



Update on EPA's Endangerment Finding

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What is the Endangerment Finding?

Massachusetts v. EPA, SCOTUS (2007)

- Greenhouse gases (GHGs) are “air pollutants” that EPA has statutory authority to regulate under the Clean Air Act.
- EPA must first determine if GHGs endanger public health.

What is the Endangerment Finding?

EPA's Endangerment Finding (2009)

- EPA found that GHGs in the atmosphere threaten public health and welfare of current and future generations by contributing to climate change.
- Endangerment Finding is a prerequisite to EPA's authority to regulate GHGs.
- These findings do not themselves impose any requirements.
- EPA first issued GHG vehicle standards in 2010.

What happened in February 2026?

- **EPA issued a Final Rule Rescinding the 2009 Endangerment Finding**
- **EPA repealed federal GHG emission standards for light-, medium-, and heavy-duty on-highway vehicles and engines**
- This action means that EPA is not going to regulate GHG emissions contributing to climate change.
- These actions only relate to GHG emissions and do not affect regulations on any other air pollutants.

What is EPA's reasoning?

- “Air pollution” extends only to pollution with local or regional effects, and does not extend to a global phenomenon like climate change.
- “Cause” or “contribute” terms require an endangerment finding to be both pollutant- and source-specific, and the connection between GHG emissions from new motor vehicles in the US and the dangers of climate change is too attenuated or de minimis to support such a finding.
- EPA says it lacks clear congressional authorization to regulate vehicle emissions to address climate change.

What is EPA's reasoning?

- EPA argues it would be “unreasonable to maintain the GHG emissions program” because “the costs or regulation are certain and immense but the health and welfare value of regulation are uncertain and de minimis.”
- EPA's vehicle emission standards would not have a “scientifically measurable impact” for mitigating climate change, which EPA asserts isn't harming public health and welfare as much as previously believed, thus regulation of GHG emissions from vehicles is improper.

What does EPA say about state authority?

EPA interprets the CAA to restrict not only federal authority to regulate GHGs to address climate change but also states' authority to do so through two distinct “preemption” arguments.

- “Express preemption” - a type of federal preemption that occurs when a federal statute contains explicit language that overrides state laws.
- “Field preemption” - federal regulation of a field is so pervasive and comprehensive that it implicitly precludes states from regulating in the same area.

Federal & state authority

State standards

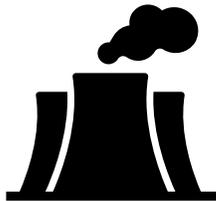
State laws and regulations

California + Sec. 177 States

Federal standards

Clean Air Act

Federal vehicle emissions standards



Authority to regulate motor vehicles

- Under Section 209 of CAA, only EPA or California may set motor vehicle standards.
- EPA reviews California's standards and issues a "preemption waiver" if certain criteria are met.
- Section 177 States may adopt and enforce California's more stringent motor vehicle emission standards, provided they are identical to California's standards.
- Section 177 States include states in a "non-attainment area" or states in the Ozone Transport Region