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Rescission of The Clean Air Act Endangerment Finding. Practical Implications in the Spotlight.

First established in 2009 by the U.S. Environmental Protection Agency (EPA) following the landmark U.S. Supreme Court decision in *Massachusetts v. EPA,* the Clean Air Act (CAA) endangerment finding has had profound implications for environmental policy and climate change regulations. However, on February 12, 2026, in a long-awaited turn of events, the EPA announced the removal of the endangerment finding, a decision that will undoubtedly bring climate change and greenhouse gas (GHG) issues back to the Supreme Court.

Massachusetts v. EPA. **Climate Change is the Issue.** On April 2, 2007, in *Massachusetts v. EPA,* 549 U.S. 497 (2007), the Supreme Court found that six greenhouse gases are air pollutants covered by the CAA. The decision resulted from a petition for rulemaking under Section 202(a) of the CAA **(42 U.S.C. § 7521(a))** supported by 10 intervening states including Massachusetts and more than a dozen environmental, renewable energy, and other organizations.

The Court held that the EPA must determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision.

Associate Justice John Paul Stevens, writing for the majority, held that:

> In short, EPA has offered no reasoned explanation for its refusal to decide whether greenhouse gases cause or contribute to climate change. Its action was therefore "arbitrary, capricious, … or otherwise not in accordance with law." 42 U. S. C. §7607(d)(9)(A). We need not and do not reach the question whether on

remand EPA must make an endangerment finding, or whether policy concerns can inform EPA's actions in the event that it makes such a finding. Cf. *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 843–844 (1984). We hold only that EPA must ground its reasons for action or inaction in the statute.

The Obama Administration's 2009 Actions. Two years later, on December 7, 2009, the EPA administrator signed two findings regarding greenhouse gases:

1. **Endangerment Finding:** The EPA found that the current and projected concentrations of the six key greenhouse gases in the atmosphere (carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6)) threaten the public health and welfare of current and future generations.
2. **Cause or Contribute Finding:** The EPA also found that the combined emissions of these greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution that threatens public health and welfare.

The final rule was effective January 14, 2010. In and of themselves, the findings do not impose any requirements on industry or other entities; however, they were a prerequisite for implementing greenhouse gas emissions standards for vehicles and other sectors of the economy.

Post-Endangerment Finding Rules. Largely on the basis of the 2009 endangerment findings, the EPA during the Obama and Biden administrations promulgated several major GHG-focused regulations across the transportation, industrial, and energy sectors. Although the EPA's 2026 rescission decision (discussed below) focuses solely on motor vehicle emissions, this is a list of some of the rules, virtually all of which have been, or will be, repealed following the 2026 rescission decision.

Transportation (Mobile Sources).

1. **Light-Duty Vehicle GHG Standards (Phase 1 & 2):** Finalized in 2010 and 2012, setting fuel efficiency and tailpipe limits for model years (MY) 2012-2016 and 2017-2025.

1. **Medium- and Heavy-Duty Vehicle Standards:** Initial Phase 1 standards were finalized in 2011, followed by Phase 2 through MY 2027.
2. **Multi-Pollutant Standards (2024):** Tightened GHG requirements for light- and medium-duty vehicles for MY 2027 and later.

Power Plants (Stationary Sources).

The EPA regulated power plants under Section 111 of the CAA.

1. **Clean Power Plan (2015):** Aimed to reduce CO2 from existing power plants; it was later replaced and never fully implemented.[1]

1. **Affordable Clean Energy Rule (2019):** This Trump administration rule replaced the Clean Power Plan by focusing on heat-rate improvements at individual coal plants.
2. **New Source Performance Standards (2024):** Late in the Biden administration, EPA established aggressive carbon pollution standards for existing coal and new gas-fired plants, requiring technologies like carbon capture and sequestration for long-term units.

Other Key GHG Regulations That Will Likely Be Repealed.

1. **The Tailoring Rule (2010):** Extended stationary source permitting requirements (PSD and Title V) to major GHG emitters.

1. **GHG Reporting Program:** Requires large emission sources and fuel suppliers to report annual GHG data.

The 2026 Rescission of the Endangerment Finding. Sixteen years after the 2009 findings, on February 12, 2026, the EPA finalized its rescission of the endangerment findings asserting that "This is the single largest deregulatory action in U.S. history."

