



FPA Flexible Packaging
Association

Connecting. Advancing. Leading.

September 22, 2025

www.regulations.gov

EPA-HQ-OAR-2025-0194

The Honorable Lee M. Zeldin, Administrator

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue

Washington, DC 20460

Attn: stout.alan@epa.gov

RE: Proposed Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, 90 Fed Reg. 36288 (Aug. 1, 2025); as amended by 90 FR 39345 (Aug 15, 2025)

Dear Administrator Zeldin:

Introduction – The Flexible Packaging Association (FPA) appreciates this opportunity to submit comments on the EPA’s Proposed Reconsideration and Withdrawal of EPA’s 2009 Endangerment Finding that “Greenhouse Gases (GHG)” endanger public health and the environment. In the August 1, 2025 Notice of Proposed Rulemaking (NPRM or Notice), the Endangerment Finding is accompanied by the Agency’s proposal to reconsider and rescind all mobile source GHG standards based on the agency’s belief that it lacks the Clean Air Act (CAA) statutory authority and record basis that was required to create and maintain “this novel and transformative regulatory program.” 90 FR 35289/3. FPA is very concerned that the joinder of the proposed withdrawal of EPA’s GHG Endangerment Finding with the proposed withdrawal of EPA’s GHG Mobile Source Standards is likely to mislead the public, which may not understand that the Endangerment Finding is the predicate for *all of EPA’s stationary source GHG regulations as well as the agency’s CAA mobile source program.*¹

FPA members do not manufacture automobiles, but the 2009 GHG Endangerment Finding is the legal predicate for many other Clean Air Act GHG requirements, to which our industry and most U.S. manufacturers, are directly and/or indirectly affected. The December 2009 “endangerment finding,” as the agency knows, consisted of two endangerment findings, one

¹ Save for the CFC/HFC climate regulations authorized by Congress in the 2022 the American Innovation in Manufacturing Act, all other GHG regulations have been promulgated under the Clean Air Act and range from reporting and recordkeeping requirements to specific sector GHG reductions requirements from industry sectors such as regulation of methane from oil and gas production, carbon dioxide and other GHGs from power plants, and GHGs from aerospace, etc.



[View the Sustainability Advantages of Flexible Packaging](#)
185 Admiral Cochrane Drive, Suite 105 Annapolis, MD 2140
1 (410) 694-0800, Fax (410) 694-0900 www.flexpack.org

general and one specific to emissions from mobile sources. See, e.g., 74 Fed. Reg. 66,496 (Dec. 15, 2009). If this rule is finalized, it too must distinguish how the general endangerment finding is separate from the mobile source finding, because they simply have different impacts if they are both finalized. However, the two seem irretrievably linked in the Proposed August 1, 2025 Notice, so much so that many thought that only mobile source standards were affected. Also, as we discuss later in these comments, the agency needs to provide a further opportunity for discussion about the nationwide impacts of the proposed renouncement of the GHG endangerment finding on affected industries and Americans because of the economic dislocations of EPA's decisionmaking, were the agency to finalize the proposed rule. Failure to address both the endangerment finding and the mobile source standards separately render the rulemaking legally deficient in our view, and thus FPA does not believe the proposal should be finalized at this time pending further rulemaking.

The Flexible Manufacturing Association - FPA was established in 1950 and is the largest national trade association comprised of manufacturers and suppliers of flexible packaging. The industry produces packaging for food, healthcare, and industrial products using coating and lamination of paper, film, foil, or any combination of these materials. Examples of flexible packaging include roll stock, bags, pouches, labels, liners, wraps, and tamper-evident packaging for food and medicine. Flexible packaging, a \$31 billion industry, employs approximately 79,000 people in the United States and is now the second largest segment of the U.S. packaging market and estimated at \$162 billion contribution to the economy. Flexible packaging is the fastest growing packaging format in the U.S. Less material and lighter weight than other packaging formats, flexible packaging offers a reduced emission profile, quickly making it a packaging format of choice for brands seeking to reduce their emissions.

DISCUSSION

1. EPA's 1990 GHG Endangerment "Findings" are Separate, But EPA Fails to Distinguish Them in the Notice of Proposed Rulemaking (NPRM or Notice), Which Has Led to Confusion.

