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# EPA’s Deregulatory Push: Implications of the Trump Administration’s Proposed Actions on Mobile Source Rules

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*The U.S. Environmental Protection Agency (EPA) has recently announced a series of decisions that have the potential to transform the regulatory environment for light- and heavy-duty motor vehicles and off-road engines (mobile sources). These efforts may create a sustained period of regulatory uncertainty for industry as these actions play out at the agency level and, likely, in court. However, these regulatory shifts also create an opportunity for stakeholders in the vehicle industry to shape future policy and strategy through active participation in the upcoming rulemaking processes.* On March 12, 2025, EPA formally announced its intention to reconsider the 2009 Greenhouse Gas Endangerment Finding (Endangerment Finding) under Section 202(a) of the Clean Air Act, as well as all regulations and actions that rely on the Endangerment Finding—for example, the Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles, Phase 3. This pronouncement follows the Administration’s recent submission of several of California’s Section 209 waivers of preemption under the Clean Air Act—several of which were granted in the waning days of the Biden Administration—to Congress as agency rules subject to the Congressional Review Act (CRA), seeking to rescind California’s authority for its separate emission rules. These efforts may create a sustained period of regulatory uncertainty for industry as these actions play out at the agency level and, likely, in court. However, these regulatory shifts also create an opportunity for stakeholders in the vehicle industry to shape future policy and strategy through active participation in the upcoming rulemaking processes. Key takeaways for regulated industry parties include:

- EPA may seek to undertake substantive revisions to the regulations that flow from the Endangerment Finding contemporaneously with the process to revisit the Endangerment Finding, or it may first pursue revisions to the Endangerment Finding as a stand-alone action. Which path EPA chooses may affect the timeline for finalization and implementation of these actions, and thus, determine how and when these actions will affect regulated parties.
- Legal challenges to EPA’s planned deregulatory efforts are near-certain, and opponents of revisions to applicable emissions standards are likely to seek to prevent these changes from taking effect by seeking early injunctive or declaratory relief, or stays of the actions. This uncertainty will create a complex compliance environment for regulated industry, as existing rules may remain in place while litigation proceeds.
- Even during this regulatory overhaul by EPA, it is likely that core principles of emissions law—including preemption of state and local standards under Section 209 of the Clean Air Act—will remain intact.
- Industry stakeholders should consider active participation in EPA’s upcoming rulemaking processes and intervention in future litigation, in order to advocate for a commonsense, clear, and comprehensive regulatory scheme.

**Reconsideration of the Endangerment Finding for Greenhouse Gases** President Trump’s “Unleashing American Energy” Executive Order, published on January 20, 2025, directed EPA Administrator Lee Zeldin to provide recommendations on the legality and

