

September 19, 2025

Electronic Filing Submitted Via Regulations.gov

U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2025-0194
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

**America's Power Comments on EPA's Proposal to Rescind the 2009
Endangerment Finding and Repeal Greenhouse Gas Vehicle Standards**

America's Power submits the following comments to the Environmental Protection Agency (EPA or agency) on the proposed rule to rescind the 2009 endangerment finding and repeal all greenhouse gas (GHG) emission standards for light-duty, medium-duty, and heavy-duty vehicles and motor vehicle engines under the Clean Air Act (CAA).¹

The proposed rule establishes two “alternative legal rationales” to rescind the endangerment finding that EPA made in 2009 to regulate GHG emissions from new motor vehicles and engines.² The first alternative for rescinding the endangerment finding is based on EPA's proposed determination that the “best reading” of section 202(a) of the CAA does not authorize the agency to set standards for GHG emissions to remedy “global climate change concerns.”³ Rather, the statute only authorizes the regulation of local or regional air pollutants that cause or contribute to air pollution that endangers public health and welfare. The second alternative for the proposed rescission is based on a comprehensive evaluation of “empirical data, peer-reviewed data studies, and real-world developments” that have occurred since EPA made the initial endangerment finding in 2009. The proposed rule determines that this evaluation justifies rescission based on the agency's faulty analysis of the scientific record and real-world developments since 2009, all of which “cast significant doubt” on the accuracy and reliability of the 2009 finding.⁴ For the reasons discussed below, America's Power supports both proposed alternative rationales and believes that each provides separate and independent grounds for EPA to rescind the 2009 endangerment finding and repeal the current GHG standards for new motor vehicles under CAA section 202(a).

By way of background, America's Power is the only national trade organization whose sole mission is to advocate at the federal and state levels on behalf of coal-fired electricity and the supply chain that supports the nation's coal fleet. The coal fleet provides dependable and affordable electricity which is essential to the nation's economic growth and national security. Our membership is composed of electricity generators, coal producers, transportation companies, and equipment manufacturers.

Although not subject to the GHG vehicle standards at issue in the proposed rule, America's Power and its members have a direct and substantial interest in the outcome of this rulemaking. A similar set of legal and factual issues arises in a parallel rulemaking now underway to rescind EPA's authority to regulate carbon dioxide (CO₂), a global air pollutant, emitted from fossil fuel-fired electric generating units (EGUs) under section 111 of the CAA. A determination in this rulemaking that the CAA does not authorize the regulation of carbon CO₂ and other global air pollutants from new motor vehicles and engines under CAA section 202(a) will therefore support and fortify the legal interpretations and regulatory determinations in the other parallel rulemaking that the agency also lacks authority under CAA section 111 to regulate CO₂ emissions that do not have local or regional impacts from affected EGUs.

Overview of America's Power Comments

America's Power is submitting the following comments to express our grave concerns regarding EPA's attempts to regulate CO₂ and other global air pollutants from major source categories in the United States under the CAA. These concerns apply equally to the regulation of GHG emissions from motor vehicles and fossil fuel-fired EGUs.

One major concern relates to the costly and burdensome regulatory consequences that result from impracticable, if not unachievable, GHG emission standards for affected sources of GHG emissions. In the case of fossil fuel-fired EGUs, EPA adopted Carbon Pollution Standards (CPS) in May 2024 that impose unachievable CO₂ performance standards that effectively force the premature shutdown of virtually all U.S. coal-fired generation by 2032. Besides the loss of an enormous amount of dependable generating capacity, coal retirements deprive the grid of attributes that are necessary for a reliable and stable grid. These coal attributes include fuel security, high capacity value, voltage control, frequency support, and ramping. The repeal of the CPS is therefore critically important to ensure electric grid reliability and provide an adequate supply of affordable electricity to meet an unprecedented increase in electricity demand. For example, the North American Electric Reliability Corporation estimates that 149 gigawatts of generating capacity will be needed within the next ten years.⁵ Satisfying this demand is essential to ensure a robust economy and to support data centers, artificial intelligence, advanced manufacturing, and electrification of the economy.

