



February 12, 2026

Honorable Jessica Shirley
Secretary of Environmental Protection
Chairperson of the Environmental Quality Board
16th Floor, Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101
jessshirley@pa.gov

Dear Hon. Jessica Shirley,

Green Amendments for the Generations and Delaware Riverkeeper Network write urgently in support of immediate and effective greenhouse gas (“GHG”) regulation by the Commonwealth. On February 5, 2026, a group of petitioners renewed their years-old request that the Department of Environmental Protection and the Environmental Quality Board (the “Agencies”) take the necessary steps to regulate GHGs to abate climate change by adopting the Stability and Affordability Via Emissions Reductions (“SAVER”) Rule.¹ We support prompt action on this petition that results in comprehensive regulation to mitigate climate change.

Today, the federal government eliminated its endangerment finding²—a foundational step taken years ago to support nationwide reduction of GHGs.³ The tortured history of federal climate action and United States’ cooperation with international climate goals need not be recited here. Suffice to say, the United States is far from achieving the level of GHG reduction needed to avoid the worst impacts of climate change.

Regardless of where the federal government ultimately lands in the battle to regulate climate-changing emissions, the Agencies have their own independent duty to mitigate climate change. This duty exists even if the Commonwealth is not the cause of environmental degradation, and even if the actions of the Agencies alone are unsuccessful in preserving the public natural resources from climate change.⁴ In responding to the SAVER Petition, the Agencies must fulfill their statutory and constitutional

¹ See Demand for Action to Adopt the Stability and Affordability Via Emissions Reductions (“SAVER”) Rule, sent from Robert B. McKinstry, Jr. to Laura Griffin on February 5, 2026. See also Resubmission, Amendment, and Supplement to Petition, sent from Robert B. McKinstry, Jr. to Patrick McDonnell and Laura Edinger on February 28, 2019.

² EPA Press Office, *President Trump and Administrator Zeldin Deliver Single Largest Deregulatory Action in U.S. History*, U.S. ENV’T PROT. AGENCY (Feb. 12, 2026), <https://www.epa.gov/newsreleases/president-trump-and-administrator-zeldin-deliver-single-largest-deregulatory-action-us>.

³ Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496 (Dec. 15, 2009).

⁴ See generally Elinor Ostrom, *A Polycentric Approach for Coping with Climate Change* 35, World Bank Policy Research Working Paper No. 5095 (October 2009) (“An important lesson is that simply recommending a single

obligations, keeping in mind that not only is Article I, Section 27 of the Pennsylvania Constitution self-executing, but also that all environmental statutes must be read in furtherance of the constitutional rights preserved.

Even when Article I, Section 27 is not expressly invoked in a statute, regulation, or litigation, “its mandate informs Pennsylvania’s elaborate body of environmental protection statutes and regulations.”⁵ All three clauses of Article I, Section 27 *require* the Agencies to use their statutory and regulatory authority to abate and remedy climate change. “Although a trustee is empowered to exercise discretion with respect to the proper treatment of the trust, that discretion is limited by the purpose of the trust and the trustee’s fiduciary duties, and does not equate to ‘mere subjective judgment.’”⁶ This means that where a trustee such as the Department of Environmental Protection or the Environmental Quality Board has authority granted to it by the General Assembly, that authority *must* be used in a manner consistent with Article I, Section 27.

Pennsylvania’s Environmental Rights Amendment guarantees the following:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.⁷

Each of the three clauses of Article I, Section 27 require the Agencies to do their part to prevent and remedy climate change by reducing the state’s GHG emissions. The Agencies are required to abate the Commonwealth’s contribution to climate change by reducing the emission of greenhouse gases, and must also take appropriate action to remedy the effects of climate change on the public’s rights and resources.

The Agencies have sufficient information on the harms caused by climate change to the public natural resources, including air, water, vegetation, and animals.⁸ The withdrawal of the endangerment finding by the Environmental Protection Agency has no bearing on these findings, and in fact throws them into starker relief.

The first clause of Article I, Section 27 “requires each branch of government to consider in advance of proceeding the environmental effect of any proposed action on the constitutionally

governmental unit to solve global collective action problems—because of global impacts—needs to be seriously rethought and the important role of smaller-scale efforts recognized.”)