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continuing applicability of the 2009 Greenhouse Gas Endangerment Finding issued under Section 202(a) of the Clean Air Act. In response, on March 12, 2025, EPA formally announced its intention to reconsider the Endangerment Finding.[1] And because the Endangerment Finding underpins many of the agency's rules aimed at combatting climate change, EPA has also stated that it intends to reconsider all prior regulations and actions that rely on the Endangerment Finding. History of the Endangerment Finding The Endangerment Finding was developed by EPA in response to the Supreme Court's 2007 decision in *Massachusetts v. EPA*.[2] The case arose following a petition requesting that EPA regulate the emissions of carbon dioxide and other greenhouse gases from motor vehicles. EPA denied the petition and concluded that the Clean Air Act did not authorize the agency to issue regulations addressing climate change.[3] EPA's decision was appealed, and the Supreme Court held that EPA erred when it denied the petition. The Court found that carbon dioxide falls within the broad definition of "air pollutant" under the Clean Air Act, and that Section 202(a)(1) of the Act authorizes EPA to regulate carbon dioxide emissions from new motor vehicles.[4] The Court remanded the matter back to EPA, requiring the agency to consider whether such emissions "may reasonably be anticipated to endanger public health or welfare."[5] On remand, EPA ultimately determined in 2009 that greenhouses gases, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, may reasonably be anticipated to endanger public health and welfare.[6] This finding laid the foundation for a host of regulations setting limits for greenhouse gas emissions, including emissions standards for mobile sources. What to Expect In its March 12 announcement, EPA stated only that it would "reconsider" the Endangerment Finding, declining to prejudge the outcome of that proceeding.[7] However, EPA hinted that it may revise aspects of the 2009 rulemaking that the agency now views as inadequate—for example, suggesting that it was inappropriate for EPA to "not consider any aspect of the regulations that would flow from" the "Endangerment Finding," including "future costs" of compliance, and characterizing as procedurally "flawed and unorthodox" the way in which the Endangerment Finding concluded that carbon dioxide emissions present an endangerment risk.[8] Based on these pronouncements, it appears EPA will reevaluate the propriety of the Endangerment Finding on both substantive and procedural grounds—reconsidering the scientific evidence underpinning the 2009 finding and reevaluating whether the original procedural approach was appropriate. As with any new rulemaking, the agency must provide sufficient technical and legal justification for a revised finding, complete the public notice and comment process, and allow for inter-agency reviews, as appropriate. With respect to the scientific evidence underpinning the 2009 finding, EPA has noted that the 2009 finding did not directly conclude that carbon dioxide from vehicles causes endangerment. Instead, the agency determined in 2009 that a mix of six gases globally contributed "an unknown amount above zero to climate change, and that climate change contributed, not caused, an unknown amount above zero of endangerment to public health."[9] With this history, it appears less likely that EPA will reverse course on the fundamental question of whether climate change is in fact occurring, or whether the six greenhouse gases identified in the 2009 finding are harmful. Instead, EPA may revisit the question of whether the United States' contribution to global climate change warrants the level of regulation currently in place. For example, EPA could take the position that the significant emission-producing activities of other nations such as China and India weaken any causal connection between greenhouse gas emissions in the United States and any endangerment to the public health and welfare. With respect to the procedural arguments, EPA takes the position that the 2009 Endangerment Finding "intentionally ignored costs of regulations that EPA knew would follow from the Finding—and indeed ignored any other policy impacts of those regulations."[10] Any revised finding based upon these potential procedural gaps will likely consider the costs associated with compliance—and may find that such costs outweigh the benefits of the finding itself. The procedural requirements for reopening the Endangerment Finding are significant. EPA must first appoint new members to the Science Advisory Board (SAB) and Clean Air Scientific Advisory Committee (CASAC), the members of which were dismissed in January 2025. These boards provide independent scientific and technical peer review, consultation, advice, and recommendations to the EPA Administrator and make recommendations regarding the revision or development of air quality criteria and

standards.[11] Following any input from these boards, EPA must then draft a new finding and proceed through the traditional rulemaking process, allowing time for public comment. If the procedural history of the 2009 Endangerment Finding is any indication, the process may take years. Following the Supreme Court's decision in *Massachusetts v. EPA* in April 2007, EPA published the draft Endangerment Finding via an Advance Notice of Proposed Rulemaking (ANPR) in July 2008. EPA provided a 120-day public comment period for the ANPR, and received more than 200,000 public comments. After evaluating the public comments received, the agency issued a Notice of Proposed Rulemaking (NPRM) in April 2009, providing for a 60-day public comment period and holding two in-person public hearings. EPA received more than 380,000 public comments during this period, which in turn had to be evaluated and addressed. The final Endangerment Finding was signed by the EPA Administrator in September 2009.[12] Even if EPA attempts to take a more streamlined approach to its revisions to the Endangerment Finding, the agency likely will be required to adhere to the requirements of notice-and-comment rulemaking before finalizing any new finding—a process which is likely to take months at a minimum, if not longer. Beyond these procedural requirements, any revision to the Endangerment Finding is likely to be subject to litigation. State Attorneys General and climate-focused organizations are likely to challenge any rollback of the Endangerment Finding and potentially seek injunctive relief on the basis that the revocation of the 2009 finding—or the elimination of, or revision to, related individual rules—will cause irreparable harm.

