

February 18, 2026

## EPA's Repeal of the 2009 Greenhouse Gas Endangerment Finding: Legal Rationale and Implications

By Seth Kerschner, Matthew  
Morton, Caleb Holland, Graham  
McHenry

On February 12, 2026, the United States Environmental Protection Agency (“EPA”) finalized a rule rescinding EPA’s 2009 greenhouse gas (“GHG”) endangerment finding (the “Endangerment Finding”) and repealing all GHG emission standards for light-duty, medium-duty and heavy-duty vehicles manufactured in or imported to the United States from 2012 to 2027 (the “Repeal”).<sup>1</sup> The Repeal is significant because the Endangerment Finding has, since its issuance in 2009, been the foundational legal basis for EPA’s regulation of GHG emissions from certain stationary and mobile sources. However, the Repeal is not a surprise given [EPA proposed taking this step in 2025](#).

Should the Repeal withstand legal challenges, it will undercut the legal basis for federal regulation of GHG emissions under the federal Clean Air Act. Although some state and local governments may seek to increase local regulation of GHG emissions in the wake of the Repeal, EPA expressly stated in the Repeal that the Clean Air Act continues to preempt (i) state laws relating to controlling emissions from new motor vehicles or engines and (ii) state common-law claims and statutes that seek to regulate out-of-state emissions. In the wake of weakened or eliminated federal standards, we expect various stakeholders to continue to incorporate and price climate risk into their business dealings independent of federal regulation.

### The 2009 Endangerment Finding

In 2009, EPA published the Endangerment Finding in response to the Supreme Court’s 2007 ruling in *Massachusetts v. EPA*.<sup>2</sup> That decision held that EPA had authority to regulate GHG emissions because GHGs fit within the Clean Air Act’s definition of an “air pollutant,” and instructed EPA to determine whether GHG emissions may or may not reasonably be anticipated to endanger public health and welfare. Following intensive scientific review, the 2009 Endangerment Finding concluded that six GHGs -- carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride -- pose a threat to public health and welfare by contributing to climate change.<sup>3</sup> As such, under the Clean Air Act, the Endangerment Finding triggered an obligation for EPA to regulate those GHG emissions from mobile sources, which EPA did beginning in 2010 with its first proposal for GHG emissions standards for vehicles. EPA continuously revised those vehicle GHG emissions standards for over a decade until [EPA proposed repealing those standards last year](#).

<sup>1</sup> Recission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act, Environmental Protection Agency, <https://www.epa.gov/system/files/documents/2026-02/preamble-rule-san12715-ef-vehiclerule-frm-20260212.pdf>.

<sup>2</sup> *Massachusetts v. EPA*, 549 US 497 (2007).

<sup>3</sup> “Endangerment and Cause or Contribute Finding for Greenhouse Gases Under Section 202(a) of the Clean Air Act,” [74 FR 66496](#) (Dec. 15, 2009).

## Legal Rationale for Repeal

EPA does not appear to question the science behind how GHG emissions contribute to climate change in last week's Repeal. Instead, the Repeal rests on several legal arguments centered around the premise that the Endangerment Finding exceeds EPA's statutory authority under the Clean Air Act:

- Changes in Law Since 2009 –The Repeal relies on the 2024 *Loper Bright Enterprises v. Raimondo* and 2022 *West Virginia v. EPA* Supreme Court decisions to support EPA's proposed change from the approach EPA took in 2009.<sup>4</sup> EPA explains that these decisions, which had not been handed down when EPA published the Endangerment Finding in 2009, support EPA's current proposed approach because the decisions clarify that EPA cannot use the Clean Air Act to take an action that would have such an economically and politically significant impact as regulating vehicle GHG emissions or global climate change without express Congressional authorization to do so.
- GHGs are not "air pollution" under Clean Air Act § 202(a) –The Repeal concludes that "air pollution" as used in Clean Air Act § 202(a)(1) should not be read to include globally mixing constituents that have a global effect, but instead should be understood as limited to pollution that threatens health or welfare through local or regional exposures. The Repeal concludes that the GHGs identified in the Endangerment Finding do not themselves endanger public health or welfare through local exposure.
- EPA Procedural Discretion – EPA explains in the Repeal that EPA does not have authority to issue standalone findings that trigger a duty to regulate without considering the regulatory response required by the findings. EPA explains in the Repeal that, when promulgating the Endangerment Finding in 2009, EPA exceeded its authority because EPA did not issue emissions standards for mobile sources, which would link the danger of GHGs to emissions sources (as required under the statute).
- No Nexus Between US Vehicle GHG Emissions and Dangers to Public Health and Welfare – The Repeal explains that US vehicle GHG emissions represent too small of a portion of global GHG emissions to justify regulation. EPA explains that recent climate modeling and EPA analysis "demonstrates that even the complete elimination of all GHG emissions from all new and existing vehicles in the U.S. would have only *de minimis* impacts that fall well within the standard margin of error for global temperature and sea level measurement." If correct, this may reflect a notable factual change from the situation that existed in 2007 when the Supreme Court wrote in *Massachusetts v. EPA* that "[j]udged by any standard, U.S. motor-vehicle emissions make a meaningful contribution to greenhouse gas concentrations and hence, according to petitioners, to global warming."<sup>5</sup>