Another major concern is the futility of regulating GHG emissions from the transportation and electric power sectors under the CAA. This futility stems from two fundamental reasons. The first is the unavailability of cost-effective control technologies for reducing substantial amounts of GHG emissions from both motor vehicles and fossil fuel-fired EGUs. The second is that any CAA regulatory program for reducing GHG emissions is essentially an ineffective regulatory exercise that would result in *de minimis* and unquantifiable effects from global climate change even if all GHG emissions from affected sources in both source categories were reduced to zero.

Our comments in the response to the proposed rule address these fundamental concerns with the futile exercise of regulating global air pollutants under the CAA. In particular, the comments explain why EPA is justified in rescinding the 2009 endangerment finding that

established the legal basis for regulating GHG emissions from new motor vehicles and engines:

- The best reading of the statute authorizes EPA to regulate air pollutants from mobile sources having direct local or regional impacts and provides no authority to regulate air pollutants having only global impacts.
- The plain meaning of the term “air pollutant” supports the interpretation that EPA’s authority is limited to local and regional air pollutants.
- The best reading of the terms “cause” and “contribute” in CAA section 202(a) also supports the interpretation that EPA lacks authority to regulate global air pollutants from domestic motor vehicles.
- An attenuated causal linkage provides strong grounds for the agency to rescind the 2009 endangerment finding for motor vehicle emissions.
- Narrowing the CAA regulatory scope to only conventional air pollutants is necessary to prevent EPA from running afoul of the Major Questions Doctrine as articulated by the Supreme Court in *West Virginia v. EPA*.
- The judicial maxim on futility of purpose further supports EPA’s decision not to regulate global air pollutants from mobile sources.
- EPA’s re-examination of the science may provide independent grounds for the agency to rescind the endangerment finding based on the discretion delegated to the EPA Administrator when making complex judgements within the agency’s areas of expertise.

Comments on the Proposed Rescission of 2009 Endangerment Finding

The best reading of the statute authorizes EPA to regulate air pollutants from mobile sources having direct local or regional impacts and provides no authority to regulate air pollutants having only global impacts.

With the overturning of the *Chevron Doctrine* by the Supreme Court in *Loper Bright Enterprises v. Raimondo* (*Loper Bright*),⁶ EPA can no longer rely on statutory silence or ambiguity to adopt an expansive interpretation of its regulatory authority under CAA section 202(a).⁷ Key language in support of this interpretation includes the provisions limiting EPA’s authority to regulate only those “air pollutants” that “cause or contribute to air pollution” that “endanger public health or welfare.” This statutory language is very general and gives no specific authority for EPA to regulate air pollutants based on their global impacts.

By contrast, CAA section 202(a) contains numerous references to EPA’s authority to regulate conventional air pollutants that have direct impacts on local and regional air quality and thereby cause or contribute to air pollution posing risk to public health and welfare. For example, CAA section 202(g) and (h) require EPA to progressively tighten standards for emissions of nonmethane hydrocarbons (NMHC), carbon monoxide (CO),

oxides of nitrogen (NO_x), and particulate matter (PM) from various types of light-duty vehicles. Each of these conventional air pollutants poses meaningful and quantifiable risks to public health and the environment in one of the following two ways. The first way is that the air pollutants themselves pose adverse health or welfare impacts through direct local exposure to individuals. For example, CO or NO_x can have harmful impacts through inhalation, while PM also may have harmful dermal impacts affecting the skin or eyes. The second way includes those air pollutants that may interact locally or regionally with other airborne constituents and sunlight to form smog or acid rain, which in turn can be harmful to human health or the environment.

In addition to the regulation of these conventional air pollutants, Congress contemplated the possibility of EPA setting mobile source standards for regulating air toxic emissions from vehicles under the CAA. Expanding EPA's regulatory authority to air toxics is expressly reflected in CAA section 202(l), which directs EPA to "complete a study for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this chapter [CAA] and associated with motor vehicles . . . including benzene, formaldehyde, and 1,3 butadiene."

