

EPA FOLLOWS THROUGH ON ITS ANNOUNCED DEREGULATORY AGENDA AND PROPOSES TO RESCIND KEY 2009 ENDANGERMENT FINDING LINKED TO ITS AUTHORITY TO REGULATE GREENHOUSE GAS EMISSIONS

Following a March 2025 announcement of 31 key deregulatory actions, on July 29, 2025, the U.S. Environmental Protection Agency (**EPA**) released a proposed rule rescinding its 2009 findings that a mix of six greenhouse gases directly threatened public health and welfare and that combined greenhouse gas emissions from new motor vehicles and engines contribute to pollution that threatens public health and welfare.

BACKGROUND

Clean Air Act (**CAA**) Section 202(a) requires the EPA to regulate "air pollutants" from new motor vehicles and engines if it finds that they "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."¹ In October 1999, a group of 19 environmental organizations petitioned the EPA to regulate certain greenhouse gas emissions from new motor vehicles and engines under the CAA.² In September 2003, the EPA denied the petition, refusing to issue an endangerment finding based on the premise that it lacked the authority to regulate greenhouse gases which were not clearly covered by the definition of "air pollutants" under the CAA.³ In the 2007 landmark decision of *Massachusetts v. EPA*, the U.S. Supreme Court held that the definition of "air pollutant" includes "any physical, chemical...substance or matter which is emitted into or otherwise enters the ambient air" including carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.⁴ As such, the Court found that greenhouse gases are within the EPA's authority under CAA Section 202(a) and required the

¹ 42 U.S.C. § 7521(a).

² https://www.ciel.org/Publications/greenhouse_petition_EPA.pdf.

³ https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/694c8f3b7c16ff6085256d900065fdad.html

⁴ *Massachusetts v. EPA*, 549 U.S. 497 (2007).

EPA to either make an endangerment finding or provide a reasonable explanation for not doing so.⁵

In December 2009, the EPA published a finding that six "well-mixed" greenhouse gases⁶ directly threatened public health and welfare (the **Endangerment Finding**), and that combined greenhouse gas emissions from new motor vehicles and engines contribute to pollution that consequently threatens public health and welfare (the **Cause or Contribute Finding**).⁷ While the findings themselves did not directly impose any requirements on industry or specific entities, the action was an important prerequisite for implementing greenhouse gas emissions standards for vehicles and other greenhouse gas regulations. In 2022, the Inflation Reduction Act (**IRA**) expanded the EPA's ability to regulate greenhouse gas emissions by revising several sections of the CAA to clearly define certain greenhouse gases as "pollutants" and provided significant funding to climate change-focused initiatives.⁸ On July 4, 2025, the One Big Beautiful Bill Act (**OBBBA**) rescinded any unallocated funding associated with these sections.⁹ For more information on the environmental-specific implications of the OBBBA, see our [prior briefing](#).

PROPOSED RECISSION OF EPA'S ENDANGERMENT FINDING

On July 29, 2025, the EPA released a proposed rulemaking rescinding its 2009 Endangerment Finding and the Cause or Contribute Finding.¹⁰ This action would, in turn, rescind certain greenhouse gas emissions-related regulations and standards for light-duty, medium duty, and heavy duty vehicles and engines.¹¹ In the proposed rule, the EPA put forward three main theories to justify the rescission:

- **The EPA argues that CAA Section 202(a) does not authorize the EPA to prescribe emission standards to address global climate change concerns.** According to the EPA, the CAA can no longer be read to authorize the regulation of greenhouse gas emissions "based on global climate change concerns" which involve causal relationships that are "too uncertain, too remote, and too confounded" to fit within the statutory language.¹² The EPA indicates that the terms "cause" and "contribute" refer to direct human impacts.¹³ The EPA also notes that, to the extent CAA Section 202(a) does authorize the EPA to address greenhouse gas emissions, it should be read solely to authorize the regulation of air pollution that contributes to the endangerment of health and welfare

⁵ *Id.*

⁶ Carbon dioxide (CO₂), methane, nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

⁷ <https://www.epa.gov/climate-change/endangerment-and-cause-or-contribute-findings-greenhouse-gases-under-section-202a>.

⁸ These sections included, but were not limited to, Sec. 60101 on establishing a program for clean heavy-duty vehicles, Sec. 60103 on establishing the Greenhouse Gas Reduction Fund, and Sec. 60105 on providing grants to states to adopt greenhouse gas emissions standards for mobile sources. See IRA, H.R. 5376 117th Cong. (2022).

