

EPA Strikes at the Roots of Federal GHG Regulations, Rescinds Endangerment Finding for Motor Vehicles



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Key Takeaways

What Happened? On February 12, 2026, the U.S. Environmental Protection Agency (EPA) announced a final rule rescinding the 2009 Greenhouse Gas (GHG)

Endangerment Finding (“[Endangerment and Cause or Contribute Finding for Greenhouse Gases Under Section 202\(a\) of the Clean Air Act](#),” 74 Fed. Reg. 66496 (Dec. 15, 2009)) (“Endangerment Finding” or “Final Rule”) and repealing all GHG emission standards and associated compliance, testing, reporting, averaging, banking and trading provisions for light-, medium-, and heavy-duty motor vehicles and engines under [Clean Air Act \(CAA\) Section 202\(a\)](#), 42 U.S.C. § 7521(a). The rule rescinds only the new motor vehicle and engine Endangerment Finding and not the separate endangerment findings that EPA has made with respect to GHG emissions from stationary sources and aircraft engines. The rule will be effective 60 days after its official publication in the Federal Register, which should occur in the near future.

Who is Impacted? The Endangerment Finding was the foundation of subsequent EPA regulation of GHG emissions from certain mobile sources under the CAA, and its revocation has potential implications for other EPA GHG regulations. Accordingly, stakeholders include all industries subject to CAA regulations addressing climate change, including the automotive, utilities, and oil and gas sectors, as well as industries that have developed products to address GHG emissions, such as electric vehicle manufacturers and alternative fuel producers.

Anticipated Litigation. Numerous groups have already announced that they will challenge the Final Rule. In the rule, EPA confirms its position that state laws, regulations, and causes of action involving motor vehicle and engine GHG emissions remain subject to preemption notwithstanding the rescission of the Endangerment Finding, an issue that will likewise be litigated.

Next Steps. Impacted stakeholders should track the litigation that follows and evaluate the implications of the Final Rule for other EPA, U.S. state, or international GHG regulations that affect their activities.

Analysis and Key Elements of the Final Rule

- ◆ The Final Rule rescinds the Endangerment Finding under CAA Section 202(a)(1), which provided EPA the basis for regulating GHG emissions from new motor vehicles and engines. The final rule also rescinds all motor vehicle and engine GHG emission regulations because rescission of the Endangerment Finding removed the basis and justification for these emission standards and the associated test procedures, averaging, banking, and trading requirements, reporting requirements, and fleet-average emission requirements (collectively, GHG emission standards).
- ◆ Accordingly, the Final Rule revises the regulations found at 40 C.F.R. Parts 85, 86, 600, 1036, 1037, and 1039 to effectuate the repeal of EPA's new motor vehicle and engine GHG emission standards.
- ◆ The Agency affirmed that its decision to rescind the Endangerment Finding does *not* rest on climate change science, expressly stating it "decided not to finalize [the proposed] scientific rationale" for its action. The Agency does, however, invoke "[c]limate impact modeling" submitted by commenters and "confirmed by [its] own analysis" as demonstrating that even completely eliminating GHG vehicle emissions would not have more than a "*de minimis* impact" on global temperature and sea level rise (adopted as proxies for "adverse impacts to public health and welfare."). EPA points to this as additional evidence that it does not have the authority under CAA Section 202(a)(1) to address climate change, and that retaining GHG standards for motor vehicles would be "unreasonable given their futility and the immense burdens" they impose.

EPA's Legal Rationale for Rescinding the Endangerment Finding

EPA concludes that the Endangerment Finding exceeded its authority under the CAA, and that this rescission is consistent with recent U.S. Supreme Court case law. Below, we summarize EPA's primary legal bases supporting its Final Rule:

EPA Concludes that the Endangerment Finding Exceeded EPA's CAA Authority

- ◆ EPA concludes that CAA Section 202(a)(1)'s definition of the term "air pollution" is best read in context to mean pollution that endangers health or welfare through *local or regional* exposure, whereas the Endangerment Finding was based on risks from *global* climate change.
- ◆ EPA finds that CAA Section 202(a)(1) requires a single, coherent causal chain tying emissions to harms to public health or welfare, and motor vehicles do not sufficiently "cause" or "contribute" to such harms. EPA concludes that the standards set under the Endangerment Finding are "futile" or "*de minimis*" in effect because eliminating U.S. vehicle GHG emissions would not materially change the climate indicators used to justify endangerment.
- ◆ EPA asserts that it erred by not considering costs in the Endangerment Finding simply on the basis that other CAA sections bar cost considerations. In finalizing the Endangerment Finding, EPA says it erred in analogizing regulation of motor vehicles under CAA Section 202(a)(1) to regulation of NAAQS under Section 109(b)(1) and that Supreme Court caselaw upholding EPA's authority to ignore costs for the NAAQS (*Whitman v. American Trucking Ass'ns*, 531 U.S. 457 (2001)), is not applicable to Section 202(a)(1).