Implications for Clean Air Act Preemption In addition to engendering significant uncertainty regarding a broad swath of emission-relevant regulations and rules, reconsideration of the Endangerment Finding may also have implications for Section 209 of the Clean Air Act, which preempts most state vehicle emission programs. Section 209 prohibits states from adopting or enforcing "any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part."[13] If the Endangerment Finding is eliminated, states may argue that EPA is not exercising its authority under the Clean Air Act to regulate greenhouse gas emissions, and as such, Section 209 no longer preempts states from issuing their own greenhouse gas emissions standards. However, this argument will struggle against the plain language of Section 209, which provides for blanket preemption of any state or local regulation of "emissions" from "vehicles" or "engines" subject to regulation under Title II, Part A of the Clean Air Act;[14] the preemption language is not limited to "air pollutant[s]" regulated under the Act. As such, once a vehicle or engine is subject to regulation under Part A, no state can issue emissions standards for that vehicle or engine. Demonstrating this point, the California Air Resources Board sought preemption waivers for greenhouse gas standards for light-duty vehicles prior to EPA's endangerment finding in 2009. In light of this, state efforts to avoid preemption may face legal headwinds. Opponents of a revised Endangerment Finding may also argue that undoing or weakening the Endangerment Finding opens the door for state common law tort claims previously found to be preempted by the Clean Air Act. But such claims will run up against hostile case law, which has emphasized that the Clean Air Act's preemptive force stems from the Act's *delegation* of regulatory authority, not the EPA's *exercise* of that authority.[15] So while challenges to the Clean Air Act's preemptory effect based upon revocation of the Endangerment Finding may lead to lengthy litigation and a period of regulatory uncertainty, those challenges also will face considerable legal headwinds. Considerations for Regulated Industry While EPA's rulemaking process is ongoing with respect to the Endangerment Finding, and during the pendency of any resultant litigation, vehicle and engine manufacturers may face uncertainty on compliance obligations associated with the existing emissions standards. This substantial regulatory uncertainty may have the effect of increasing compliance costs across the industry. Whether EPA will undertake substantive revisions to regulations that flow from the Endangerment Finding, such as the Phase 3 emissions standards, contemporaneously with the Endangerment Finding process is currently unclear. Rather than proceeding on parallel tracks, EPA may choose first to prioritize revising the Endangerment Finding as a stand-alone action—leaving intact the individual rules that are reliant on the Endangerment Finding—because a significant revision to the Endangerment Finding will streamline the subsequent process of undoing the rules that rely on the finding. Under this approach, if there is significant delay in the rollback of the Endangerment Finding, these regulations could remain in place well into the current

