suffer the devastating effects of climate change… care for creation becomes an expression of our faith and humanity."[6]

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[1] *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 FR 36,288-01 (Aug. 1, 2025).
[2] *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496-01 (Dec. 15, 2009).
[3] *Genesis* 1:31
[4] *Genesis* 2:7
[5] *Laudato Si'*, Encyclical of Pope Francis (Vatican, May 24, 2015) at § 217, available online: https://tinyurl.com/339b39wz.
[6] *Message of His Holiness Pope Leo XIV for the 10th World Day of Prayer for the Care of Creation 2025* (Vatican, Jun. 30, 2025), available online: https://tinyurl.com/us2z22fj.

Background

In 2007, the United States Supreme Court ruled in *Massachusetts v. E.P.A.*, 549 U.S. 497 (2007) ("*Massachusetts*") that the EPA has the authority to regulate GHGs as they fall under the definition of air pollutants under the CAA. Importantly, the Court's reading of the CAA authorized the EPA regulating GHGs if it determines such emissions contribute to climate change.[7] After this landmark decision, the EPA issued the 2009 Endangerment Finding, which identified six GHGs endangering public health and welfare because of their contributions to air pollution and climate change.[8] These GHGs "endanger the health and environment for future generations."[9] Beginning in 2010, the EPA began to regulate GHG emissions from motor vehicles and engines.[10]

Recently, the Supreme Court restricted the scope of the EPA's authority to regulate GHG emissions from existing power plants, relying on the major questions doctrine.[11] Under the doctrine, courts "expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance."[12]

But neither *Loper Bright* nor *West Virginia* change the ruling in *Massachusetts*, which is the foundation for the 2009 Endangerment Finding. USCCB continues to lend its support for regulating greenhouse gas emissions, including motor vehicles to combat climate change, as its effects are felt both in the United States and globally.[13] We have a moral responsibility and opportunity to reduce the impacts of climate change on our sisters and brothers around the world who are already struggling with increased frequency and severity of droughts, floods, and heat waves.[14]

The USCCB continues to advocate for policy that addresses climate change and curbs sources of greenhouse gases. The USCCB submitted previous comments in 2018 and 2023 in favor of GHG emissions regulations for light-, medium-, and heavy-duty motor vehicles. As

[7] *Massachusetts*, 549 U.S. 497, 528 (2007).
[8] *See generally Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496-01 (Dec. 15, 2009).
[9] *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496-01at 66,498-99 (Dec. 15, 2009).
[10] *Final Rule for Model Year 2012 - 2016 Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards*, 75 FR 25324 (May 7, 2010).
[11] *West Virginia v. E.P.A.*, 597 U.S. 697 (2022) ("*West Virginia*")
[12] *Id.* at 716 (quoting *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 324, (2014) ("*UARG*").
[13] A.R. Crimmins *et al*. *USGCRP, 2023: Fifth National Climate Assessment.* U.S. Global Change Research Program, Washington, DC, USA (2023) Available online: https://tinyurl.com/mttzdp7r; *See also* Hoesung Lee, *et al., Summary for Policymakers. Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change.* IPCC (2023). Available online: https://tinyurl.com/yc2ycbeu
[14] Hans-O. Pörtner, et al., *Summary for Policymakers: Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Climate Change 2022: Impacts, Adaptation and Vulnerability.* Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 3–33, available online: https://tinyurl.com/sx99d5y6

Pope Francis said, "[t]he climate is a common good belonging to all and meant for all."[15] He encouraged that lifestyle changes, combined with indispensable political decisions, can have a significant impact on combating climate change.[16] The Catholic faith calls us to protect God's creation for future generations, similar to the rationale behind the Endangerment Finding. Pope Francis warned, "[i]ntergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us."[17]

Argument

The EPA's action may be set aside if found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law."[18] Rescission of an agency rule is arbitrary and capricious under the Administrative Procedure Act "if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[19] In the Proposed Rule, the EPA completely ignores the unambiguous plain language and congressional intent of the CAA, science evidence, and adverse health impacts of climate change, establishing this Proposed Rule as arbitrary and capricious. Neither *Loper Bright* nor *West Virginia* changes this.

For the reasons set forth below, USCCB respectfully requests EPA rescind the Proposed Rule and reissue any reconsideration after reevaluating the CAA statutory framework, impacts to health and welfare, reliance interests, and reviewing public comments.

I. The best reading of Section 202(a) allows the EPA to regulate GHGs through the reasonable exercise of authority, as it did in the 2009 Endangerment Finding, even if based on global climate change concerns.