The history of the GHG-Endangerment Finding is recounted in the August 1, 2025 Federal Register NPRM. 90 Fed. Reg. 36293-36296. After EPA denied a rulemaking petition for regulating GHGs from mobile sources because the agency concluded that GHGs were "not a pollutant" under the Clean Air Act, its decision was reviewed by the Supreme Court. In *Massachusetts v. EPA*, 549 U.S. 497, 532 (2007), the Court held that GHGs were a pollutant.²

² The Court held that "The statutory text forecloses EPA's reading. The Clean Air Act's sweeping definition of "air pollutant" includes "any air pollution agent or combination of such agents, including any physical, chemical ... substance or matter which is emitted into or otherwise enters the ambient air" §7602(g) (emphasis added). On its face, the definition embraces all airborne compounds of whatever stripe, and underscores that intent through the repeated use of the word "any." *** Carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons are without a doubt "physical [and] chemical ... substance [s] which [are] emitted into ... the ambient air." The statute is unambiguous. (*internal citations*

However, the issue of whether the agency could regulate them depended on whether the Administrator formed a judgment, "that related to whether an air pollutant cause[s], or contribute[s] to, air pollution which may reasonably be anticipated to endanger public health or welfare." *Id.* at 534.

On December 15, 2009 the Administrator, in fact, published two separate findings, the "Endangerment Finding" and the "Cause and Contribute Finding," pursuant to Section 7521 of the Clean Air Act, pertaining to the regulation of mobile sources:

- **Endangerment Finding:** The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases—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.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution that threatens public health and welfare.³

The 2009 GHG Endangerment Finding distinguishes the Endangerment Finding from the Cause and Contribute Finding, with the first established independent of the second. It also is important to note that the separate findings in 2009 do not themselves impose any requirements on industry or other entities. Nonetheless, EPA's website acknowledges that "this action was a prerequisite for implementing greenhouse gas emissions standards for vehicles *and other sectors*."⁴

In the intervening sixteen years, entities that are subject to GHG standards and/or other reporting and/or record keeping requirements refer to the 2009 rule as the Endangerment Finding, establishing the basis for regulatory action regardless of the emission source or specific test set forth in other Chapters of the Clean Air Act that establish the basis for establishing emissions standards for stationary sources, airplanes, or other sources of GHGs. However, FPA observes that the August 2025 Proposed Rulemaking marries the two separate factual requirements applicable to mobile sources, making it appear that the proposed withdrawal of the 2009 Endangerment finding only applies to mobile sources. FPA members were confused, and we think that others likely have apprehended that the August 1 Notice *only* applied to mobile sources—not to all sources for which GHGs are being regulated under the Clean Air Act. Public and industry consternation or embrace of the proposal could, in equal parts, be quelled by explaining that withdrawal of the GHG endangerment finding *only*

omitted)."

³ 74 Fed. Reg. 66496 (Dec. 15, 2009).

⁴See [Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202\(a\) of the Clean Air Act | US EPA](#) (last viewed Sept. 21, 2025).

affects mobile source standards – if indeed that is the case.

That does *not* appear to be the case to FPA’s members. The agency’s proposed reconsideration of the endangerment finding appears, instead, to be EPA’s official “one-time” Proposed Public Notice of renunciation of the government’s finding that GHGs from “any or all sources” may cause or contribute to climate change. Nowhere does it appear that the Notice explains that the agency is not expressing an opinion about whether GHGs from other emissions sources affect climate change. In notable contrast, EPA’s proposed findings in section IV B of the August 1, 2025 Notice debunking the scientific underpinning of the 2009 GHG Endangerment Finding in order to conclude that the finding is weaker than previously believed and contradicted by empirical data, peer-reviewed studies and scientific developments since 2009 can only mean that this rulemaking—is intended to be much broader than perhaps the Caption of the Notice of Proposed Rulemaking conveys.

Whichever is the case, FPA recommends that EPA should publish a supplemental notice of rulemaking and reopen the comment to ensure that the public understands that the two proposed actions in the August 1, 2025, are separate, lest the rulemaking be invalidated on the basis of inadequate notice that forthcoming regulatory decisions for other industries will be predicated by reconsideration and withdrawal of the endangerment finding in this Notice. In other words, the Notice of Proposed Rulemaking should make clear that: (1) the proposed withdrawal of the endangerment finding is broad and potentially applicable to all GHG standards under the Clean Air Act; and (2) the proposed withdrawal of GHG Vehicle Standards is narrow and confined to the GHG Vehicle Standards.