Administration. To combat this uncertainty and reduce the costs of compliance with a shifting set of rules, regulated industry should proactively engage with EPA via the rulemaking process to ensure that the industry's concerns, priorities, and needs regarding the future of emissions regulation are heard. The significant impact of regulatory uncertainty to the industry's compliance costs is an important consideration that EPA should weigh as it determines how to revise the Endangerment Finding and the regulations stemming from it. **Revocation of California's Clean Air Act Waivers via the Congressional Review Act** At the tail end of the Biden Administration, EPA issued several waivers under Section 209 of the Clean Air Act, authorizing California to set its own mobile source emissions regulations—specifically, California's Omnibus Low NOx[16] and Advanced Clean Cars II[17] programs. In April 2023, the Biden Administration also granted California's waiver request for its Advanced Clean Trucks Regulation.[18] The Clean Air Act provides for broad preemption of state or local standards relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to the Act.[19] However, the Act authorizes the EPA Administrator to waive this preemption for California, provided that California's own standards are at least as protective as federal standards, are not arbitrary and capricious, are necessary to meet "compelling and extraordinary conditions," and are not otherwise inconsistent with federal motor vehicle emissions regulations.[20] Section 177 further allows other states to adopt standards identical to California regulations that have received a waiver.[21] In response to a challenge to California's waivers for a similar mobile source program (Advanced Clean Cars I), the D.C. Circuit recently upheld this grant of unique authority to California, and the Supreme Court declined to hear the question of Section 209's constitutional validity.[22] On February 19, 2025, the Trump Administration submitted[23] the decisions to grant California waivers for its Omnibus Low NOx, Advanced Clean Cars II, and Advanced Clean Trucks programs to Congress for consideration under the Congressional Review Act (CRA).[24] The CRA provides an expedited process by which Congress can reverse an agency rulemaking by means of a joint disapproval resolution passed by both chambers of Congress and signed by the president. If the disapproval resolution is introduced within 60 legislative days of Senate session from a rule's publishing in the Federal Register or transmission to Congress (whichever is later), the Senate may consider the disapproval resolution by non-filibusterable majority vote. The Biden Administration did not submit the decisions granting these waivers to Congress when those decisions were published, so the 60-legislative-day CRA clock was triggered when the Trump Administration submitted the waivers to Congress in February. Congress has not yet taken action with respect to these waivers.[25] Should Congress act to revoke these waivers, however, legal challenges to the revocation would prove difficult. Congress's CRA activity follows ordinary constitutional requirements under Article I, Section 7 of the U.S. Constitution (with the act passing both chambers, and either signed by the president or passed over the president's veto). Courts ordinarily decline to review the procedural validity of enrolled bills,[26] and the joint resolutions revoking the waivers have the same status as a bill. Further, the CRA strips federal courts' jurisdiction to review any congressional "determination, finding, action, or omission under" the CRA.[27] **Further EPA Regulatory Rollbacks** The Trump Administration has also announced plans to target a series of longer-standing EPA rules significant to the automotive industry. Light-, Medium-, and Heavy-Duty Vehicle Regulatory Rollbacks EPA's March 12 announcement specifically targets the light-, medium-, and heavy-duty tailpipe emissions rules that the Trump Administration has likened to electric vehicle mandates. It does so largely on the grounds that the Biden Administration EPA based its findings concerning the technical feasibility of such rules on the increased availability of electric vehicles and zero-emission vehicles. ***Clean Trucks Plan (CTP)***. EPA's "Clean Trucks Plan" is an initiative first announced by the Biden Administration on August 5, 2021 which encompasses three rules: the "Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards," the "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light- and Medium-Duty Vehicles," and the "Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3."

- ***Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards ("Heavy-Duty Truck NOx Rule")***.[28] Adopted on December

20, 2022, this first rule issued under the Clean Trucks Plan set more stringent standards for heavy-duty highway engines' NOx, PM, HC, and CO emissions. Because the regulation does not directly regulate greenhouse gas emissions, the rulemaking did not rely upon the greenhouse gas Endangerment Finding. According to EPA, the reconsideration of this rule is grounded in concerns that the regulations are not squarely rooted in statutory authority, that the rules are unrealistic for large truck manufacturers absent a shift to electric vehicles, and that the rules' costs are coercive and compel truck makers to reengineer their fleets towards allegedly uneconomic and unproven electric technologies, resulting in market distortions and reduced customer choice.[29]

- ***The Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light- and Medium-Duty Vehicles ("Multi-Pollutant Rule")***.[30] The 2027 and Later Light- and Medium-Duty tailpipe emissions rule, finalized on March 20, 2024, stretches well beyond trucks to regulate tailpipe emissions for light- and medium-duty fleets, as well. The rule limits the emission of criteria pollutants (PM, NOx, VOC, SOx and CO), air toxics, and greenhouse gasses. In particular, the rule dramatically lowered fleet-wide light- and medium-duty greenhouse gas emissions limits. The rule's regulatory authority for greenhouse gas emissions limits is tied to the greenhouse gas Endangerment Finding, but the limitations on criteria pollutants and air toxics rest on independent endangerment findings. Here, EPA's reasons for reconsideration mirror those of the Heavy-Duty rule rollbacks, including a lack of grounding in statutory authority, a compelled shift in production to electric vehicles, and significant costs that distorts the market and reduce consumer choice.
- ***Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles – Phase 3 ("Phase 3")***.[31] EPA's Phase 3 heavy-duty emission standards increased the stringency of heavy-duty vehicle fleet-wide CO2 emission standards for MY 2032 and later, but with limits lowered beginning for MY 2027 in some vehicle categories. This rule relied upon the greenhouse gas Endangerment Finding for its regulatory authority.