The statute, however, is silent on whether EPA also may regulate those air pollutants that are only potentially indirectly harmful to public health or welfare based on elevated global concentrations of greenhouse gases in the upper atmosphere. That conspicuous omission indicates that the best reading of the statute is that EPA's regulatory authority is limited to only those air pollutants that cause or contribute to air pollution that itself endangers public health or welfare through local or regional exposure.

The plain meaning of the term "air pollutant" further supports the interpretation that EPA's authority is limited to local and regional air pollutants.

The term "air pollutant" is only generally defined in the CAA. That definition makes no reference to pollutants that might have effects on human health and the environment globally. Rather, CAA section 302(g) only generally defines an "air pollutant" as "any air pollutant agent" that is emitted or otherwise released into the ambient air. As a matter of ordinary language, the term "pollutant" means a "poisonous or noxious substance that contaminates the environment," and the term "pollution" is defined as the "harmful addition of a substance or thing into an environment."⁸ Read together with CAA section 202(a), the plain meaning of the term "air pollutant" reinforces the interpretation that EPA's authority is limited to the regulation of only those dangerous or noxious air contaminants that themselves endanger public health or welfare through local or regional exposures.

CO₂ and other GHGs individually and collectively are a fundamentally different type of air pollution. Such global air pollutants have no direct local or regional impacts that endanger public health and welfare (such as the direct impacts resulting from NMHC, CO, NO_x, and PM on individuals or the environment on a local or regional basis). Rather, any endangerment attributable to GHG emissions must result from a long, attenuated causal chain that has no direct or predictable local or regional impacts on individuals or the environment. This expansive interpretation of the statute to regulate global air pollutants is not expressly authorized by the plain reading of the statute. Furthermore, it is inconsistent with the agency's longstanding practice before 2009, when EPA interpreted the term "air pollutant" under CAA section 202(a) to include only conventional air pollutants having local or regional impacts on individuals and the environment. Examples of those air pollutants

include NMHC, CO, NO_x, and PM that are referenced in CAA section 202 and for which the agency is authorized to set emissions standards for various classes and types of new motor vehicles.

The best reading of the terms “cause” and “contribute” in CAA section 202(a) also supports the interpretation that EPA lacks authority to regulate global air pollutants emitted by domestic motor vehicles.

Consistent with their ordinary meanings, the statutory terms “cause” and “contribute” clearly convey that there must be a meaningful connection or consequential linkage between new motor vehicle emissions and dangerous air pollution before EPA can make an affirmative endangerment finding under CAA section 202(a). For the reasons discussed below, the remote and highly attenuated impacts of GHG emissions from new motor vehicles and engines are insufficient to meeting either the “cause” or “contribution” requirement for making such a finding.

The term “cause” requires a direct, substantial link between an action and an effect, whereby an action is determined to bring about an effect. In regulatory contexts such as here, the test for determining causation would logically be based on the legal principles of proximate cause in which the effect would not have occurred but for the action and that action was sufficiently related or connected to the effect.⁹

Similarly, the statutory term “contribute” also connotes a tangible or meaningful causal linkage between the action and the effect. The term “contributes” generally means (in ordinary usage) to give something that will help to cause or bring about a result or outcome or effect, often in combination with other factors or actions.¹⁰ In effect, the plain meaning of the statutory term “contribute” clearly indicates that this term requires something more than a mere claim or showing that GHG emissions from the new motor vehicles and engines might be having some speculative or negligible impacts on global climate change. Rather, it requires an EPA demonstration that those motor vehicle emission reductions will likely have predictable and material impacts on global climate change, such as quantifiable sea level changes, and that any future regulations to reduce those emissions would result in non-trivial climate change effects.