The EPA is authorized to regulate GHG emissions to address the effects of climate change, whether local, regional, or global. Routine statutory interpretation, as consistent with *Massachusetts*, demonstrates that the best reading of the statute allows EPA to regulate GHG emissions even when based on global climate change concerns.

a. The best reading of the CAA plain language renders the 2009 Endangerment Finding as a reasonable exercise of authority.

[15] *Laudato Si'*, Encyclical of Pope Francis (Vatican, May 24, 2015) at § 23, available online: https://tinyurl.com/339b39wz.
[16] *Laudate Deum*, Apostolic Exhortation of Pope Francis (Vatican, Oct. 4, 2023) at § 72, available online: https://tinyurl.com/bdcsd857.
[17] *Laudato Si'*, Encyclical of Pope Francis (Vatican, May 24, 2015) at § 159, available online: https://tinyurl.com/339b39wz.
[18] 5 U.S.C. § 706(2)(A).
[19] *Motor Vehicle Manufacturers Association of the United States, Inc. v. State Farm Mutual Automobile Insurance Company*, 463 U.S. 29, 43 (1983).

Courts utilize "every tool at their disposal to determine the best reading of the statute" to resolve statutory ambiguities.[20] However, because CAA is not silent or ambiguous here,[21] and the plain language of the statute provides the best reading of the statute.

Under the CAA, the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions.[22] Prior to initiating any regulation of emissions, the EPA must first find that emissions will "cause, contribute to, air pollution which may reasonably be anticipated to endanger the public health or welfare."[23] Section 202(a)(1) sets forth the authority of the EPA Administrator as follows:

> The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of ***any*** air pollutant from ***any*** class or classes of new motor vehicles or new motor vehicle engines, ***which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare***. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d), relating to useful life of vehicles for purposes of certification), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

The statute defines air pollution as "***any*** air pollution agent or combination of such agents, including ***any*** physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air."[24] It broadens the definition further to include "precursors," or parts/components to "the formation of any ***air*** pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.[25]

Public health is not defined in the CAA, but the EPA properly defined the term "with its most natural meaning [which is] 'the health of the public.'"[26] The statute establishes that

> "[a]ll language referring to effects on ***welfare includes, but is not limited to,*** effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and

[20] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024).
[21] *Massachusetts* holding did not rest on *Chevron* deference but the unambiguous, plain language of the statute; the dissent did, however, utilize Chevron. *Massachusetts*, 549 U.S. at 529 ("The statute is unambiguous[,]" so *Chevron* deference is not warranted.) *cf. Massachusetts*, 549 U.S. at 560 (Scalia, J. dissenting) ("the Court utterly fails to explain why [the EPA's] interpretation is incorrect, let alone so unreasonable as to be unworthy of *Chevron* deference.")
[22] 42 U.S.C. § 7601.
[23] 42 U.S.C. § 7521(a)(1).
[24] 42 U.S.C. § 7602(g).
[25] *Id.*
[26] *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496-01 at 66,510 (Dec. 15, 2009) (*citing Whitman v. American Trucking Ass'n*, 531 U.S. 457, 466 (2001)).

> hazards to transportation, ***as well as effects on economic values and on personal comfort and well-being***, whether caused by transformation, conversion, or combination with other air pollutants.[27]

This plain language reflects the explicit deference afforded to the Administrator in determining cause or contribution to air pollution and in regulating what is broadly defined as air pollution. The statute gives deference to the Administrator to regulate within "his ***judgment*** to cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."[28] The statute also qualifies "cause" or "contribute" in relation to the Administrator's judgment rather than setting any requirements for legal causation as the EPA interprets. The plain meaning of "cause" and "contribute" is sufficient when qualified with the Administrator's judgment.[29] Further, the repeated use of "any" to qualify air pollution agents, combinations of agents, substance, or matter expands the scope of the definition.[30] The statute goes even further to broaden the definition, for instance, even if a substance alone, a precursor, does not meet the definition, but has the potential to form or become an air pollutant, the Administrator still has authority to regulate such substances. "Because greenhouse gases fit well within the Act's ***capacious definition*** of 'air pollutant,' EPA has statutory authority to regulate emission of such gases from new motor vehicles."[31]

Lastly, "[a]ll language referring to effects on welfare" encompasses a wide breadth of effects to the environment and to the public.[32] The plain and sweeping text of the statute reasonably and unambiguously provides for the Administrator to regulate the six GHGs set forth in the 2009 Endangerment Finding.

b. **Congress clearly intended the CAA to encompass regulating emissions even if based on global concerns as the realities of climate change inextricably link global, regional, and local air quality.**

"It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme."[33] The plain language analysis is further supported in the context of congressional intent and purpose.