***Corporate Average Fuel Economy (CAFE) Standards***. On January 28, 2025, Secretary Sean Duffy directed[32] the Department of Transportation (DOT) to conduct an immediate review and reconsideration of all existing fuel economy standards applicable to all models of motor vehicles produced from model year 2022 forward, including the CAFE standards for MY 2024-2026 passenger cars and light trucks[33] and for MY 2027-2031 passenger cars and light trucks and fuel efficiency standards and MY 2030-2035 heavy-duty pickup trucks and vans.[34] The Biden Administration's 2022 CAFE standards had raised fuel economy standards for passenger cars and light trucks 8% annually for MY 2024-2025 and 10% for MY 2026,[35] and 2% per year for passenger cars MY 2027-2031 and for light trucks MY 2029-2031, resulting in an average light-duty vehicle fuel economy of 50.4 mi/gal by 2031.[36] Heavy-duty pickup truck and van fuel efficiency requirements were also strengthened, increasing 10% per year for MY 2030-2032 and 8% per year for MY 2033-2035, to an average of 35 mi/gal by 2035.[37] Secretary Duffy's memorandum grounds the review of the CAFE standards in the impossibility of meeting the existing standards without "rapidly shifting production away from internal-combustion-engine ('ICE') vehicles to alternative electric technologies." The memorandum contends that this shift distorts the market by forcing automakers to reengineer their fleets and phase out popular ICE vehicles—reducing consumer choice and harming existing jobs—and therefore violates the "technological feasibility" and "economic practicability" requirements of the Energy Policy and Conservation Act of 1975.[38] Potential Timeline of Regulatory Rollbacks Because regulatory authority for these rules—other than the Phase 3 rulemaking—does not rest solely on the greenhouse gas Endangerment Finding, replacement of these rules may require EPA to undertake additional, separate rulemaking activities. For example, the speediest of the Clean Trucks Plan rulemakings, the Heavy-Duty Truck NOx Rule, was announced in an NPRM published on March 28, 2022,[39] with its public comment period closing on May 13, 2022, and the final rule published on January 24, 2023, ultimately taking effect March 27, 2023. In all, 477 days passed

between the announcement of the Clean Trucks Plan and the implementation of its first significant constituent element. This suggests that a rollback of this rule may require a similar timeframe. In addition to the actual rulemaking timelines themselves, the near-certain legal challenges to the reversal of the Endangerment Finding may further delay the reconsideration of related mobile source emissions regulations. To the extent that EPA's reconsideration of existing emissions regulations is predicated on the reversal of the Endangerment Finding, challengers may ask courts to hold these reversals in abeyance pending the resolution of challenges to the underlying Endangerment Finding repeal. This risk is particularly prominent for rules significantly targeting greenhouse gas emissions, which are most directly reliant on the Endangerment Finding. The possibility that courts hold these individual rule repeals in abeyance pending litigation over the Endangerment Finding may mean that attempts at a more accelerated repeal process focused on the legal—rather than factual—basis for these revised rules are subject to significant delays. Such delays are likely to present compliance uncertainties for the automotive industry, and the related legal disputes are likely to extend beyond the term of the current presidential administration or, as with the pending reversals of California's Section 209 waivers, within the final 60 days of the administration where actions become vulnerable to CRA review.

Opportunities for Industry Involvement The rulemaking process—both for the Endangerment Finding repeal and for the Biden Administration's various tailpipe emissions regulations—present opportunities for regulated industry to participate in and contribute to EPA's new and revised rules. Industry may seek to enter into the rulemaking record evidence of the impact of, and compliance costs flowing from, various of EPA's repeal or replacement strategies. This, in turn, could result in more favorable—or at least more manageable—final rules down the line. Industry members may also seek to pursue litigation strategies that support rulemaking activity aligned with established legal positions on agency authority. Recent legal challenges to mobile source emissions regulations, such as the challenge to the Section 209 waiver granted to California's Advanced Clean Car I Program, have been led by adjacent industries, like the liquid fuels industry. While these organizations have faced some difficulties in demonstrating the redressability of their injuries and therefore establishing that they possess standing to challenge the rules,[40] the Supreme Court's pending decision in *Diamond Alternative Energy LLC v. EPA* may ultimately confirm these entities' standing, opening the door to future litigation by these groups on issues of fundamental importance to the motor vehicle and engine manufacturing industry.[41] As motor vehicle and engine manufacturing companies weigh litigation options, this development should be an important consideration.