In the case of GHG emissions from motor vehicles in the United States, the 2009 endangerment finding failed to make a sufficiently close connection between those emissions and adverse impacts on public health and welfare to fit with the meaning of “cause” or “contribute” as used in CAA section 202(a). Rather, the adverse global climate change concerns identified in the 2009 endangerment finding were based on alleged causal relations with domestic motor vehicle GHG emissions that—as described in the proposed rule—were “too uncertain, too remote, and too confounded by intervening and confounding factors” to meet the “cause” and “contribute” requirements set forth in the statute.¹¹

An attenuated causal linkage provides further strong grounds for the agency to rescind the 2009 endangerment finding for motor vehicle emissions.

EPA based its 2009 endangerment finding on a long and highly attenuated causal chain. Most importantly, this attenuated causal chain never identifies or explains how GHG emissions from domestic mobile sources may be contributing to adverse climate change effects domestically or worldwide. Nor does the causal chain attempt to identify or explain

what global climate change benefits might result from EPA adopting regulations to reduce GHG emissions from mobile sources in the United States.¹² Each of these matters is discussed below.

Lack of a causal relationship to adverse global climate change impacts. EPA's reliance on such a long and attenuated causal chain is contrary to the statutory requirements that new mobile sources in the United States must cause or contribute to air pollution that endangers public health or welfare under section 202(a) of the CAA. As discussed above, the plain meaning of the statutory terms "cause" and "contribute" clearly indicates that an affirmative endangerment finding under this section requires something more than a mere claim or suggestion that CO₂ emissions from domestic mobile sources might be having some undefined impacts on global climate change, particularly when those impacts are remote, uncertain, and confounded by other intervening factors. As a result, it is insufficient for the agency to base its contribution determination on such an attenuated causation chain that merely shows some possible linkage between domestic mobile source GHG emissions and increased risks to public health and welfare without providing any meaningful assessment of what those particular climate change risks might be.

The lack of causal linkage also is evidenced by the inflated importance that the 2009 endangerment finding gives to the volume of GHG emissions from domestic mobile sources. While the transportation sector accounted for 28 percent of domestic GHG emissions in 2022, U.S. emissions have steadily declined by significant amounts over the last 20 years. The United States has reduced its total emissions by over 50 percent over the last 17 years, from 23.5 percent in 2005 to 11 percent in 2022.¹³ Furthermore, when compared to total GHG emissions worldwide, domestic GHG emissions are a very small fraction of the global GHG emissions. GHG emissions from light- and medium-duty vehicles were only about 1.8 percent of global GHG emissions in 2022.¹⁴ The relative contributions are even much lower for heavy duty vehicles, which account for only 23 percent of U.S. GHG emissions and about 0.7 percent of all worldwide GHG emissions in 2022.¹⁵

These declining trends for U.S. emissions are expected to continue in the foreseeable future while China and India are projected to significantly increase their GHG emissions over the foreseeable future. These GHG emissions increases by other countries effectively are making immaterial the GHG emissions reductions being achieved by regulating mobile sources in the United States.¹⁶

Lack of causal relationship to any global climate change benefit. Another relevant indicator of the attenuated causal relationship is the extent to which global climate change effects will improve because of regulating mobile sources in the United States. In this case, neither the 2009 endangerment finding nor any subsequent regulatory analysis has provided concrete evidence suggesting that global climate change benefits could ever result from even the most aggressive regulatory scheme for reducing GHG emissions from mobile sources under CAA section 202(a). In fact, the proposed rule indicates that the predicted climate change benefits would be immeasurable even if all GHG emissions from mobile sources were reduced to zero. As a result, the GHG reduction levels from any future regulation are "well below the scientific threshold for measurability" so that those reductions "would not measurably impact GHG concentrations in the atmosphere or the rate of global climate change."¹⁷

As discussed above, the plain meaning of the statutory terms “cause” and “contribute” not only require EPA to demonstrate that mobile sources emissions are having a meaningful or non-negligible adverse impact on global climate change but also require an EPA demonstration that mobile source emission reductions from future CO₂ regulations under CAA section 202(a) will likely have tangible and non-trivial effects on global climate change.

