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EPA Rescinds 2009 Endangerment Finding and Repeals Vehicle GHG Standards

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On February 12, 2026, the Environmental Protection Agency (EPA or Agency) announced its long-anticipated final rule rescinding its 2009 "Endangerment Finding," the scientific and legal determination that greenhouse gas (GHG) emissions cause or contribute to air pollution that endangers public health or welfare. The rescission has significant implications for EPA's exercise of authority to regulate GHG emissions under the Clean Air Act (CAA). It invalidates all current motor-vehicle and engine GHG standards issued under CAA section 202(a) and removes EPA's authority to regulate GHG emissions from such sources in the future under the CAA. The rescission also provides EPA with a potential regulatory basis for invalidating current and barring future GHG regulation of fossil fuel-fired power plants, oil and gas facilities, and other major source categories of GHG emissions under the CAA.

The final rule becomes effective 60 days after its publication in the *Federal Register*, which should occur over the next few weeks. Publication of the rescission is expected to prompt prolonged litigation and create material uncertainty about whether GHG emissions from mobile sources and other major source categories are regulated under the CAA. Rescission of the Endangerment Finding will also create uncertainty about the validity of certain state laws and climate-related litigation under federal and state common law.

BACKGROUND

The Endangerment Finding is grounded in CAA section 202(a), which directs EPA to prescribe emission standards for "any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in [the EPA Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."

EPA issued the Endangerment Finding after the Supreme Court's decision in *Massachusetts v. EPA*, 549 U.S. 497 (2007). In that case, the Court held that GHGs are "air pollutants" under the CAA but the decision did not compel EPA to regulate GHG emissions from mobile sources or any other source category under the CAA. Instead, the Court interpreted the CAA to authorize GHG regulation in the case of only those source categories for which the Agency has made an affirmative GHG Endangerment Finding. In the case of the mobile source category, EPA issued an Endangerment Finding in 2009, concluding that six GHGs (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur

hexafluoride) met the standard under section 202(a). Having made the finding, EPA promulgated GHG emission standards for mobile sources.

Since 2009, EPA has relied on the Endangerment Finding to justify the adoption of virtually all mandatory GHG controls under the CAA. These GHG control requirements include GHG vehicle emissions standards for light-, medium-, and heavy-duty vehicles; power plant carbon dioxide limits; methane performance standards for oil and gas operations; and aircraft emission standards. The final rule rescinding the 2009 Endangerment Finding therefore raises significant questions regarding EPA's present and future authority to regulate GHG emissions under the CAA.

THE FINAL RULE

EPA's final rule rescinds the 2009 Endangerment Finding issued under section 202(a) of the CAA and repeals all GHG emissions standards for vehicles and engines manufactured or imported into the United States for model years 2012 to 2032 and beyond. Environmental groups and many states have already announced their plan to file lawsuits challenging both actions of the final rule. Once these court challenges are filed, the parties also are likely to seek a stay of the rescission pending judicial review.

Legal Basis for Rescinding the Endangerment Finding

The rescission of the Endangerment Finding does not rest on insufficiency of the climate change science supporting the finding. Rather, the Agency concluded that the Endangerment Finding exceeded its authority under the CAA, and that the rescission is consistent with recent Supreme Court case law. The Agency's legal conclusions are briefly summarized below, which EPA argues "are sufficient to support rescission of the Endangerment Finding and repeal of the related GHG emission standards without the additional scientific basis set out at proposal." EPA's key rationales for the rescission are:

- EPA argues that CAA section 202(a)(1) is best read as authorizing the Agency to identify and regulate only those emissions that cause or contribute to air pollution that endangers health or welfare through *local and regional exposure*. This conclusion rests on EPA's interpretation of "air pollution," which the Agency maintains is consistent with *Massachusetts* when that decision is read in light of subsequent Supreme Court decisions addressing agency authority and statutory interpretation, including *Utility Air Regulatory Group v. EPA*, *West Virginia v. EPA*, and *Loper Bright Enterprises v. Raimondo*, as well as the statute's structure, history, and EPA's pre-2009 practice.

- EPA asserts that, under CAA section 202(a)(1), it is not sufficient to find that certain air pollutants endanger public health or welfare. Rather, EPA must find that air pollution from the *regulated source category* "cause or

contribute" to endangerment. The Agency reasons that the 2009 Endangerment Finding inappropriately severed these inquiries. EPA further concludes that GHG emissions from new U.S. vehicles and engines cannot meet this test because they account for a *de minimis* level of total atmospheric concentrations.

- EPA asserts that rescission is required because GHG emissions standards for vehicles and engines have not and cannot materially diminish the climate-related harms in any non-*de minimis* way. The Agency asserts that Congress could not have intended to require futile regulation.

- Finally, the Agency argues that rescission is required because Congress did not expressly grant EPA authority to regulate GHG emissions in response to global climate change concerns. EPA grounds this reasoning in the Major Questions Doctrine, concluding that the Nation's response to global climate change is a question of such significant economic and political importance that EPA cannot regulate GHGs absent clear authorization from Congress—and CAA section 202(a) does not include such authorization.