There were four primary purposes the CAA's enactment in 1970: "(1) to protect and enhance the quality of the Nation's air resources to promote public health and welfare; (2) to initiate and accelerate a national research and development program for air pollution prevention and control; (3) to provide technical and financial assistance to state and local

[27] 42 U.S.C. § 7602(h) (emphasis added).
[28] 42 U.S.C. § 7521(a)(1) (emphasis added).
[29] *See Cause*, BLACK'S LAW DICTIONARY (12th ed. 2024) ("[s]omething that produces an effect or result"); *Contribute*, MERRIAM-WEBSTER DICTIONARY ("to play a significant part in making something happen").
[30] *Massachusetts*, 549 U.S. 497, 529 (2007).
[31] *Id.* at 500.
[32] 42 U.S.C. § 7602(h).
[33] *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 809 (1989).

governments; and (4) to encourage regional air pollution prevention and control programs."[34] The legislative history shows that Congress intended the statute to be "technology forcing."[35] Congress's original intent was to enact a comprehensive approach to combating the dangers of air pollution (from urbanization, industry, and increasing use of motor vehicles) to public health and welfare.[36] Because of this intentional, comprehensive approach set forth in the findings and purpose, Congress intentionally utilized broad statutory language and a cooperative federalism statutory framework.

First, Congress intended the statutory language to be flexible. The Supreme Court recognized the broad statutory language as crucial to understanding Congress's intent and for the statute's functionality, as changing circumstances and scientific developments would "render the Clean Air Act obsolete."[37] Instead, using broad language "reflect[ed] an intentional effort to confer the flexibility necessary to forestall such obsolescence."[38] The EPA cannot identify "any congressional action that conflicts in any way with the regulation of greenhouse gases from new motor vehicles."[39] The CAA explicitly delegated to the Administrator's judgment, and this delegation is consistent with Congress's intent the statue be broad, flexible, and comprehensive.[40] In fact, the Court recognized that since 1998, the EPA has affirmed such authority to regulate and has never disavowed it.[41]

Second, the statute's use of a cooperative federalism model reflects the understanding that while states and localities hold the primary responsibility for conditions and capabilities, air pollution can cross boundaries and requires federal coordination.[42] Notably, the first finding listed in the CAA states, "that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally ***cross the boundary lines of local jurisdictions and often extend into two or more States***."[43] This acknowledges that the scope of the CAA can extend beyond just local and regional areas.

Importantly, Congress also found "Federal financial ***assistance and leadership*** is ***essential*** for the development of cooperative Federal, State, regional, and local programs ***to prevent and control*** air pollution.[44] This emphasis on cooperative federalism demonstrates that Congress did not intend for the statute to merely apply to local and regional air pollution, as the Proposed Rule offers now. Rather, the stress on federal coordination efforts and the

[34] 42 U.S.C. § 7401(b)(1)-(4).
[35] *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457, 490 (2001) (Breyer, J. concurring in part and concurring in judgment).
[36] 42 U.S.C. § 7401.
[37] *Massachusetts*, 549 U.S. 497, 532 (2007).
[38] *Id.* at 532.
[39] *Id.* at 531.
[40] *Loper Bright Enterprises. v. Raimondo*, 603 U.S. 369, 395 (2024) (stating "[w]hen the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing court under the APA is, as always, to independently interpret the statute and effectuate the will of Congress subject to constitutional limits.")
[41] *Massachusetts*, 549 U.S. 497, 531 (2007).
[42] *State v. United States Environmental Protection Agency*, 983 F.3d 826, 836 (5th Cir. 2020).
[43] 42 U.S.C. § 7401(a)(1) (emphasis added).
[44] *Id.* (emphasis added).

recognition that air pollution often has no boundaries supports regulation based on national and global concerns within the framework of the statute's structure. Further, it functions as Congress intended to allow for changing circumstances and scientific developments, as recent events attributed to climate change prove to be beyond local in impact (i.e. increase in wildfires).

By a routine statutory interpretation analysis, consistent with that in *Massachusetts*, and examining Congressional intent, the EPA was reasonably exercised its authority issuing the 2009 Endangerment Finding. The plain language and congressional intent are clear, and therefore the best reading of the statute.

II. The Endangerment Finding does not implicate the major questions doctrine because it was already considered in *Massachusetts*, has withstood subsequent judicial challenges, and *West Virginia* is not persuasive here.