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The burgeoning regulatory overhaul at EPA will lead to a period of uncertainty for regulated industry, as EPA revisits the Endangerment Finding and revises existing rules governing greenhouse gas emissions and other pollutants. Challenges to EPA's deregulatory actions—and to a revision of the Endangerment Finding in particular—are near-certain, and any major revisions to applicable greenhouse gas emissions standards are at risk of being stayed pending the outcome of legal challenges to the Endangerment Finding revocation. This uncertainty will create a complex compliance environment for the industry, with existing rules remaining in place while litigation proceeds, in turn increasing compliance costs and further obscuring the future of emissions regulation in the United States. Additionally, if the timelines for such challenges to EPA's efforts extend beyond the end of the Trump Administration, industry is at risk of yet more uncertainty under a new administration, which may seek to use many of the same tactics to undo any deregulatory efforts that are implemented between now and the end of 2028. To reduce the risk of years of future uncertainty, industry stakeholders should consider active participation in EPA's upcoming rulemaking processes. Industry participants will also have the opportunity to affect the outcome of challenges to EPA's upcoming efforts by participating in future litigation over these agency actions. By participating in the rulemaking and litigation process, regulated parties have the chance to advocate for a commonsense, clear, and comprehensive regulatory scheme that provides near- and long-term clarity and stability for both industry and consumers alike. [1] Press Release, U.S.

