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EPA's Endangerment Finding in danger: Key takeaways and uncertainties of repeal

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On February 12, 2026, EPA rescinded its 2009 Endangerment Finding, which has served as the legal foundation for most federal climate change regulation since 2010. The immediate effect of this action is the repeal of federal GHG emissions standards for motor vehicles and engines, but it is ultimately aimed at impeding efforts to regulate GHG emissions under the Clean Air Act more broadly. Litigation challenging EPA's repeal has already commenced and is expected to reach the Supreme Court.

Overview

On February 12, 2026, the Environmental Protection Agency (EPA) finalized the rescission of the 2009 Greenhouse Gas Endangerment Finding (the Endangerment Finding), which is the administrative determination that has served as the legal foundation for most federal regulation of greenhouse gas (GHG) emissions since 2010. The final rule (the Rescission Rule), which was published in the Federal Register on February 18, 2026 and takes effect on April 20, 2026, also repeals federal GHG emission standards for light-, medium-, and heavy-duty motor vehicles and engines, covering model years stretching back to 2012. Litigation challenging the Rescission Rule has already begun and is expected to reach the Supreme Court.

EPA has characterized the Rescission Rule as "the single largest deregulatory action in U.S. history." Whether or not one agrees with that framing, the scope of the action is significant. The Endangerment Finding provided the legal justification for a variety of federal GHG regulations pursuant to the Clean Air Act (CAA), including regulatory actions promulgated by EPA under the first Trump administration. The Rescission Rule, and legal challenges to it, will create regulatory uncertainty for companies across a range of sectors for some time to come.

This memo explains the history of the Endangerment Finding, summarizes EPA's legal rationale for the Rescission Rule, describes the legal challenges now underway, and offers practical guidance for clients.

History of the Endangerment Finding

The Endangerment Finding traces its roots to the Supreme Court's 2007 decision in *Massachusetts v. EPA*,[1] which held that GHGs fall under the CAA's statutory definition of "air pollutants." In doing so, the Court rejected a key basis for EPA's decision to decline to regulate GHG emissions from motor vehicles under Section 202(a) of the CAA. Under that provision, EPA is required to set "standards applicable to the emission of 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, however, had historically concluded that GHGs could not be regulated because (among other things) they did not meet the definition of an "air pollutant." In its decision, the Court directed EPA either to determine whether GHG emissions from motor vehicles endanger public health and welfare or to provide a reason for declining to make that determination. Notably, the Court did not decide how EPA should interpret the relevant statutory terms (aside from its interpretation of the term "air pollutant") or what regulations should follow; this is one of the points that the current EPA relies on in the Rescission Rule.

Following the decision in *Massachusetts v. EPA*, in December 2009, EPA finalized the Endangerment Finding. EPA found that the atmospheric concentration of six "well-mixed" GHGs – carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride – threatens public health and welfare. EPA further found that emissions from new motor vehicles contribute to the GHG pollution that threatens public health and welfare. The Endangerment Finding relied on an extensive scientific record, drawing on Intergovernmental Panel on Climate Change assessments, the U.S. Global Change Research Program, and the National Research Council. After issuing the Endangerment Finding, EPA promulgated increasingly stringent tailpipe GHG standards for cars, trucks, and heavy-duty vehicles from 2010 through 2024.

Having determined that GHGs constitute air pollution subject to regulation for mobile sources under the CAA, EPA proceeded to regulate GHG emissions under other CAA provisions. Most significantly, starting in the early 2010s, EPA targeted GHG emissions from new and existing fossil fuel-fired power plants (which, at the time, were deemed to be the most significant sources of GHG emissions in the U.S.). These efforts, which span four presidential administrations, have been controversial and hotly litigated, resulting in the recent landmark Supreme Court decision, *West Virginia v. EPA*[2] (see here, here, and here for prior client updates on EPA's regulation of power sector GHG emissions and related legal developments). In addition, the Endangerment Finding provided the foundation for the Tailoring Rule (which extended certain types of GHG permitting obligations to large GHG emitters), methane rules for the oil and gas sector, aircraft engine GHG standards[3] and the GHG Reporting Program. In 2012, the D.C. Circuit upheld the Endangerment Finding, making use of *Chevron* deference, which is the framework under which courts deferred to reasonable agency interpretations of ambiguous statutory language.[4] *Chevron* deference was overruled by the Supreme Court in 2024 in *Loper Bright Enterprises v. Raimondo*[5], which held that courts must exercise their own independent judgment on questions of whether an agency has acted within its statutory authority. This development is key to both the Rescission Rule and the legal challenges to the rule.

Overview of the Rescission Rule

On the first day of his second term in January 2025, President Trump issued an executive order directing EPA to evaluate the legality and continuing applicability of the Endangerment Finding. By March 2025, EPA Administrator Lee Zeldin had formally recommended reconsideration. A proposed rule was published in August 2025, drawing over 570,000 public comments. The final rule was announced on February 12, 2026, and published in the Federal Register on February 18, 2026.