Unlike conventional air pollutants that can have a localized or regional impact and direct consequences to public health and welfare, GHGs are global air pollutants for which the 2009 endangerment finding (as well as any subsequent CAA regulatory determination by EPA) has failed to provide any quantifiable or defined assessment of the climate change benefits when making a contribution determination for the mobile source category. EPA’s failure to make any analytic demonstration of the resulting climate change benefits provides further grounds for EPA to conclude that GHG emissions from new mobile sources and engines do not cause or contribute to dangerous air pollution posing risks to public health and welfare domestically.

Narrowing the CAA regulatory scope to only conventional air pollutants is necessary to prevent EPA from running afoul of the Major Questions Doctrine as articulated by the Supreme Court in West Virginia v. EPA.¹⁸

That legal doctrine bars federal agencies from taking actions that have extraordinary economic and political significance without explicit and clear authorization from Congress.¹⁹

In *West Virginia*, the Supreme Court applied the Major Questions Doctrine to invalidate EPA’s attempt in the Clean Power Plan to force the electric power sector away from generating electricity by using coal and other fossil fuels, and switching to renewable energy and other non-emitting energy resources.²⁰ The Court’s decision was based on an inquiry of “whether Congress in fact meant to confer the power the agency has asserted.”²¹ That inquiry requires an examination of “‘the history and breadth of the authority that [the agency] has asserted’ and whether ‘the economic and political significance’ of that assertion provide ‘a reason to hesitate before concluding that Congress meant to confer such authority.’”²² According to the Supreme Court, “both the separation of powers principles and a practical understanding of legislative intent make us ‘reluctant to read into ambiguous statutory text’ the delegation claimed to be lurking there,” and “the agency instead must point to ‘clear congressional authorization’ for the power it claims.”²³ When applying this inquiry to the generation shifting regulatory scheme established in the Clean Power Plan, the Court ruled that EPA’s claimed statutory authority was “not close to the sort of clear authorization required by our past precedents.”²⁴

The application of the Major Questions Doctrine is also appropriate to the endangerment finding that EPA made in 2009 for GHG emissions from mobile sources under CAA 202(a). EPA may not claim authority to regulate CO₂ and other global air pollutants given that EPA’s underlying claim of authority concerns an issue of vast economic and political significance and given that EPA lacks clear congressional authorization to adopt such a transformative regulatory framework to address global climate change concerns. As a result of the 2009 endangerment finding, EPA adopted GHG emission standards that effectively mandated an increased and faster shift from gasoline-fueled to electric vehicles based on the premise that substantial GHG reductions were necessary to achieve the Biden Administration’s climate change goals, including the achievement of a net 50 to 52 percent reduction in

economy-wide GHG emissions by 2030.²⁵ Mandating such a dramatic shift in the composition of the national fleet of motor vehicles is akin to the generation shifting mandate imposed on the electric power sector that the Supreme Court determined was illegal under the Major Questions Doctrine.

Furthermore, it is highly unlikely that Congress would ever leave to agency discretion the decision of how much gasoline should be used by the motor vehicle fleet nationwide. As the Supreme Court explained in invalidating the generation shifting scheme mandated by the Clean Power Plan, such major policy decisions involve making choices on “basic and consequential tradeoffs” and nothing in the statute or legislative history for the CAA indicates Congress has made such decisions. Nor does the statute indicate the clear conferral of regulatory authority for EPA to adopt any type of generating shifting scheme for the electric power sector.²⁶

The Major Questions Doctrine therefore confirms the “best reading” of the statute—as explained above—is that EPA only has authority under CAA section 202(a) to regulate conventional air pollutants (such as NMHC, NO_x, CO, and PM) that pose quantifiable risks to public health and welfare through direct local exposure to individuals and the environment. By contrast, CAA section 202(a) does not empower EPA to adopt GHG emission standards that have vast economic and political significance given that Congress has not granted that authority with unmistakably clear statutory language.

The judicial maxim on futility of purpose further supports EPA’s decision not to regulate global air pollutants from mobile sources.