The Proposed Rule zeroes in on *West Virginia*, but neglects *Massachusetts* still as good law and fails to consider additional case law. But *West Virginia* is distinguishable and has less bearing on the Proposed Rule at hand.

a. *Massachusetts* already rejected EPA's major questions doctrine concerns with regulating emissions of motor vehicles and engines.

In its Proposed Rule, the EPA "propose[s] that the major questions doctrine applies and precludes the EPA from asserting authority to regulate in response to global climate change concerns under CAA section 202(a)."[45] However, this proposal is misguided and misapplies precedent. The reasoning the EPA relies upon to reach this conclusion was previously considered and rejected by the Supreme Court *Massachusetts*.

The major questions doctrine establishes that questions of major political or economic significance may not be delegated by Congress to executive agencies absent sufficiently clear and explicit authorization, originally articulated in *Brown & Williamson*.[46] In essence, Congress should not be presumed to have deferred to agencies on questions of great significance more properly resolved by the legislature.[47] In the words of Justice Scalia, "Congress[] does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions-it does not, one might say, hide elephants in mouseholes."[48] In *Brown & Williamson*, the Court decided that, when interpreting regulations, it "must be guided to a degree by common sense as to the manner in which Congress is likely to delegate a policy decision of such economic and political magnitude to an administrative agency."[49]

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[45] *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 FR 36,288-01 at 36,299 (Aug. 1, 2025).
[46] *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 161 (2000).
[47] *Coal. for Responsible Regulation, Inc. v. E.P.A.*, 09-1322, 2012 WL 6621785, at *9 (D.C. Cir. Dec. 20, 2012) (Brown, J. dissenting).
[48] *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457, 468 (2001).
[49] *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 121 (2000).

In *Massachusetts*, the Supreme Court applied a *proto*-major question analysis to the regulation at issue. The EPA had argued that "[b]ecause of th[e] political history of [air regulation], and because imposing emission limitations on greenhouse gases would have even greater economic and political repercussions than regulating tobacco, [the] EPA was persuaded that it lacked the power to [regulate clean air based on concentration of gases in the *world's* atmosphere]."[50] But the Court was not convinced. In rejecting this argument and the EPA's reliance on *Brown & Williamson*, the Supreme Court stated that "there is nothing counterintuitive to the notion that EPA can curtail the emission of substances that are putting the global climate out of kilter."[51] The Supreme Court said that the statutory text forecloses the EPA's reading and reliance on *Brown & Williamson*. The Court further explained the "reliance on *Brown & Williamson* to support that argument was misplaced because unlike the ban on tobacco products at issue in that case, 'EPA jurisdiction would lead to no such extreme measures.'"[52] The Court held that the statute was unambiguous,[53] and, while the "Congresses that drafted § 202(a)(1) might not have appreciated the possibility that burning fossil fuels could lead to global warming, [Congress] did understand that without regulatory flexibility, changing circumstances and scientific developments would soon render the Clean Air Act obsolete."[54]

The Court's examination of *Brown & Williamson* is telling. It rejected the EPA's reliance on *Brown & Williamson*, declining to entertain the major questions doctrine for regulating GHG emissions under CAA section 202(a)(1).[55] The Court was convinced on the face of the statute's unambiguous language, which prevails as the best reading of the statute.

b. *Massachusetts* and The Endangerment Finding withstood subsequent judicial challenge with respect to the EPA regulating motor vehicle emissions.

After the Endangerment Finding was issued, the Supreme Court considered *Utility Air Regulator Group v. E.P.A.* which restricted the EPA's authority in regulating stationary sources (i.e. factories or power plants) subject to "Prevention of Significant Deterioration" (PSD) provisions in the CAA.[56]

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[50] *Massachusetts*, 549 U.S. 497, 512 (2007).
[51] *Id.* at 531.
[52] *Id*.
[53] *Id.* at 532 n.26.
[54] *Id.* at 532.
[55] *Coal. for Responsible Regulation, Inc. v. E.P.A.*, 09-1322, 2012 WL 6621785, at *1 (D.C. Cir. Dec. 20, 2012) (Sentelle, CJ, concurring in denial of rehearing en banc) ("the Court [in *Massachusetts*] expressly held that the Clean Air Act's "sweeping definition of air pollutant" unambiguously includes greenhouse gases." Moreover, it rebuffed EPA's attempt to use post enactment congressional actions and deliberations to obscure the meaning of an otherwise-unambiguous statute, and found EPA's reliance on *Brown & Williamson* similarly misplaced,) (Cleaned up); *see also Util. Air Regulatory Group v. E.P.A.*, 573 U.S. 302 (2014) (leaving undisturbed the Court of Appeal's opinion that the *Endangerment Finding* was not arbitrary or capricious.)
[56] *See generally*, *UARG*, 573 U.S. 302 (2014).