⁵ *Clean Air Coun. v. Dep’t of Env’t Prot.*, 289 A.3d 928, 932 (Pa. 2023).

⁶ *Pa. Env’t Def. Found. v. Commw.* (“*PEDF II*”), 161 A.3d 911, 933 (Pa. 2017) (quoting *Robinson Twp. Washington Cty. v. Commw.*, 83 A.3d 901, 978 (Pa. 2013) (plurality opinion)).

⁷ Pa. Const. art. I, § 27.

⁸ Pa. Dept. of Env’t Prot., Pennsylvania Climate Impacts Assessment (2024).

protected features.”⁹ This requirement stems from the simple fact that a failure to do so risks infringement upon individual environmental rights. A “failure to obtain information . . . does not excuse the constitutional obligation because [it] exists *a priori* to any statute purporting to create a cause of action.”¹⁰

The constitutional obligation to avoid infringement upon the first clause’s environmental rights “binds all government, state or local, concurrently” and functions as a “bulwark against actual or likely degradation of . . . our air and water quality.”¹¹ Based on the information known to the Agencies regarding the ongoing and likely future degradation of air and water quality as a result of GHG-induced climate change, the Agencies are required to act to prevent such degradation and the Commonwealth’s contribution thereto.

The second and third “public trust” clauses of Article I, Section 27 also require the Agencies to act. Because affirmative action on the part of the Commonwealth is required to carry out the trust purpose, the Agencies are required to regulate GHG emissions to protect these resources from adverse effects caused by climate change.¹²

The Agencies are also subject to several fiduciary duties by virtue of their trustee status, including the duties of prudence, loyalty, and impartiality.¹³ The duty of prudence requires the Agencies to “exercise such care and skill as a man of ordinary prudence would exercise in dealing with his own property.”¹⁴ It is axiomatic that climate change cannot be solved by a single agency or even a single government. However, when the Agencies promulgated the now-abrogated Regional Greenhouse Gas Initiative (“RGGI”) regulation, they “exercis[ed] reasonable care, skill and caution,”¹⁵ because although they could “not solve global climate change,” RGGI would have “aid[ed] this Commonwealth in addressing its share of the impact, joining other states and countries that are addressing their own impact.”¹⁶ By utilizing the precautionary principle and taking collective action, the Agencies acted with prudence and caution towards the public natural resources in the face of an existential threat, and must continue to do so in responding to the SAVER Petition.

In addition, the duty of impartiality means that the Agencies must act in the interests of all beneficiaries, including future generations. The “conservation and maintenance of the public natural resources is not temporally limited,” meaning that present and future generations are simultaneous beneficiaries and the Agencies “must consider an incredibly long timeline and cannot prioritize the needs of the living over those yet to be born.”¹⁷ Whatever political headwinds currently exist in the

⁹ *Robinson Twp.*, 83 A.3d at 952 (plurality opinion).

¹⁰ *Id.*

¹¹ *Id.* at 953.

¹² *Id.* at 955–56 (the Commonwealth’s trustee duties are “both negative (*i.e.*, prohibitory) and affirmative (*i.e.*, implicating enactment of legislation and regulations”).

¹³ *Id.*

¹⁴ *PEDF II*, 161 A.3d at 932 (quoting *In re Mendenhall*, 398 A.2d 951, 953 (Pa. 1979)).

¹⁵ 20 Pa. Cons. Stat. Ann. § 7774.

¹⁶ CO₂ Budget Trading Program, 52 Pa. Bull. 2471, 2475 (2022).

¹⁷ *Pa. Env’t Def. Found. v. Commw.* (“*PEDF V*”), 255 A.3d 289, 213–14.

interest of preserving the fossil fuel industry and its profits must be disregarded by the Agencies—enough time has been collectively wasted that we’ve most likely missed our chance to avoid overshooting 1.5°C of planetary warming.¹⁸

On behalf of our current and future members, Green Amendments for the Generations and Delaware Riverkeeper Network call for a response to the SAVER Rule petition that results in bold, effective, and prompt regulation of GHGs in Pennsylvania.

Urgently and respectfully,



Maya K. van Rossum
Founder, Green Amendments for the Generations
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¹⁸ See United Nations Environment Programme, Emissions Gap Report 2025 at xii, <https://doi.org/10.59117/20.500.11822/48854>