The Supreme Court first articulated this maxim in *Jackson v. S.S. Archimedes*, in which the Court ruled that it is not appropriate for an agency (and courts) to presume that Congress would enact legislation requiring EPA to perform ineffective regulatory exercises (such as enacting laws that achieve inconsequential climate change benefits). Rather, “a purpose so wholly futile is not to be attributed to Congress” unless the statute provides unmistakably clear direction or express authorization to the contrary.²⁷

The application of this maxim here makes common sense. Limiting regulation of mobile sources to only conventional air pollutants having local or regional effects is necessary to prevent the imposition of GHG standards that would have negligible and, therefore, inconsequential effects on global climate change. The proposed rule has identified several major shortcomings that EPA made in the 2009 endangerment finding, which highlight the futility and ineffectiveness of regulating global air pollutants from domestic mobile sources. Examples include the following:

- Nowhere in the 2009 endangerment finding did the agency “consider the extent to which emissions from CAA section 202(a) sources have more than a *de minimis* effect on the *danger* identified with respect to elevated concentrations of GHGs in the upper atmosphere.”²⁸
- The endangerment finding did not assess whether any class or classes of new motor vehicles regulated under CAA section 202(a) had such adverse climate change effects. Rather, the EPA analysis in the endangerment finding expanded its assessment to include not only new motor vehicles but also all existing motor vehicles that had been in use for years or decades in the United States.” This expansion “increased the

absolute contribution figure by order of magnitude” because most GHG emissions result from the existing mobile source fleet and the “newer vehicles and engines tend to be more efficient and emit less.”²⁹

- The endangerment finding ignored the fact that even “reducing GHG emissions from all vehicles and engines in the United States to zero would not have a scientifically measurable impact on GHG emission concentrations or global warming potential.”³⁰

Based on these and other considerations discussed in the proposed rule, the application of this judicial maxim here is appropriate to avoid the futile implementation of a major CAA regulatory program that results in no quantifiable or consequential climate change benefits.

Rescission of the 2009 endangerment findings also is warranted based on significant procedural errors and major analytic shortcomings in the scientific record.

These shortcomings cast significant doubt on the legal and technical basis for EPA’s finding that GHG emissions from new motor vehicles and engines cause or contribute to air pollution that endangers public health and welfare. In each case, they provide a separate and independent ground for the rescission of the 2009 endangerment finding even if CAA section 202(a) could be interpreted to authorize the regulation of GHG emissions (which is not the case for the reasons discussed above).

Procedural errors. One major shortcoming is the procedure that the agency used for making the technical determinations that triggered regulation of GHG emissions from motor vehicles and engines under the CAA section 202(a). This procedure involved severing the analysis in the 2009 endangerment finding into several parts without considering whether all parts of the analysis, taken as a whole, supported the regulatory findings and regulatory determinations required by the statute.

One discrete part of the 2009 endangerment analysis supported a finding that the six GHGs constitute air pollution that may reasonably be anticipated to endanger public health and welfare.³¹ The other part of the analysis pertained to the “causation or contribution” finding that GHG emissions from all motor vehicles and engines cause or contribute to elevated concentrations of GHGs in the upper atmosphere and therefore to air pollution that endangers public health and welfare.³² The effect of this analytic approach resulted in EPA claiming authority to regulate GHG emissions from motor vehicles based on general global climate change concerns pursuant to a standalone endangerment finding without ever considering whether EPA is warranted to regulate GHG emissions from new motor vehicles in response to those findings.

In the 2009 endangerment finding, EPA concluded the statute was silent and therefore granted to the agency “procedural discretion” to make separate, standalone findings for endangerment and causation or contribution. With the Supreme Court’s decision in *Loper Bright*, the agency cannot rely on statutory silence or other ambiguity to exercise procedural discretion for severing these two determinations given that such statutory ambiguities are “not a reliable indicator of actual delegation of discretionary authority to agencies.”³³ After *Loper Bright*, EPA cannot rely on statutory silence or ambiguity to imply authorities not expressly conferred by statute and therefore should be guided by the best reading of the statute. That reading is that CAA section 202(a) operates as an integrated

whole that requires EPA to make an endangerment finding that reflects a reasoned consideration of all relevant factors that are not artificially severed into distinct findings and rulemakings across time.

