



CONSENT CALENDAR

July 28, 2026

TO: Honorable Members of the City Council

FROM: Mayor Adena Ishii (Author), Councilmember Lunaparra (Co-Sponsor),
Councilmember Tregub (Co-Sponsor)

SUBJECT: Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle
Greenhouse Gas Emissions Standards Under the Clean Air Act

RECOMMENDATION

Adopt a Resolution authorizing the City Attorney's Office to join the Sabin Center for Climate Change Law at Columbia University's amicus brief in support of the petition for review of the U.S. Environmental Protection Agency's (EPA's) rescission of the greenhouse gas endangerment finding and motor vehicle greenhouse gas emissions standards under the Clean Air Act, 91 Fed. Reg. 7686 (Feb. 18, 2026), subject to City Attorney review and approval of the brief.

BACKGROUND

EPA issued the endangerment finding in 2009 pursuant to its authority under Section 202(a)(1) of the Clean Air Act, which requires it to regulate emissions from new motor vehicles that "cause, or contribute to," dangerous air pollution. At that time, EPA concluded that GHG pollution endangers human health and contributes to climate change and therefore requires federal regulation, providing the scientific and legal basis for regulating GHG emissions both from motor vehicle tailpipe emissions and from other sources, like powerplants.

In February 2026, EPA rescinded the endangerment finding. In its decision to reverse course, EPA now argues that the agency lacks statutory authority to regulate GHG emissions from new motor vehicles. EPA also now contends that GHG emissions from vehicles do not contribute to "air pollution," that any regulation of those emissions would not "materially affect" global climate change, that regulation of GHG emissions is a "major question" requiring clearer Congressional approval, and that regulating GHG emissions is "costly and futile."

Subsequently, states, cities, and nonprofit groups petitioned the United States Court of Appeals for the D.C. Circuit to review EPA's decision to rescind the endangerment finding—*American Public Health Association, et al. v. EPA, et al.*, Docket No. 26-01037 (D.C. Cir. Feb 18, 2026). The petitioners include a coalition of states joined by a dozen local governments, as well as a

separate group of nonprofit petitioners including the American Public Health Association, Earthjustice, Environmental Defense Fund, Sierra Club, and Union of Concerned Scientists. Another separate coalition of states has intervened in support of the EPA's rescission decision.

The Sabin Center for Climate Change Law plans to file a brief supporting the petitioners on behalf of local governments and the United States Conference of Mayors, National League of Cities, Climate Mayors, and certain municipalities. The brief will provide the local government perspective on EPA's rescission of the endangerment finding.

The court has yet to set a schedule for merits briefing; however, amici anticipate a filing deadline in late July. While the brief has not yet been drafted, initial conversations with attorneys at the Sabin Center indicate that the brief will describe the climate impacts that cities are experiencing and examples of the actions being taken in response; discuss the ways that cities have acted in reliance on a shared understanding that the Clean Air Act clearly directed EPA to regulate greenhouse gases; highlight the increased costs to cities that will come from EPA's rescission; and demonstrate—contrary to EPA's false assertion that tailpipe emissions are too small to justify federal regulation—that cities have long known that incremental action is a critical and effective strategy to address climate change.

FINANCIAL IMPLICATIONS

Minimal staff time to review the briefing and track the litigation.

ENVIRONMENTAL SUSTAINABILITY

The rescission of the 2009 endangerment finding threatens the environment in Berkeley and around the world; a favorable decision by the Court would protect the environment.

CONTACT PERSON

Mayor Adena Ishii
510-981-7100

Attachment: A: Resolution

Attachment B: September 16, 2025 Comment Letter in Rulemaking Docket No.: EPA-HQ-OAR-2025-0194; FRL-12715-01-OAR

RESOLUTION NO. ##,###-N.S.