The preamble to the regulatory action states:

> In this final action, the EPA rescinds the Administrator's 2009 standalone decision entitled "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding") and repeals all GHG emission standards for light-duty

> (LD), medium-duty (MD), and heavy-duty (HD) vehicles and engines manufactured or imported into the United States (U.S.) for model years (MY) 2012 to 2027 and beyond.

The agency also stated that, without the findings, the EPA "lacks statutory authority under Section 202(a) of the CAA to prescribe standards for GHG emissions." As part of its actions, the EPA also finalized the repeal of "all subsequent GHG emission standards from its regulations for light-, medium-, and heavy-duty on-highway vehicles and engines." As a result of those actions:

> [E]ngine and vehicle manufacturers no longer have any future obligations for the measurement, control, and reporting of GHG emissions for any highway engine and vehicle, including model years manufactured prior to this final rule.
>
> This final action is only related to GHG emissions and does not affect regulations on any traditional air pollutants. Rather, this action realigns EPA's regulatory framework with the best reading of the CAA, which does not authorize EPA to regulate GHG emissions from new motor vehicles.

Climate Change is the Issue

The primary debates focus, in large measure, on climate change, the extent to which scientists agree on its cause, and how policy makers throughout the world will address the issue. The American Association for the Advancement of Science states at its What We Know site:

> Based on the evidence, about 97 percent of climate scientists agree that human-caused climate change is happening.

Fundamentally, the EPA's reasoning for its rescission decision segregates concern about the impact of vehicle emissions on a global scale and limits the agency's statutory authority under the CAA to local or regional exposure to air pollution. The preamble to the rescission decision states:

> On July 29, 2025, the Administrator signed a proposed rule setting out the results of the EPA's reconsideration to date and proposing to rescind the Endangerment Finding and repeal all GHG emission standards for LD, MD, and HD new motor

> vehicles and engines promulgated since 2009 under CAA section 202(a)(1). "Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards," 90 FR 36288 (Aug. 1, 2025).
>
> We proposed that the term "air pollution" in CAA section 202(a)(1) is best read in context as referring to pollution that threatens public welfare through **local or regional exposure**, consistent with historical practice and principles of proximate cause, such that the **EPA's regulatory authority does not extend to global climate change concerns.** Relatedly, we proposed that the major questions doctrine applies to the question whether the EPA may decide the Nation's policy response to global climate change concerns and that **Congress did not clearly delegate that decision** when it authorized the Agency to prescribe emission standards for new motor vehicles and engines. [Emphasis added.]

While some GHG regulatory measures remain in place, the rescission of the endangerment finding has constrained U.S. policy to clean air concerns based on exposures on a "local or regional" scale.

To the Supreme Court Once Again. Legal challenges to the rescission will undoubtedly end up in the Supreme Court. The ongoing need to balance economic growth with environmental protection defines the debate over health-based exposures to GHGs on a "local or regional" scale or, more broadly, climate change on a global scale.

Indeed, the first lawsuit has already been filed. On February 18, 2026, the American Public Health Association and a plethora of other plaintiffs, including the Sierra Club, filed their Petition for Review in the District Court for the District of Columbia.

The 2009 endangerment finding by the EPA marked a pivotal moment in the approach by the U.S. to climate change and environmental regulation. The subsequent removal of the finding in 2026 highlights, once again, concerns about the future of climate policy and the scope of authority established by Congress in the Clean Air Act to address the protection of public health and the environment. The legacy of *Massachusetts v. EPA* continues to underscore the legal and political battles over environmental policy.

As the debate over climate change evolves, ongoing efforts in the U.S., which is the largest economy in the world[2], will be critical in shaping policies that ensure a sustainable future.

This blog was drafted by John L. Watson, an attorney in the Spencer Fane Denver, Colorado, office. For more information, visit www.spencerfane.com.

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[1] *See* this Union of Concerned Scientists article for a comprehensive review of the Clean Power Plan.

[2] As reported by the International Monetary Fund, the U.S. is currently the largest economy in the world by nominal GDP, a position it has held for over a century. As of 2025–2026, the U.S. economy exceeds $30 trillion, with China being the second largest at around $19–$20 trillion, followed by Germany, Japan, and India.

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