⁹ See OBBBA, H.R. 1 119th Cong. (2025).

¹⁰ 90 FR 36288; <https://www.federalregister.gov/documents/2025/08/01/2025-14572/reconsideration-of-2009-endangerment-finding-and-greenhouse-gas-vehicle-standards>.

¹¹ *Id.* ("Specifically, the EPA proposes to remove regulations in 40 CFR parts 85, 86, 600, 1036, and 1037 pertaining to the control of [greenhouse gas emissions]...").

¹² *Id.*

¹³ *Id.*

through "local or regional exposure."¹⁴ Additionally, the EPA cited a recent U.S. Supreme Court decision, *Loper Bright Enterprises v. Raimondo*, to argue that it cannot rely on "statutory silence or ambiguity to expand its regulatory power."¹⁵ For more information on the Loper Bright decision, see our [prior briefing](#).

- **The EPA contends that the initial analysis of the scientific record was unreasonable and recent developments cast significant doubts on the reliability of the EPA's previous findings.** The EPA notes that even if CAA Section 202(a) authorizes the EPA to address greenhouse gas emissions, the agency previously applied that authority "unreasonably" to the scientific record in the Endangerment Finding.¹⁶ The EPA indicates that the data and predictions relied on in making the 2009 Endangerment Finding were "unduly pessimistic" and seeks comment on whether new scientific information and developments are strong enough to support the conclusions previously relied upon.¹⁷
- **The EPA proposes that no requisite technology for vehicle and engine emission control can address global climate change concerns without risking greater harm to public health and welfare.** The EPA's position is that even if the Engagement Finding is retained, greenhouse gas emissions standards should be repealed. Before emissions standards are established, the CAA requires the EPA to consider additional factors including cost, useful life, and the availability of technology to prevent or control the identified pollutants.¹⁸ The EPA indicates that there is no "requisite technology" available that would "reliably and meaningfully" reduce the risks associated with greenhouse gas emissions.¹⁹

It is important to note that it is not the EPA's intent that this proposed rule modify any regulations necessary for criteria pollutant and air toxic measurement and standards, Corporate Average Fuel Economy (CAFE) testing, or associated fuel economy labeling requirements.²⁰ However, these regulations may be impacted by separate regulatory and legislative actions, including, for example, the OBBBA's removal of civil penalties for noncompliance with CAFE standards.²¹

NEXT STEPS

The proposed rule has been published in the Federal Register and the public comment period is open until September 22, 2025.²² A virtual public hearing was held from August 19, 2025 to August 22, 2025.²³ After the public comment period closes, the EPA will review, and provide summaries and responses to, the comments received.

¹⁴ *Id.*

¹⁵ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

¹⁶ 90 FR 36288.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ OBBBA H.R. 1, Title VI § 40006.

²² 90 FR 36288. As of August 21, 2025, the proposed rule had already received over 71,800 public comments.

²³ <https://www.epa.gov/regulations-emissions-vehicles-and-engines/proposed-rule-reconsideration-2009-endangerment-finding>.

Challenges to the proposed rule are likely to follow. Opponents may assert that the change in the EPA's position lacks a scientific and legal basis and thus is arbitrary and capricious, especially as the Endangerment Finding has been upheld in the past by federal courts.²⁴

CONCLUSION

The EPA's proposed rulemaking rescinding its 2009 Endangerment Finding and the Cause or Contribute Finding marks a significant shift in the regulatory landscape for greenhouse gas emissions in the US. If finalized as currently proposed, the rule would remove the foundational basis for many of the EPA's existing and future greenhouse gas-related regulations under the CAA. This would have far-reaching implications for federal climate policy and sector-specific emissions standards. This could also impact federal preemption over state specific climate policies and programs. The outcome of this rulemaking process will be closely watched by stakeholders across the government, industry, and environmental communities.

We will continue to track developments related to the Endangerment Finding and the Cause or Contribute Finding, including any potential challenges, and provide updates as further information develops.

²⁴ See *Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102 (D.C. Cir. 2012) (upholding the EPA's authority to regulate air pollution under the CAA). Notably, the U.S. Supreme Court denied certiorari to challenges to the EPA's use of the Endangerment Finding as recently as December 2023. See https://www.supremecourt.gov/orders/courtorders/121123zor_e29g.pdf.

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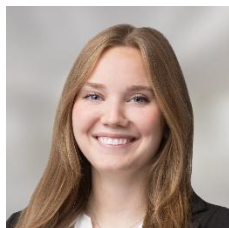
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