This case originated as a challenge to the PSD, Title V, and Endangerment Finding. In this case, the EPA used the *Massachusetts* holding and Endangerment Finding to regulate stationary sources subject to PSD and Title V permitting programs. The Court of Appeals for the DC Circuit upheld the EPA's regulations for PSF and Title V as valid grants of authority under *Chevron*, and upheld the Endangerment Finding based on the plain reading of the statute.[57] While the Supreme Court disagreed with the EPA's extending its regulatory authority over stationary sources solely on their potential to emit greenhouse gases, it affirmed the DC Circuit Court's ruling that the Endangerment Finding was not arbitrary or capricious without relying on *Chevron* deference. The Court found the EPA's interpretation unreasonable vis-a-vis the PSD and Title V programs because they would lead to "an enormous and transformative expansion of the EPA's regulatory authority without clear congressional authorization," relying on *Brown & Williamson*.[58]

Importantly, the Court distinguished the EPA's regulation under PSD and Title V provisions from that of the Act-wide definitions the Act-wide interpreted in *Massachusetts*. definitions *regulated* air pollutants, a narrower and context-appropriate definition supported by as interpreted in *Massachusetts*. PSD and Title V are limited to *regulated* air pollutants, a narrower and context-appropriate definition. "Although these limitations are nowhere to be found in the Act-wide definition, in each instance EPA has concluded—as it has in the PSD and Title V context—that the statute is not using 'air pollutant' in *Massachusetts*' broad sense to mean any airborne substance whatsoever supported by prior agency interpretations of the statute."[59] Discussing how the EPA has "inferred statutory context" in certain areas of the CAA, the Court listed specific examples of limitations more akin to PSD and Title V regulated air pollutants. The distinction *UARG* provides is that "*Massachusetts* does not foreclose the Agency's use of statutory context to infer that certain of the Act's provisions use "air pollutant" to denote not every conceivable airborne substance, but only those that may sensibly be encompassed within the particular regulatory program."[60] To the Court, these interpretations specific to PSD and Title V (and other examples relating to stationary sources) were appropriate: "[i]t is plain as day that the Act does not envision an elaborate, burdensome permitting process for major emitters of steam, oxygen, or other harmless airborne substances. It takes some cheek for EPA to insist that it cannot possibly give 'air pollutant' a reasonable, context-appropriate meaning in the PSD and Title V contexts when it has been doing precisely that for decades."[61]

Despite restricting the EPA's authority in the PSD and Title V context, the Court preserved the analysis of *Massachusetts*: the "EPA must 'ground its reasons for action or inaction in the statute,'"[62] In *Massachusetts*, the "EPA's inaction with regard to Title II was not sufficiently grounded in the statute….because nothing in the Act suggested that

[57] *Coal. for Responsible Regulation, Inc. v. E.P.A.*, 684 F.3d 102, 116-27 (D.C. Cir. 2012), aff'd in part, rev'd in part sub nom. *UARG*, 573 U.S. 302 (2014), and amended sub nom. *Coal. for Responsible Regulation, Inc. v. Envtl. Prot. Agency*, 606 Fed. Appx. 6 (D.C. Cir. 2015).
[58] *UARG*, 573 U.S. 302, 306 (2014) (*citing FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000))
[59] *Id.* at 318.
[60] *Id.* at 319.
[61] *Id.* at 317.
[62] *Id.* at 318.

regulating greenhouse gases under that Title would conflict with the statutory design***. Title II would not compel EPA to regulate in any way that would be 'extreme,' 'counterintuitive,' or contrary to 'common sense***.'"[63] The Court did not see the same expansion in regulatory authority, rather the text "[a]t most, it would require EPA to take the ***modest*** step of adding greenhouse-gas standards to the roster of new-motor-vehicle emission regulations."[64] The Court's distinction and preservation of *Massachusetts* thus maintain the EPA's reasonable authority in issuing the Endangerment Finding.

c. West Virginia is not on point because it only limits a mode of regulating power plants that was intended to implement a "generation shift."