Scientific record. EPA raises important questions about the conclusions that the agency reached in the 2009 endangerment finding. The proposed rule³⁴ provides examples of the premises, assumptions, and conclusions reached in the endangerment finding that undermine the endangerment finding.³⁵

Based on its comprehensive review of the most current data, studies, analyses, and other information, EPA has documented in the administrative record that there is insufficient reliable scientific basis to retain the conclusion in the 2009 endangerment finding that GHG emissions from new motor vehicles and engines in the United States cause or contribute to the endangerment of public health and welfare as a result of global climate change. Furthermore, the empirical data, peer reviewed studies, and real world developments in the administrative record therefore provide EPA with independent grounds to rescind the 2009 endangerment finding based on the discretion expressly delegated to the EPA Administrator when making complex judgements within the agency's areas of expertise.³⁶

Conclusion. America's Power has grave concerns regarding EPA's attempts to regulate CO₂ and other global air pollutants from major source categories in the United States under the CAA. These concerns apply equally to the regulation of GHG emissions from motor vehicles and fossil fuel-fired EGUs. One major concern relates to the costly and excessively burdensome regulatory consequences from imposing impracticable, if not unachievable, GHG emission standards on affected sources of GHG emissions. Another major concern is the futility of regulating GHG emissions from the transportation and electric power sectors under the CAA. As discussed above, the profound seriousness of these problems is a testament to how poorly suited the CAA is for regulating global air pollutants under the CAA. For these reasons, America's Power urges EPA to rescind 2009 endangerment finding for mobile sources in this rulemaking as well as EPA's authority to regulate fossil fuel-fired EGUs under the pending CPS repeal rulemaking. In both cases, the rescission of EPA's authority to regulate global air pollutants under the CAA is necessary to ensure a full and durable repeal of the current GHG emissions standards that the agency has established for new motor vehicles under CAA section 202(a) and the CPS for fossil fuel-fired EGUs under CAA section 111.

For additional information, please contact me at mbloodworth@americaspower.org or Paul Bailey at pbailey@americaspower.org.

Sincerely,



Michelle Bloodworth
President and CEO

¹ *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards*, 90 Fed. Reg. 36,288 (August 1, 2025) (Proposed Rule).

² *Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496 (December 15, 2009).

³ For purposes of the proposed rule, EPA uses the phrase “global climate change concerns” to refer to the risks that the EPA identified and associated with climate change in 2009. 90 Fed. Reg. at 36,290.

⁴ 90 Fed. Reg. at 36,288,26,290-91.

⁵ North American Electric Reliability Corporation, “2024 Long-Term Reliability Assessment December 2024, Updated July 15, 2025.”

⁶ 603 U.S. 369 (2024).

⁷ In *Loper Bright*, the Supreme Court expressly overturned the *Chevron Doctrine* that required courts to give deference to federal agency’s statutory interpretations when the statute was silent or vague on the particular provision or issue. The primary effect of the Supreme Court’s decision was to hold that statutes “have a single, best meaning” that is informed, but not dictated, by federal agency practice. 603 U.S. at 723.

⁸ Black’s Law Dictionary, at 1403 (11th ed. 2019).

⁹ The Supreme Court has characterized the proximate-cause analysis as examining whether the effect “has a sufficiently close connection” to the action. *Bank of America Corp. v. City of Miami*, 581 U.S. 189, 190 (2017). In the context of making a significant contribution determination under CAA section 111(a)(1)(A), the proximate-cause analysis must determine whether the air pollutant (CO₂ emissions from the EGU source category) has a sufficiently close connection to the endangerment caused by the air pollutant (global climate change).

¹⁰ See Merriam-Webster Dictionary Definition of “contribute” available [here](#).

¹¹ 90 Fed. Reg. at 36,301.