Repeal of Vehicle and Engine GHG Emissions Standards

The final rule repeals all GHG emissions standards for light-, medium-, and heavy-duty vehicles and heavy-duty engines. These repeals take effect prospectively as of the rule's effective date (subject to any judicial stay).

Severability

The final rule states that the Agency intends each rationale for rescission to be severable. If one basis is vacated on review, EPA believes that the rescission should stand on the remaining basis or bases.

Proposed Rationales Not Adopted in Final Rule

In the final rule, EPA expressly does not adopt some rationales for rescission of the Endangerment Finding and repeal of vehicle GHG emissions standards that the Agency had included in its proposed rule. For example, EPA opted not to finalize a finding that the Endangerment Finding was based on unreasonable analysis of the scientific record or that developments since 2009 cast significant doubt on this record. However, the preamble to the final rule makes clear that the Agency continues to "harbor concerns" about the scientific analysis.

IMPLICATIONS

Rescission of the Endangerment Finding and repeal of motor vehicle GHG standards creates substantial uncertainty. The final rule is expected to prompt extensive litigation, so the effects of the rule may not be fully realized until litigation is resolved, likely by the Supreme Court. Regulated entities should expect parallel agency and court activity over the next several months and years. During this

period, regulated entities will face ongoing uncertainty regarding federal GHG requirements, state programs, and climate-related tort litigation.

Vehicle Emissions Standards

The final rule does not merely target EPA's section 202(a) Endangerment Finding for motor vehicles, which is a legal predicate for vehicle GHG standards—it also directly repeals the actual existing GHG standards for light-, medium-, and heavy-duty vehicles and heavy-duty engines. Manufacturers will therefore have no prospective GHG measurement, reporting, or compliance obligations, as of the final rule's effective date, subject to any judicial stay.

The final rule does not modify regulations for criteria pollutants, air toxic emissions, or evaporative and refueling emissions; Corporate Average Fuel Economy (CAFE) testing requirements (which measure CO2 and are administered by the National Highway Traffic Safety Administration); or associated fuel economy labeling requirements. These programs rest on distinct statutory authorities and interagency coordination. Vehicle manufacturers may experience delays in obtaining certification while the Agency updates its related guidance and procedures.

Other GHG Regulations

In the long term, rescinding the Endangerment Finding may facilitate EPA's efforts to revisit federal GHG regulations for other sectors. While existing regulations would still need to be repealed or revised through notice-and-comment rulemaking, the rescission of the Endangerment Finding under section 202(a) may significantly lower the legal and procedural barriers to doing so.

The rescission has potentially significant implications for power plants and the oil and gas industry. EPA has signaled that it plans to repeal the current carbon dioxide standards for new and existing fossil fuel-fired power plants, and that it intends to revise methane standards for the oil and gas sector.

Potential for Fundamental Changes in Nuisance Lawsuit Risk

EPA rescinding the Endangerment Finding could prompt arguments that federal common-law nuisance claims are no longer displaced. In *American Electric Power Co. v. Connecticut*, 564 U.S. 410 (2011), the Supreme Court held that the CAA delegates authority to EPA to regulate GHG emissions and therefore displaces federal common-law nuisance claims. Whether this displacement would be affected by EPA's action—and in which contexts—will likely be the subject of litigation.

Similarly, rescission of the Endangerment Finding may result in more state law nuisance lawsuits and claims. Plaintiffs have in the past pressed state law claims based in nuisance, trespass, failure to warn, and deceptive practices; it is possible that rescission of the Endangerment Finding may undermine the preemption

defenses that have to date been available to companies defending nuisance actions and claims.

Regulated entities may face increased exposure to nuisance lawsuits and claims, including the risk of substantial damages awards and the potential for a patchwork of court-imposed GHG emissions requirements targeting individual emitters. Companies should evaluate litigation risks and consider whether to take any actions to mitigate those risks. Much might be at stake in litigating displacement and preemption arguments; for entities with significant litigation risk, proactive development of arguments (including expert opinions) may be prudent.

Increased State Regulation

Eliminating federal regulation of GHG emissions may encourage some states to expand their own GHG programs.

For example, states may be more motivated to adopt climate "Superfund" laws, as Vermont and New York have done, which allow states to seek compensation for climate-related damages from GHG emitters. The Department of Justice has sued Michigan and Hawaii to block implementation of similar programs, arguing that the CAA creates a comprehensive federal scheme that preempts state regulation of GHG emissions beyond state borders. With the Endangerment Finding rescinded and EPA asserting it lacks authority to regulate GHG emissions, this preemption argument will likely be tested in court.

NEXT STEPS

During this period, existing GHG requirements (other than vehicle emissions standards) remain in effect unless and until they are modified through separate rulemaking or judicial action. Entities subject to Clean Air Act requirements should closely monitor ongoing litigation, EPA's forthcoming rulemakings, and state regulatory developments. Impacted parties may wish to assess federal and state GHG-related obligations, evaluate impacts under different litigation outcomes, and prepare comment and engagement strategies for anticipated rulemakings.

FOR MORE INFORMATION

Van Ness Feldman closely monitors and counsels clients on energy transition and air quality law and policy, including the Clean Air Act. For further details or assistance with assessing the impacts of this final rule, please contact Kyle Danish, Britt Speyer Fleming, or any member of VNF's Environmental Team.