The Court's examination of *Brown & Williamson* in *Massachusetts* and *UARG* is informative and can be read now with *West Virginia*. Understanding the *West Virginia* decision begins with the macro-level statutory scheme of the CAA. It consists of three programs to control air pollution from stationary sources (such as power plants): New Source Performance Standards, National Ambient Air Quality Standards (NAAQS), and Hazardous Air Pollutants (HAP).[65] At issue in *West Virginia* was the New Source Performance Standards set in Section 111, within which the EPA sets federal standards of performance for new sources, and once established, then addresses emissions of the same pollutant by existing sources (and only if they are not already regulated by NAAQS or HAP).[66] A standard of performance "reflects the degree of emission limitation achievable through the application of the best system of emission reduction" (BSER).[67] The two regulations at issue relied in part on the 2009 Endangerment Finding, incorporating a summary of the Finding's impacts to public health and welfare.[68]

The question of *West Virginia* was "whether a ***'system of emission reduction' can consist of generation-shifting measures***.'"[69] The Court held no and restricted the EPA's authority in using this specific regulatory mechanism to effectuate a "generation shifting" from higher-emitting to lower-emitting producers of energy.[70] When the EPA set stricter BSERs for the existing coal-fired and natural-gas-fired power plants, it aimed to "implement a sector-wide shift in electricity from coal to natural gas and renewables."[71] This implicated the major questions doctrine, as the Court did not see clear congressional authorization for the EPA to "substantially restructure the American energy market," an action of vast economic and political significance.[72]

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[63] *UARG*, 573 U.S. 302, 318 (2014) (emphasis added).
[64] *Id.* at 318–19 (emphasis added).
[65] *West Virginia*, 597 U.S. 697, 707 (2022) (citing Clean Air Amendments of 1970, 84 Stat. 1676, 42 U. S. C. § 7401 et seq.).
[66] *Id.* at 709.
[67] *Id.* at 707.
[68] *Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units*, 80 FR 64,510-01 at 64,517 (Oct. 23, 2015).
[69] *West Virginia*, 597 U.S. 697, 716 (2022).
[70] *Id.* at 716.
[71] *Id.* at 714.
[72] *Id.* at 724.

But *West Virginia* did not touch the Endangerment Finding itself, overrule the statutory interpretation of *Massachusetts*, or alter the *Massachusetts* evaluation of *Brown & Williamson*. Indeed, the regulations at issue relied in part on the 2009 Finding but did so for 1) a different section of the CAA applying to new and existing power plants, and 2) using a regulatory *mechanism* that exceeded the EPA's authority. West Virginia considered the same arguments that EPA relied on in *Massachusetts*, citing *Brown & Williamson*[73] and the major questions doctrine. Unlike *West Virginia*, *Massachusetts* and the Endangerment Finding afford *regulation*, not a seismic market shift or an attempted shift in the transportation market from motor vehicles to another mode of transportation.

At bottom, the 2009 Endangerment Finding and *Massachusetts* is about pollution control and regulation. Both hardly compare in impact to that of the generation-shift of the entire American energy market as issue in *West Virginia*. The system of emission reduction here is not of "generation-shifting measures." Emissions regulations still allow for new gas vehicles but with reduced emissions. The regulatory mechanism, emissions standards, does not effectively overhaul the marketplace or eliminate an energy source as in *West Virginia*. If it had, the Court in Massachusetts would have agreed with the EPA's reliance on *Brown & Williamson*.

Moreover, the EPA proffered an alternative argument in *Massachusetts*, that even if it did have the authority to regulate emissions, ***it would decline to do so because regulation would conflict with other administration priorities.***[74] Perhaps this is the most telling – that when administrative priorities change, so does an agency's propensity and incentive to act pursuant to certain statutory authority. But the Court warned the EPA: "the use of the word 'judgment' is not a roving license to ignore the statutory text. It is but a direction to exercise discretion within defined statutory limits."[75] The Court continued, "[u]nder the clear terms of the Clean Air Act, EPA can avoid taking further action only if it determines that greenhouse gases do not contribute to climate change …. To the extent that this constrains agency discretion to pursue other priorities of the Administrator or the President, ***this is the congressional design***."[76] Though the Court did not evaluate the EPA's policy judgments it asserted, it still saw "it is evident they have nothing to do with whether greenhouse gas emissions contribute to climate change."[77]

This is precisely what is happening here with the Proposed Rule – it is using the judgment afforded the Administrator to ignore the statutory text and congressional intent (under the guise of a "better" interpretation effectively evading the EPA's statutory obligation to regulate emissions), which is arbitrary and capricious.

[73] *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000).
[74] *Massachusetts*, 549 U.S. 497, 528 (2007).
[75] *Id. at* 533 (2007) (emphasis added).
[76] *Id.* (emphasis added).
[77] *Id.* (emphasis added).

III. The Endangerment Finding rests on sound science and the greater harm to the public is that of health and well-being, not consumer prices and choice.