## Implications of the Repeal

The EPA's action in the Repeal has sweeping implications:

- Regulatory Rollback: With respect to vehicles specifically, vehicle and engine manufacturers will no longer have obligations for the measurement, control, or reporting of GHG emissions for any vehicle or engine, including for previously manufactured model year vehicles. More broadly, by rescinding the Endangerment Finding, EPA removes the legal foundation for federal regulation of certain mobile and stationary GHG emissions under the Clean Air Act. We note that EPA has a [separate rulemaking process underway](#) focused on repealing GHG emissions control requirements for new and existing fossil fuel-fired power plants under the Clean Air Act.

<sup>4</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024); *West Virginia v. EPA*, 597 U.S. 697 (2022).

<sup>5</sup> *Massachusetts v. EPA*, 549 US 497, 525 (2007).

- **Legal Challenges:** Certain states, environmental groups and other stakeholders are expected to present legal challenges to the Repeal. Some have already announced challenges. Challengers will likely argue that the Clean Air Act compels EPA to address GHG emissions that science shows endanger health and welfare, and that the agency's reinterpretation of the Clean Air Act is arbitrary or contrary to Congressional intent. Another issue that may be litigated is EPA's assertion in the Repeal that GHG emissions remain subject to federal preemption notwithstanding the rescission of the Endangerment Finding, as non-federal actors seek environmental and public health protections in the absence of federal standards.
- **State and Local Action:** In the absence of federal regulation, states and municipalities may take more aggressive action to address GHG emissions, leading to a patchwork of policies across the country.
- **Corporate Risk Management:** Large corporations and financial markets increasingly consider climate risk in transactions and business dealings. Many companies have internal climate strategies or climate commitments that are independent of U.S. federal GHG standards, which we expect will continue and could take on greater importance.

### Next Steps

The Repeal will be effective 60 days after publication in the Federal Register. The ultimate fate of the Repeal will likely be determined in the courts, as stakeholders debate the proper scope of EPA's authority and the nation's responsibility to address the risks of climate change. In light of this substantial regulatory uncertainty, we advise clients to (i) monitor developments surrounding legal challenges to the Repeal, which could include judicial stays, (ii) consider and prepare for multiple possible outcomes and (iii) evaluate foreign and state-level compliance strategies to the extent relevant to their businesses.

\* \* \*

If you have questions concerning the contents of this alert, or would like more information, please speak to your regular contact at Weil or to the authors:

#### Authors

Seth Kerschner (NY)	<a href="#">View Bio</a>	<a href="mailto:seth.kerschner@weil.com">seth.kerschner@weil.com</a>	+1 212 310 8450
Matthew Morton (DC)	<a href="#">View Bio</a>	<a href="mailto:matthew.morton@weil.com">matthew.morton@weil.com</a>	+1 202 682 7053
Caleb Holland (DC)	<a href="#">View Bio</a>	<a href="mailto:caleb.holland@weil.com">caleb.holland@weil.com</a>	+1 202 682 7221
Graham McHenry (DC)	<a href="#">View Bio</a>	<a href="mailto:graham.mchenry@weil.com">graham.mchenry@weil.com</a>	+1 202 682 7027

© 2026 Weil, Gotshal & Manges LLP. All rights reserved. Quotation with attribution is permitted. This publication provides general information and should not be used or taken as legal advice for specific situations that depend on the evaluation of precise factual circumstances. The views expressed in these articles reflect those of the authors and not necessarily the views of Weil, Gotshal & Manges LLP. If you would like to add a colleague to our mailing list, please [click here](#). If you need to change or remove your name from our mailing list, send an email to [weil.alerts@weil.com](mailto:weil.alerts@weil.com).