EPA, *EPA Launches Biggest Deregulatory Action in U.S. History* (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history. [2] 549 U.S. 497 (2007). [3] Control of Emissions From New Highway Vehicles and Engines, 68 Fed. Reg. 52922 (Sept. 8, 2003). [4] *Id.* [5] 42 U.S.C. § 7521(a)(1). [6] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66496 (Dec. 15, 2009). [7] Press Release, U.S. EPA, *Trump EPA Kicks Off Formal Reconsideration of Endangerment Finding with Agency Partners* (Mar. 12, 2025), https://www.epa.gov/newsreleases/trump-epa-kicks-formal-reconsideration-endangerment-finding-agency-partners. [8] *Id.* [9] U.S. EPA, *Endangerment Finding One Pager*, https://www.epa.gov/system/files/documents/2025-03/final-pager-endangerment.pdf. [10] *Id*. [11] *See* Request for Nominations to the EPA Clean Air Scientific Advisory Committee (CASAC), 89 Fed. Reg. 81074 (Oct. 7, 2024). [12] U.S. EPA, *Timeline of EPA's Endangerment Finding*, https://www.epa.gov/sites/default/files/2021-05/documents/endangermentfinding_timeline.pdf. [13] 42 U.S.C. § 7543. [14] *Id.* [15] *See American Electric Power Co. Inc. v. Conn.*, 564 U.S. 410, 424 (2011) (Holding that "[t]he critical point is that Congress delegated to EPA the decision whether and how to regulate carbon-dioxide emissions from powerplants; the delegation is what displaces federal common law."); *see also Bell v. Cheswick Generating Station*, 734 F.3d 188 (3d Cir. 2013); *Comer v. Murphy Oil USA*, 839 F. Supp. 2d 849 (S.D. Miss. 2012), *aff'd on other grounds*, 718 F.3d 460 (5th Cir. 2013). [16] California State Motor Vehicle and Engine and Nonroad Engine Pollution Control Standards; The "Omnibus" Low NOx Regulation; Waiver of Preemption; Notice of Decision, 90 Fed. Reg. 643 (Jan. 6, 2025). [17] California State Motor Vehicle Pollution Control Standards; Advanced Clean Cars II Regulations; Waiver of Preemption; Notice of Decision, 90 Fed. Reg. 642 (Jan. 6, 2025). [18] California State Motor Vehicle and Engine Pollution Control Standards; Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions; Advanced Clean Trucks; Zero Emission Airport Shuttle; Zero-Emission Power Train Certification; Waiver of Preemption; Notice of Decision, 88 Fed. Reg. 20688 (Apr. 6, 2023). [19] 42 U.S.C. § 7543(a). [20] 42 U.S.C. § 7543(b). [21] 42 U.S.C. § 7507. [22] *See Ohio v. Env't Prot. Agency*, 98 F.4th 288 (D.C. Cir. 2024), *cert. granted in part sub nom. Diamond Alternative Energy, LLC v. EPA*, 220 L. Ed. 2d 288 (Dec. 13, 2024), and *cert. denied sub nom. Ohio v. EPA*, No. 24-13, 2024 WL 5112340 (Dec. 16, 2024). [23] Press Release, U.S. EPA, *Trump EPA to Transmit California Waivers to Congress in Accordance with Statutory Reporting Requirements* (Feb. 14, 2025), https://www.epa.gov/newsreleases/trump-epa-transmit-california-waivers-congress-accordance-statutory-reporting. [24] 5 U.S.C. §§ 801-808. [25] On March 6, 2025, the Government Accountability Office (GAO) issued an opinion that the CAA preemption waivers are adjudicatory orders, not rules, and are therefore not subject to the CRA. Letter, Gov't Accountability Off., B-337179 (Mar. 6, 2025). GAO opinions are not binding on Congress and do not prevent Congressional consideration of agency actions under the CRA. The opinion does highlight, however, the ongoing dispute regarding the nature of EPA CAA waiver decisions and whether they constitute agency rulemaking subject to CRA review (and attendant procedural requirements) or whether they constitute a lesser form of agency action and are exempt from the CRA. [26] *See Marshall Field & Co. v. Clark*, 143 U.S. 649 (1892) (describing the enrolled-bill rule). [27] 5 U.S.C. § 805. [28] Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards, 88 Fed. Reg. 4296 (Jan. 24, 2023). [29] U.S. EPA, *Heavy-Duty Vehicles – Powering the Great American Comeback Fact Sheet*, https://www.epa.gov/system/files/documents/2025-03/heavy-duty-vehicles-powering-the-great-american-comeback-factsheet.pdf. [30] Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles, 89 Fed. Reg. 27842 (Apr. 18, 2024). [31] Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles – Phase 3, 89 Fed. Reg. 29440 (Apr. 22, 2024). [32] Sean Duffy, Sec'y of Transp., *Memorandum on Fixing the CAFE Program* (Jan. 28, 2025), https://www.transportation.gov/sites/dot.gov/files/2025-01/Signed%20Secretarial%20Memo%20re%20Fixing%20the%20CAFE%20Program.pdf. [33] Corporate Average Fuel Economy Standards for Model Years 2024-2026 Passenger Cars and Light Trucks, 87 Fed. Reg. 25710 (May 2, 2022). [34] Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027-2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years

2030-2035; Correction, 89 Fed. Reg. 52540 (July 29, 2024). [35] Press Release, U.S. DOT, *USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026* (Apr. 1, 2022), https://www.transportation.gov/briefing-room/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026. [36] Press Release, NHTSA, *USDOT Finalizes New Fuel Economy Standards for Model Years 2027-2031* (June 7, 2024), https://www.nhtsa.gov/press-releases/new-fuel-economy-standards-model-years-2027-2031. [37] *Id.* [38] *See* 49 U.S.C. § 32902(f). [39] Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards, 87 Fed. Reg. 17414 (Mar. 28, 2022). [40] *Ohio v. Env't Prot. Agency*, 98 F.4th 288 (D.C. Cir. 2024), *cert. granted in part sub nom. Diamond Alternative Energy, LLC v. EPA*, 220 L. Ed. 2d 288 (Dec. 13, 2024), *and cert. denied sub nom. Ohio v. EPA*, No. 24-13, 2024 WL 5112340 (U.S. Dec. 16, 2024). [41] *Diamond Alternative Energy, LLC v. EPA*, 220 L. Ed. 2d 288 (Dec. 13, 2024).

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