¹² As EPA explained in the proposed rule, the 2009 endangerment finding itself acknowledged the remote and uncertain causal linkage between mobile source emissions in the United States and adverse global climate change impacts. See 90 Fed. Reg. at 36,308-11. In addition, the attenuated causal connection can be summarized as follows: (1) GHG emissions from mobile sources combine with GHGs emitted from other U.S. sources; (2) U.S. GHG emissions combine with global emissions of GHGs from all sources in all countries to produce a combined concentration of GHGs in the atmosphere; (3) that combined concentration of GHGs in the atmosphere plays a causal role in a net trend toward increasing temperatures; (4) that net trend toward increasing temperatures plays a causal role in global environmental, climate, weather, and oceanographic patterns; and (5) those global changes play a causal role in producing adverse domestic environmental, climate, weather, and oceanographic phenomena that (6) endanger the public health and welfare. See 90 Fed. Reg. at 25,768.

¹³ 90 Fed. Reg. at 36,311.

¹⁴ *Id.*

¹⁵ *Id.* at 36,312.

¹⁶ See Crippa, M. et al. (2023). GHG emissions of all world countries. *Publications Office of the European Union*: <https://doi.org/10.2760/953322>.

¹⁷ 90 Fed. A6 36,311-12.

¹⁸ *West Virginia v. EPA*, 597 U.S. 697 (2022).

¹⁹ See *id.* at 700-02; *Util. Air Regulatory Grp. v. EPA*, 573 U.S. 302, 324 (2014).

²⁰ 597 U.S. at 711-15.

²¹ *Id.* at 721.

²² *Id.* (quoting *Brown & Williamson*, 529 U.S. at 159-60).

²³ *Id.* (quoting *UARG*, 573 U.S. at 324).

²⁴ *Id.* at 732.

²⁵ *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium Duty Vehicles*, 27,842, 27,844 (April 18, 2024).

²⁶ 597 U.S. at 729. Moreover, the 2009 endangerment finding is the first time that EPA ever attempted to regulate GHG emissions from motor vehicles under CAA section 202(a) to address global climate change concerns. Although CAA section 202(a) has existed since the passage of the CAA in 1970, EPA has only adopted emissions standards for conventional air pollutants and never attempted to regulate GHG emissions from mobile sources.

²⁷ *Jackson v. S.S. Archimedes*, 275 U.S. 463 (1928).

²⁸ 90 Fed. Reg. at 36,304 (emphasis in the original).

²⁹ *Id.*

³⁰ *Id.* at 36,305.

³¹ 74 Fed. Reg. at 66,516-36.

³² *Id.* at 66,536-45.

³³ *Loper Bright*, 603 U.S. at 411.

³⁴ See 90 Fed. Reg. at 36,307-10 (describing the climate science).

³⁵ Examples of premises, assumptions, and conclusions that EPA has identified for reexamination:

- Unduly pessimistic projections on temperature changes and other global climate change trends that conflict with empirical observations and evidence occurring since 2009;
- Empirical data suggesting that actual GHG emission increases and warming trends through 2025 have tracked the more optimistic modeling scenarios of the IPCC;
- Reuptake of GHGs in the atmosphere through natural processes at increased levels that are higher than anticipated;
- Data suggesting that domestic temperatures peaked in the 1930s and have generally remained stable, in relative terms, since those high temperatures;
- Mortality risk posed from cold temperatures remains higher than hot temperatures in the United States and other countries at the aggregate level;
- Data generated since 2009 suggesting that the balance of climate change generally appears to skew substantially more than previously recognized by the EPA in the direction of net benefits, or at least is too uncertain to establish a credible and reliable finding of actionable risk by regulation;
- Extreme weather events are not demonstrably increasing relative to historical highs;
- Categorical exclusion of adaptation and mitigation from consideration in the 2009 endangerment finding; and
- Recent data analyses suggesting that aggregate sea level rise has been minimal, at least respect to impacts on the United States, with sea levels rising in some domestic localities and falling in others.

See 90 Fed. Reg. at 36,308-9.

³⁶ *Seven Conty. Infrastructure Coal v. Eagle Cnty*, 145 S. Ct. 1497, 1511-15 (2025) (recognizing great deference courts accord to federal agencies on complex scientific matters).