Despite unambiguous plain language and clear and unequivocal intent from Congress, the EPA now argues in the Proposed Rule that the CAA does not authorize the agency to make the Endangerment Finding if the resulting regulations would be "futile as a means to address the identified dangers."[78] But the Endangerment Finding reasonably relied upon well-founded scientific record. In fact, the scientific record today supports the statutory standard for regulation even more than it did in 2009. The EPA is further misguided in arguing that the harm to public health and welfare should be balanced with economic consumer interests. These two additional statutory and policy rationales for repealing emissions standards are not persuasive.

a. The science behind the 2009 Endangerment Finding is still sound.

The science informing the 2009 Endangerment Finding is sound. The 2009 Finding is based on the body of compelling scientific evidence from major assessments by the U.S. Global Climate Research Program (USGCRP), the Intergovernmental Panel on Climate Change (IPCC), and the National Research Council (NRC). The 2009 Endangerment Finding determined that as a result of increasing global temperatures attributed to climate change, there are indirect health risks driven by "(1) more frequent heat waves; (2) air quality effects, including increased formation of ozone, and (3) broader societal impacts related to increased frequency and severity of certain extreme weather events."[79] The Administrator also found that GHG emissions could lead to welfare effects related to "(1) food production and agriculture; (2) forestry; (3) water resources; (4) sea level rise; and (5) energy infrastructure and settlements, although the evidence was uncertain for several categories that may see near-term benefits."[80] This is exactly what local communities, states, the US, and the world are experiencing right now.

If anything, science supports the Endangerment Finding even more than it did in 2009. We are seeing evidence supporting this body of science play out now in real time. Last year was the hottest year on record followed by 2023. When the Finding was published, 2009 was the second hottest year on record after 2005. Now neither of those years are in the top ten.[81] The science is irrefutable that human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming.[82] By the EPA's own data, as of 2022, transportation followed by electricity generation, is the top source of U.S.

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[78] *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 FR 36,288-01 at 36,312 (Aug. 1, 2025).
[79] *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496-01 at 66,525 (Dec. 15, 2009).
[80] *Id.* at 66,531-35.
[81] *Global Temperature, Vital Signs*. NASA (2025), available at: https://tinyurl.com/47z563mh.
[82] Hoesung Lee, *et al.*, *Summary for Policymakers. Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. IPCC (2023). Available online: https://tinyurl.com/yc2ycbeu

emissions.[83] The science demonstrates clear evidence that these emissions cause extreme temperatures and weather events.[84] The sheer costs of responding to disasters must also be considered. According to the U.S. Fifth National Climate Assessment, the U.S. experiences a $1 billion disaster every three weeks.[85]

Even states with lower emissions contributions or lower levels of urbanization still experience extreme weather and natural disasters.[86] The rising air temperatures and impacts of climate change do not necessarily discriminate against the geographic location in which air pollutants were first emitted, as air and weather cannot be contained. Simply put, the impacts of GHG emissions and the subsequent extreme temperatures are felt everywhere.
The EPA now rests its repeal on allegations that this body of science acknowledged uncertainties in the impacts of climate changes and relied on "unduly pessimistic"[87] data for global temperature, extreme weather events, and adverse health impact predictions.

While uncertain in the scope of its effects, climate change is a certain reality now and in the future.[88] Nor can EPA avoid its statutory obligation by noting the uncertainty surrounding various features of climate change and concluding that it would therefore be better not to regulate at this time.[89]

b. **Adverse Impacts to Health and Well-Being Outweigh Economic Considerations.**

Finally, and most importantly, the EPA's assertion that the 2009 Endangerment Finding's impact on consumer prices and choice is wrongly prioritized over considerations of human health and well-being. The CAA statutory language qualifies the Administrator's regulatory power to be related to or in anticipation of endangering the public health or welfare. Again, the statute broadly construes:

> [a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, ***as well as effects on economic values and on personal***

[83] *Climate Change Indicators: Greenhouse Gases*. EPA (Aug. 1, 2025) Available online: https://tinyurl.com/p974rp5h
[84] *Extreme Weather and Climate Change*. NASA (Oct 23, 2024). Available online: https://tinyurl.com/5fzt7mts
[85] A.R. Crimmins *et al*. *USGCRP, 2023: Fifth National Climate Assessment.* U.S. Global Change Research Program, Washington, DC, USA (2023) Available online: https://tinyurl.com/mttzdp7r
[86] After Disaster Hits, Rural Communities Face Unique Challenges in Recovering. GAO (Jan. 28, 2025) Available online: https://tinyurl.com/44jkd4m6; see also *Extreme Heat & Public Health Report*, Southern California Association of Governments (Sept. 30, 2020), Available online: https://tinyurl.com/bde76e9w
[87] *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 FR 36,288-01 at 36,308 (Aug. 1, 2025) (*citing Climate Working Group: A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate*, Department of Energy (July 23, 2025) available online: https://tinyurl.com/2p9wa5nk.
[88] *Climate Change: Scientific Consensus*. NASA (Oct 21, 2024) Available online: https://tinyurl.com/3pke5ctf
[89] *Massachusetts*, 549 U.S. 497, 534 (2007).

