



EPA Moves to Repeal “Endangerment Finding” on Greenhouse Gas Emissions

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Action: On July 29, the Environmental Protection Agency [announced](#) a proposed rule to rescind the legal basis for Federal efforts to address climate change. In 2009, EPA issued an [endangerment finding](#) under Section 202(a) of the [Clean Air Act](#), concluding “the current and projected concentrations of the six key well-mixed greenhouse gases (GHGs)—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations.” Though the endangerment finding imposes no direct regulatory requirements, it has served as the legal foundation for Federal emissions standards across many sectors. Rescinding it may severely limit EPA’s authority to regulate GHGs, delaying or halting future emissions rules and impacting numerous industries including autos, power, and oil and gas.

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- EPA issued the finding in 2009 in response to the Supreme Court’s 2007 [Massachusetts v. EPA](#) decision stating that EPA could *decline* to act under Section 202(a) only if it determined that GHG do not contribute to climate change or offered a reasonable explanation for inaction. (The suit resulted from EPA’s 2003 denial of a petition to regulate GHGs.) Despite this ruling, since the 2009 Endangerment Finding, the policy has faced repeated legal and legislative challenges.
- In the finding, EPA used scientific evidence to determine that greenhouse gas pose a threat to US public health and public welfare. EPA [reaffirmed](#) the finding in 2016; it

has provided the legal basis for emission standards covering [cars and light trucks](#), [power plants](#), and [facilities in the oil and gas sector](#) (including with respect to methane emissions).

- The President’s Executive Order “[Unleashing American Energy](#)” on Inauguration Day gave EPA a 30-day deadline to submit recommendations on the “legality and continuing applicability of the endangerment finding. Following this, EPA began “[formal reconsideration](#)” of the finding in March.
- EPA has already sought to scale back emission standards for [power plants](#), cars, and the manufacturing sector.
- The [proposed rule](#) seeks to rescind the finding by challenging both the scientific foundation and the statutory authority underlying the existing policy. EPA contends that, given scientific uncertainties it now considers “more significant than previously believed,” the resulting regulatory framework represents statutory overreach and exceeds the intended scope of the Clean Air Act. Comments on the proposed rule are due [September 21](#).
- The proposed rule, once finalized, will face legal challenges from opponents, including from states such as [California](#) that have implemented higher emissions standards and from [environmental groups](#) arguing that repeal would harm efforts to address climate change. In contrast, automobile manufacturers have [long criticized](#) regulations derived from the finding, arguing that they undermine consumer choice and American competitiveness.
- One important question once the finding is repealed is whether EPA would seek to use Federal preemption to end higher emissions standards such as California’s under state law. Congress and the President have already [used](#) the Congressional Review Act to block California’s previous EPA waivers permitting the state to adopt the [Advanced Clean Cars Program](#). EPA also [took](#) similar action against California in 2019 during the first Trump Administration.
- In coordination with EPA, the Department of Energy [released a new report](#) challenging the scientific consensus on the harms of GHGs, arguing that US policy has an “undetectably small” impact on the global climate. Energy intends the report to offer a scientific basis for rescinding the endangerment finding; it is also open for public comment.

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