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Trump Administration Proposes to Repeal 2009 Endangerment Finding

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On July 29, 2025, EPA proposed that the Clean Air Act (CAA) does not authorize the agency to promulgate greenhouse gas (GHG) emission standards to address climate change, thereby rescinding EPA's 2009 "Endangerment Finding" that GHG emissions contribute to air pollution endangering public health or welfare. In doing so, EPA is proposing to repeal all GHG standards for passenger vehicles and trucks in the United States.

EPA's proposal to repeal the Endangerment Finding represents the single most comprehensive attempt to deregulate GHGs at the federal level taken to date. Administrator Zeldin characterized the proposed rule as "the largest deregulatory action in the history of America." The 2009 Endangerment Finding established that emissions of six GHGs (including carbon dioxide and methane) pose a threat to public health and welfare, providing the legal prerequisite for regulating sources of those emissions under the CAA. This determination followed a 2007 Supreme Court ruling in *Massachusetts v. EPA* that directed the agency to make such a scientific assessment, resulting in the Endangerment Finding.

The Endangerment Finding has served as the foundation for virtually all federal climate regulations, including vehicle emission standards for light-duty, medium-duty, and heavy-duty vehicles; power plant carbon dioxide limits; methane regulations for oil and gas operations; and aircraft emission standards.

Elements of the Proposed Rule

The statutory basis for the 2009 endangerment finding was Section 202(a) of the CAA, which directs EPA to prescribe emission standards for "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."

EPA's "primary rationale" for reinterpreting this provision and repealing the Endangerment Finding is based on multiple grounds, including:

- CAA Section 202(a) is best read as referring only to endangerment resulting from local or regional exposure to pollutants and therefore does not establish authority for the agency to regulate on the basis of global climate change concerns. This reading is based on the interpretation of the statutory term "air pollutant," which EPA argues should be interpreted as referring to local or regional air pollutants, not greenhouse gases having only global climate change impacts.
- It is impermissible for EPA to sever an endangerment finding from the promulgation of emission standards required in response to such a finding. Put another way, the agency may not prescribe emission standards without

making the source- and air -pollutant specific endangerment findings required by the CAA.

- Section 202(a) requires EPA to evaluate whether source emissions cause or contribute to air pollution and whether that air pollution poses endangerment in a single causal chain, rather than considering these issues in isolation by severing the inquiries. Examples cited for the lack of a defined causal relationship include the Agency's proposed determinations regarding the limited impact of GHG emissions from motor vehicles in the United States and lack of tangible climate change benefits resulting from EPA regulations of mobile sources.
- Decisions issued by the Supreme Court after the 2009 Endangerment Finding support EPA's proposed reinterpretation of Section 202(a), including *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024); *West Virginia v. EPA*, 597 U.S. 697 (2022); and *Utility Air Regulatory Group v. EPA* (573 U.S. 302 (2014). Based on this judicial precedent, the EPA concludes that the statute must clearly authorize EPA to address matters having huge economic and political significance and that the statute failed to provide EPA with the authority to address global climate change impacts through regulating GHG emissions from mobile sources. Additionally, EPA asserts the Supreme Court's Massachusetts v. EPA decision (cite) did not compel the Endangerment Finding.

EPA further proposes that, even if Section 202(a) authorizes the agency to regulate GHG emissions based on global climate change concerns, EPA exercised that authority unreasonably in the 2009 Endangerment Finding. In support of this "alternative rationale" for repeal, EPA asserts:

- The Endangerment Finding misapplied the scientific record by severing the analysis into separate parts without considering whether the whole justified the finding and subsequent regulatory determinations.
- Scientific research published since 2009 has cast significant doubt on critical premises of the Endangerment Finding.

EPA also proposes other grounds for repealing the vehicle GHG emission standards that do not rely on repealing the Endangerment Finding, including:

- There is no "requisite technology" (as required by Section 202(a)(2)) that is responsive to the global climate change concerns identified in the Endangerment Finding because even reducing GHG emissions from new motor vehicles and engines to zero would not have a scientifically measurable impact on global climate change trends.
- On balance, GHG emission standards harm public health and welfare due to their economic impacts and because they slow replacement of older vehicles that are less safe and pollute more than new motor vehicles and engines.

Implications

Repealing the Endangerment Finding has significant legal impacts, including under the CAA. The interplay between Section 209(a) preemption and the Endangerment Finding represents a fundamental tension in federalism and environmental regulation. The current system provides manufacturers with relatively clear federal standards while allowing states to adopt California's stricter requirements (with a valid waiver of federal preemption). The states adopting California's standards pursuant to the authority in Section 177 ("Section 177 states") collectively represent over one-third of the national vehicle market, meaning their regulatory choices significantly influence manufacturer behavior nationwide. The proposed changes create regulatory uncertainty for automakers and, depending on the proposed rule's finalization, may spark prolonged litigation over the scope of state authority in environmental regulation. The ultimate resolution of these issues will likely depend on court decisions, as parties are expected to challenge both the endangerment finding rescission and related federal preemption assertions through extensive litigation that will likely extend into subsequent administrations.

Repeal of the Endangerment Finding could also open the door to "nuisance" lawsuits against owners of fossil fuel-fired power plants on the grounds that their emissions are leading to climate change-related damages. In the past, the Supreme Court has turned away such suits, holding that Congress has "occupied the field" of GHG regulation through the CAA. *American Electric Power Co. v. Connecticut*, 564 U.S. 410 (2011). However, if the better reading of the CAA is that EPA does not have the authority to regulate GHGs, the continued effect of this field preemption of nuisance lawsuits could be in question.

Vehicle Standards

Under the proposed rule, engine and vehicle manufacturers would no longer be required to measure, control, or report GHG emissions for any highway engine or vehicle, including model years manufactured prior to the proposal. EPA intends to retain, however, without modification, regulations for criteria pollutant and air toxic emissions; Corporate Average Fuel Economy (CAFE) testing requirements (which measures CO_2) (CAFE is administered by the National Highway Traffic Safety Administration); and associated fuel economy labeling requirements.

Next Steps

Comments on the proposed rule (90 Fed. Reg. 36,288 (Aug. 1, 2025)) will be accepted until September 15, 2025 (Docket ID No. EPA-HQ-OAR-2025-0194). EPA will hold a virtual hearing on the proposal on August 19-20, 2025, with pre-registration required by August 12. An additional session may be held on August 21. More agency resources are available on EPA's website.

For More Information

Van Ness Feldman closely monitors and counsels clients on energy transition and air quality law and policy, including the Clean Air Act. For further details or assistance with assessing the impacts of this proposal or preparing comments,

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