Also, if the Notice is as broad as FPA suspects, the notice does not reasonably assess the impacts of the action on any sector but mobile vehicles. To withstand challenges, EPA would have to explore the impact of the agency’s proposed withdrawal of the endangerment finding, beyond Request for Comment #4 seeking comment on “reliance by other industry on its proposed basis.” 90 Fed. Reg. at 36,324. Simply stated, American manufacturers, the public, and the government have made \$\$ billions of dollars in investments for implementing greenhouse gas emissions emission reporting and pollution control requirements for *other industrial sectors and the U.S. economy writ large*. The 2009 Endangerment finding drove public and private investments for the past sixteen-years and well into the future. Much of this investment cannot be recovered. Manufacturing in the U.S. has been shaped, created, and died because of the 2009 endangerment finding.

FPA urges EPA to reopen the comment period to explore this issue and to seek possible remedies.

2. The Flexible Packaging Industry Has Relied on the Endangerment Finding and Will Suffer Direct and Indirect Harm from the Proposed Action, if Finalized.

The potential impacts on businesses other than mobile source manufacturing are not

discussed, if only because the proposed rulemaking endeavors to draw a curtain between mobile sources and other industries, unless EPA never intended withdrawal of the endangerment finding to be viewed so broadly.

In response to the agency's request for comments at the end of the Notice, the flexible packaging industry is concerned that it will suffer direct and indirect economic harm if the GHG endangerment finding is reversed.

- If mobile sources are deregulated as a result of this rulemaking, our members' investments in "climate friendly" mobile source fleets, has not been mandated and these costs also are not of paramount concern from a total business perspective. Transportation costs actually may improve.
- FPA's members believe that the proposed withdrawal of the endangerment finding is intended to affect all GHG regulations, and therefore finalizing the action will strand investments industry and the public have made in electric generation, which are embedded (and will continue to be embedded), in current electricity rates established by public utility commissions. This is not an "indirect effect," because the billions spent on eliminating fossil fuel fired power generation in the U.S. was directly transferred (and will continue to be transferred) to energy purchasers, including manufacturing industries like our own that buy electricity directly from the grid.
- We also believe that withdrawal of the endangerment finding will have a further disruptive effect on electric power markets, since the endangerment finding undergirds current regulation of power generation.⁵ This industry is entirely dependent on the transmission grid for electricity and manufacturing industries typically are the first to be dropped from service if locally-available power dips. Short term, increasing disruptions to operation means that tons of webbing that is being printed on large presses in our industry must be discarded, the press and ovens must be cleaned, and the equipment re-webbed each time it happens. Longer-term, additional disruptions affect company prices, reputation, and local and global markets.
- Manufacturers also will have to absorb new electricity-related costs in their power rates. While EPA might argue that the Department of Energy and EPA, and regional-state-local utility commissions have acknowledged that America's transmission grid already is compromised, and will continue to disintegrate with AI installations until transmission resources can be replaced, *any* further dislocation caused by the reversal of the endangerment finding—even if it means ultimately adding fossil fuels back to electricity sources—is fraught. Not only are there not enough coal plants still in operation that are capable of generating electricity in many areas of the country, currently natural gas pipelines cannot cope with demand, much less transmission lines. The cost of replacing

⁵ See, e.g., 90 Fed. Reg. 25,752 (June 17, 2025).

this infrastructure is cumulative --In addition, the power generation costs of the last sixteen years are stranded costs already absorbed in businesses electric rates and new costs for replacement of fossil fuel fired plants add to the price of electricity. Will the U.S. government address these ongoing losses?

- U.S. companies in domestic and international markets (a) will still have to meet state and international climate laws (e.g., the aeronautics industry), and (b) they could be barred from doing business in some U.S. states and abroad if they don't.

In closing, FPA reiterates its strong concern about the proposed action to withdraw the endangerment finding without additional opportunity for input on its effects on other businesses besides auto and truck manufacturing standards.

The Association appreciates having this opportunity to comment on the proposed changes to national climate policy, and if you would like to discuss our comments or suggestions, please contact me, and I will be happy to arrange a conversation.

Respectfully submitted,



Kyla Fisher
Director of Regulatory Affairs and Sustainability
Flexible Packaging Association
kfisher@flexpack.org