WHEREAS, in 2009 the U.S. Environmental Protection Agency (EPA) found that greenhouse gas emissions endanger human health and contribute to the dangerous buildup of climate pollution in the atmosphere and therefore require federal regulation under Section 202 of the Clean Air Act (the Endangerment Finding); and

WHEREAS, the Endangerment Finding provided the legal and scientific basis for EPA to regulate greenhouse gas emissions from motor vehicles and other sources, like power plants, and thereby reduce dangerous air pollution that exacerbates the climate crisis; and

WHEREAS, the Endangerment Finding was based on a thorough examination of the scientific evidence of climate change and upheld by the U.S. Court of Appeals for the D.C. Circuit in 2012 in *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102 (D.C. Cir. 2012); and

WHEREAS, in 2009 the City of Berkeley adopted a Climate Action Plan to reach the voter-approved goal of reducing the City's greenhouse gas emissions by 80% below 2000 levels in 2050, in 2018 it adopted a resolution establishing the goal of becoming a Fossil Fuel-Free City, and 2021 it adopted a resolution committing the City to the C40 Race to Zero Campaign, including a commitment to reaching net-zero emissions in 2045 or sooner; and

WHEREAS, the City lacks the authority to set greenhouse gas standards for major sectors such as transportation; and

WHEREAS, the City is already experiencing the cascading harms of climate change, such as rising seas, flooding, extreme heat, wildfire, and worsening air quality, which burden the most vulnerable in our community and necessitate a tremendous dedication of public funds towards infrastructure retrofits, adaptation measures, and response costs; and

WHEREAS, on February 18, 2026 the EPA rescinded the Endangerment Finding and motor vehicle greenhouse gas emissions standards (91 Fed. Reg. 7686 (Feb. 18, 2026), in an unfounded abdication of its statutory authority that will negatively impact the City by exacerbating the climate crisis as explained by the City in its public comment on the rulemaking; and

WHEREAS, a group of states, cities, and nonprofit groups petitioned the U.S. Court of Appeals for the D.C. Circuit to review the EPA's decision to rescind the endangerment finding; and

WHEREAS, the Sabin Center for Climate Change Law represents the interests of local governments including the United States Conference of Mayors, the National League of Cities,

and Climate Mayors and plans to submit an amicus brief in support of the petitioners that explains the negative impacts EPA's decision will have on cities such as the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Attorney is authorized to sign onto the Sabin Center for Climate Change Law's amicus brief supporting the petitioners in *American Public Health Association, et al. v. EPA, et al.*, Docket No. 26-01037 (D.C. Cir. Feb 18, 2026), subject to City Attorney review.



September 16, 2025

U.S. Environmental Protection Agency 1200
Pennsylvania Avenue, NW Washington, DC
20460

VIA ELECTRONIC SUBMISSION

Subject: Proposed Rule, Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, 90 Fed. Reg. 36,288 (Aug. 1, 2025)

Docket No.: EPA–HQ–OAR–2025–0194; FRL–12715–01–OAR

To Whom It May Concern:

On behalf of the City of Berkeley, I write to submit this comment letter in strong opposition to EPA’s proposal to reconsider or rescind the Endangerment Finding for greenhouse gases (GHGs) and to eliminate federal GHG standards for motor vehicles. As Mayor, I work to protect the health, safety, and welfare of our residents. Rolling back these foundational protections will directly endanger our community, increase costs, and undermine decades of local planning and investment.

1. Local governments like Berkeley are on the front lines of climate impacts.

Berkeley is already experiencing the cascading harms of climate change – rising seas, flooding, extreme heat, wildfire, and worsening air quality – all of which are tied to GHG emissions from vehicles and other sources.

The impacts of climate change place heavy fiscal and social burdens on our city. The City of Berkeley 2024 Local Hazard Mitigation Plan¹ documents many examples, including:

- **Sea Level Rise and Groundwater:** The San Francisco Bay has already risen eight inches since 1900, and projections show up to four feet of sea-level rise likely by 2100.² At just two feet of rise, Berkeley’s shoreline will face permanent inundation, including portions of César E. Chávez Park, University Avenue, and the McLaughlin Eastshore State Seashore. As sea levels rise, more emergent groundwater is projected. Emergent groundwater can damage roads and add to surface flooding, especially during rain

¹ City of Berkeley 2024 Local Hazard Mitigation Plan (City of Berkeley, March 18, 2025) <https://berkeleyca.gov/sites/default/files/documents/Final%202024%20LHMP%20SENT%20TO%20FEMA%20NOVEMBER%2027.pdf>

² California’s Fourth Climate Change Assessment San Francisco Bay Area Region Report (State of California, 2018) https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf

events. Rising groundwater can also carry buried industrial toxins. Rising sea and groundwater particularly impacts West Berkeley, where residents already have higher incidents of hospitalization due to asthma and experience poorer air quality.