EPA Asserts that Recent U.S. Supreme Court Cases Indicate the Endangerment Finding is an Overreach of Agency Authority

- ◆ EPA relies on *Utility Air Regulatory Group v. EPA*, 573 U.S. 302 (2014), which denied application of PSD and Title V permits to GHGs, as evidence of *Massachusetts v. EPA*'s limited scope. EPA asserts that *Massachusetts* rejected the categorical exclusion of GHG from the definition of "air pollutants," but did not require the Agency to institute a CAA Section 202(a)(1) GHG regulatory program.
- ◆ EPA claims that the Supreme Court's decision in *Loper Bright v. Raimondo*, 603 U.S. 369 (2024), ending *Chevron* deference to agency statutory interpretation, requires EPA to follow the fixed, best meaning of statutes and prohibits EPA from relying on statutory silence or ambiguity.
- ◆ EPA argues that the major questions doctrine precludes EPA from asserting authority to regulate under CAA Section 202(a) because EPA lacks "clear congressional authorization" to address global climate change concerns. EPA cites to the Supreme Court's vacatur of the Clean Power Plan regulations in *West Virginia v. EPA*, 597 U.S. 697 (2022), as evidence that the Endangerment Finding implicates the major questions doctrine.

Implications for Other Federal GHG Regulations

EPA has a separate rulemaking process underway under section 111 of the CAA directed at [revoking the Agency's GHG emission regulations for power plants](#). EPA stated that it intended to finalize that rule by December 2025, but that action has not yet occurred. The proposal, which EPA issued before the Agency's proposal to rescind the mobile source Endangerment Finding, would reinterpret Section 111 to require EPA to find that a category of emissions sources contributes significantly to climate change, and concludes that the U.S. fossil-fired generation fleet does not contribute significantly to climate change because it accounts for only a small percentage of global GHG emissions. In its unified regulatory agenda, EPA has also indicated it intends to reconsider its 2016 Aircraft GHG Endangerment Finding under CAA Section 231.

EPA's decision document rescinding the Section 202(a)(1) endangerment finding, which applies to certain motor vehicles and engines, does not directly address the status of EPA regulation of GHG emissions of stationary sources or aircraft. However, the Agency's rationales could be interpreted to also undercut the legal basis for the regulation of these sources under the CAA. EPA's reinterpretation of the statutory term "air pollution" directly applies to sections 111 and 231, which rely on the same statutory term. Similarly, we anticipate that EPA could similarly apply its "futility" rationale and its analysis of the major questions doctrine in these contexts (the Supreme Court's decision in *West Virginia v. EPA*, which revitalized the major questions doctrine, involved EPA regulation of GHGs under section 111).

EPA also has a separate rulemaking process underway in which it has [proposed to revoke the Agency's GHG Reporting Program](#). The Agency has also taken action to [extend deadlines relating to rules affecting methane and VOC emissions in the oil and gas sector](#). Stakeholders with an interest in those issues should monitor potential interactions with EPA's revocation of the Endangerment Finding.

Implications for Preemption of State Law and Displacement of Federal Common Law

EPA's preamble directly addresses preemption, stating that "[t]his final action does not impact Federal preemption for motor vehicle and engine emissions standards under CAA section 209(a) or under EPCA and EISA, including with respect to GHGs." EPA adds that "the CAA continues to preempt federal common-law claims for vehicle and engine emissions" because Congress "'delegated to EPA the decision whether and how to regulate' such emissions." (quoting from *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 426 (2011)). EPA also states that the CAA "continues to preempt state common-law claims and statutes that seek to regulate out-of-state emissions." It therefore appears to be EPA's position that preemption extends to litigation seeking remedies for harms caused by GHGs. The preamble states that the forthcoming Response to Comments document accompanying the rule will provide "more detailed comment summaries and responses" on this issue.

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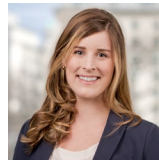
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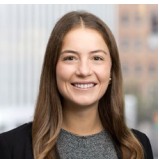
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