> ***comfort and well-being***, whether caused by transformation, conversion, or combination with other air pollutants.[90]

In tandem, looking at Congress's intent, statutory purpose, and legislative history of the original 1970 Act, it deliberately prioritized public health protection over economic considerations. Courts have recognized Congress's intent to address emerging environmental problems with strict health protection standards. In *Union Elec. Co. v. EPA*, the Supreme Court determined that Congress deliberately chose to prioritize health protection over economic feasibility, noting in the CAA legislative history that Senator Muskie, the Senate bill manager, explained "The first responsibility of Congress is not the making of technological or economic judgments or even to be limited by what is or appears to be technologically or economically feasible. Our responsibility is to establish what the public interest requires to protect the health of persons."[91]

While Congress intended the CAA to consider both economic values and personal comfort and well-being, it placed an emphasis on the latter. Yet the EPA argues the more compelling arguments are for incentivizing consumer choices, prices of vehicles, and economic welfare. The consequences of this action are serious, and the adverse health impacts both now and in the future outweigh any detriment to economic values.

Climate change is already impacting vital human conditions such as food and water security, livelihoods, air quality, and exposure to vector borne diseases.[92] Low-income communities and communities of color in the United States often lack the resources and infrastructure to withstand and recover from climate events.[93] Their vulnerabilities are compounded by other social inequities such as access to secure housing, food, and healthcare.[94]

Climate change is and will impact the ability of children, especially girls, and the unborn to survive and thrive. Children aged ten or younger in the year 2020 are projected to experience a nearly four-fold increase in extreme weather events under 1.5° C of global warming by 2100, and a five-fold increase under 3° C warming.[95] Extreme weather events disrupt access to education, food security, water, and safety. The Catholic episcopal conferences and councils of Africa, Latin America, and Asia wrote jointly before the November UNFCCC COP30 gathering, "The science is clear: we must limit global warming to 1.5° C to avoid catastrophic effects. We must never abandon this goal. It is the Global South and future generations who are already suffering the consequences.[96] And all the

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[90] 42 U.S.C. § 7602(h) (emphasis added).
[91] *Union Elec. Co. v. E.P.A.*, 427 U.S. 246, 259 (1976).
[92] A.R. Crimmins *et al*. *USGCRP, 2023: Fifth National Climate Assessment.* U.S. Global Change Research Program, Washington, DC, USA (2023) Available online: https://tinyurl.com/mttzdp7r
[93] *Id.*
[94] *Id.*
[95] Hoesung Lee, *et al.*, *Summary for Policymakers. Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change.* IPCC (2023). Available online: https://tinyurl.com/yc2ycbeu
[96] *A Message from the Catholic Episcopal Conferences and Councils of Africa, Asia, Latin America and the*

examples of climate change effects above are encompassed by the full statutory definition of welfare – "climate events have and continue to impact soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation."[97] The very infrastructure and natural resources our food production relies upon is at stake, cancelling out the EPA's argument now for unregulated emissions to assist in food production. If there are no natural resources in the first place, there is no way to increase production.

Even still, the EPA has not analyzed the full extent of the economic impacts it relies upon, as it has yet to account for the investments companies have already made in reliance on emissions regulations – companies have already bore the brunt of costs and will continue for at least a few more years, as regulations impact the research and development phases instead of manufacturing.[98]

Conclusion

In summary, the EPA attempts to manipulate the unambiguous plain language and congressional intent of the CAA, is distracted by the major questions doctrine from unpersuasive precedent in *West Virginia*, and ignores science evidence and adverse health impacts of climate change, all of which is demonstrably arbitrary and capricious. The EPA now aims to rewind any progress the nation has made in combating the dangerous effects of climate change from new motor vehicles and engines emitting GHG. Consistent with Sacred Scripture and Church teaching, USCCB opposes this Proposed Rule, and respectfully requests the EPA rescind it.

Respectfully submitted,

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Carribean on the Occasion of COP30: A Call for climate justice and our common home (June 12, 2025). Available online: https://tinyurl.com/2k3v3x6v

[97] 42 U.S.C. § 7602(h).

[98] *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 FR 36,288-01 at 36,297 (Aug. 1, 2025).