- **Direct Costs:** Sea-level rise is projected to impose \$3 million in repair costs by 2050 and over \$17 million by 2100 at the Berkeley Marina alone, not including \$12 million in non-market losses such as degraded habitat and recreation. Adaptation measures to protect this critical infrastructure are estimated at \$11 million by 2050.
- **Stormwater and Flooding:** Berkeley's storm drain system – 93 miles of pipelines, much of it over 90 years old – is undersized and deteriorating. It was designed for a “10-year storm,” yet atmospheric river events in recent years have repeatedly overwhelmed the system, flooding neighborhoods like Southwest Berkeley. The City of Berkeley incurred \$364,847 in response costs during the winter storms and mudslide of January-March 2023 alone.

An increase in extreme weather events will be associated with commensurate increases in response costs. The City is currently investing \$1.9 million in a Stormwater Master Plan to address system-wide deficiencies, but the costs of retrofitting infrastructure escalate with every year that climate change accelerates.

- **Extreme Heat and Air Quality:** Berkeley's low-income neighborhoods in the flatlands are particularly vulnerable to extreme heat due to the urban heat island effect. Increased vehicle emissions worsen smog and particulate pollution, exacerbating asthma rates that are already disproportionately high in West Berkeley.
- **Wildfire:** Climate change is resulting in longer, drier summers leading to wildfires of greater frequency and duration. Increased drought conditions cause fuels to become extremely dry and more fire prone. Additionally, climate change causes more frequent bouts of extreme weather, including low humidity and high winds associated with fire weather. Wildland-Urban Interface (WUI) fires are the primary wildfire concern in Berkeley. However, the City of Berkeley also owns three resident camps outside the city limits, including Berkeley Tuolumne Camp, which was destroyed by the Rim Fire in August 2013. Rebuilding Tuolumne Camp cost \$54.7 million; it reopened in 2022.
- **Equity Impacts:** Flooding, heat, and poor air disproportionately affect Berkeley's disadvantaged communities – those least equipped to adapt. West and South Berkeley face the brunt of storm drain failures and are also home to many low-income families and communities of color.

Rolling back the Endangerment Finding and vehicle GHG standards would undermine our ability to protect residents from these escalating harms.

2. The Endangerment Finding is grounded in sound science.

EPA's 2009 Endangerment Finding was based on an overwhelming body of peer-reviewed science, which has only grown stronger. The 2023 Fifth National Climate Assessment confirms what our City has already documented: urban infrastructure designed for 20th-century conditions is failing under today's climate stresses. Berkeley's Local Hazard Mitigation Plan provides site-specific evidence that GHG emissions – including from vehicles – are directly

linked to worsening local hazards, from flooding to heat to air quality.³

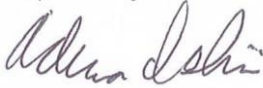
3. Rescinding vehicle GHG standards would leave Berkeley powerless to address transportation emissions.

Transportation is the largest source of GHGs nationally and locally. In Berkeley, transportation routinely accounts for over half of the community's GHG emissions; transportation was responsible for 58% of Berkeley's GHG emissions in 2023.⁴ Despite the outsized role of transportation emissions, under Section 209 of the Clean Air Act, cities like Berkeley cannot set their own vehicle emissions standards. If EPA rescinds the Endangerment Finding and federal vehicle standards, local governments will be left without tools to address this dominant source of emissions, despite shouldering the overwhelming costs of its impacts.

Conclusion

The City of Berkeley strongly urges EPA to maintain the Endangerment Finding and federal vehicle GHG standards. Weakening them would increase local flooding, infrastructure damage, health burdens, and fiscal strain, particularly for our most vulnerable communities. Berkeley has already invested millions to address the impacts of climate change and protect our residents and infrastructure from future impacts, but without strong federal action to curb transportation emissions, our efforts will be overwhelmed. Protecting the health and welfare of our residents requires continued recognition of the dangers posed by GHG emissions and decisive action to mitigate them.

Respectfully submitted,



Adena Ishii
Mayor
City of Berkeley

³ City of Berkeley 2024 Local Hazard Mitigation Plan (City of Berkeley, March 18, 2025)

<https://berkeleyca.gov/sites/default/files/documents/Final%202024%20LHMP%20SENT%20TO%20FEMA%20NOVEMBER%2027.pdf>

⁴ Climate Action Plan and Resilience Update (City of Berkeley, April 15, 2025),

https://berkeleyca.gov/sites/default/files/documents/2025-04-15%20Item%2023%20Climate%20Action%20Plan%20and%20Resilience%20Update_0.pdf