The Rescission Rule rescinds the Endangerment Finding for motor vehicles and repeals all associated GHG emission standards, compliance obligations, certification requirements, and credit trading provisions, including for model years already manufactured.[6] The Rescission Rule does not repeal the power plant GHG rules, oil and gas methane regulations, aircraft engine GHG standards, GHG permitting requirements, or the GHG Reporting Program. However, aspects of the legal reasoning underlying the Rescission Rule (discussed below) arguably apply to these regulations (which make use of the statutory term "air pollution" that was at issue in the Endangerment Finding) and could be used to support future rescission or repeal of these regulations.

EPA relied on three main rationales in the Rescission Rule:

- **Statutory interpretation:** EPA now interprets "air pollution" under Section 202(a)(1) of the CAA (the section under which the Endangerment Finding was issued) as limited to pollution that threatens health or welfare through *local or regional exposure*, which EPA contends was the traditional understanding of air pollution when the statute was enacted in 1970. Under this reading, global climate change, which indirectly impacts health or welfare across the entire world, falls outside Section 202(a)(1)'s scope. EPA also asserts that Section 202(a)(1) requires a direct causal chain between the specific emissions being regulated and the identified harm. According to EPA, the Endangerment Finding impermissibly broke this causal chain by attributing endangerment to global GHG concentrations from all worldwide sources while attributing "contribution" only to U.S. motor vehicles.
- **Major questions doctrine:** EPA asserts that the Endangerment Finding lacked the clear congressional authorization required under the "major questions" doctrine that stemmed from the Supreme Court's 2022 decision in *West Virginia v. EPA*, which held that agencies must identify clear congressional authorization before taking actions of vast economic and political significance. EPA points to the economic and political impacts of regulating motor vehicle GHG emissions in response to global climate change and argues that the relevant provisions of the CAA (which, as noted above, EPA contends were limited to local or regional pollutant exposure) do not provide clear congressional authorization for this type of regulatory undertaking.
- **Futility:** EPA conducted climate impact modeling and concluded that even the complete elimination of all GHG emissions from every motor vehicle in the U.S. would reduce global mean surface temperature by only approximately 0.037°C by 2100, less than the margin of measurement variability over the past decade (0.14°C). Under a more

realistic scenario reflecting the actual scope of recent GHG emissions regulations, the estimated temperature impact drops to approximately 0.019°C. EPA characterizes these impacts as *de minimis* and concludes that it is unreasonable to impose trillions of dollars in costs for results that do not materially advance the CAA's objectives.

Notably, EPA did not base the Rescission Rule on a challenge to the underlying climate science. The EPA Administrator stated that he "continues to harbor concerns" about the science but concluded that the legal authority question makes it unnecessary to reach the climate science question. EPA also expressly declined to rely on a Department of Energy-commissioned "Climate Working Group" report that had drawn criticism for procedural deficiencies. As a result, legal challenges to the Rescission Rule will likely focus on these statutory interpretation matters, rather than the underlying climate science.

Legal challenges

On February 18, two petitions for review of the Rescission Rule were filed with the D.C. Circuit. One was filed by a coalition of seventeen health and environmental groups, and the other was filed by a public interest group on behalf of eighteen young people. A third challenge from a multistate coalition of attorneys general, led by California, is also expected. Additionally, on March 6, 2026, a group of 25 states led by West Virginia and Kentucky filed a motion to intervene to defend the rule against the petition filed by the health and environmental groups.

While substantive briefing in these challenges has not yet been filed, statements by the petitioners indicate they will likely raise several arguments, including that EPA effectively ignores *Massachusetts v. EPA* by determining that GHG emissions are not subject to regulation under Section 202(a) of the CAA, and that the Rescission Rule contradicts settled science on the public health and welfare impacts of climate change. As substantive briefing is filed over the coming months, petitioners' legal arguments will become clearer.

Regardless of which side prevails in the D.C. Circuit, these petitions will likely eventually reach the Supreme Court, although this process could take multiple years. In the interim, it remains to be seen whether the petitioners will seek an immediate stay of the Rescission Rule and/or of the repeal of the federal GHG emissions standards for motor vehicles and engines.

Practical implications

As noted above, the direct impact of the Rescission Rule is limited to the repeal of federal GHG emissions standards for light-, medium-, and heavy-duty motor vehicles and engines only. The legal impact of the Rescission Rule on other EPA GHG emissions regulations is less certain, as each regulatory program rests on a discrete statutory basis. In the near term, however, EPA has already moved forward with rollbacks of several GHG regulations issued under the CAA without the benefit of the Rescission Rule, including a proposed rule to repeal GHG emissions standards for new and existing power plants, a proposed rule to significantly narrow the GHG Reporting Program, and an indication in the EPA's Spring 2025 Unified Agenda that it intends to repeal EPA's 2021 aircraft GHG emissions standards and the related 2016 aircraft GHG endangerment finding. Assuming the Rescission Rule survives legal challenges, its impact may be even more significant in the longer term, as we would expect it to complicate efforts by future administrations to issue GHG emissions regulations based on the CAA.

Taken together, the Rescission Rule, the legal challenges that follow, and the administration's other deregulatory efforts combine to create significant uncertainty regarding U.S. climate change policy, which is not likely to be resolved in the near future. As a practical matter, we believe the most salient near-term practical implications include:

- Companies that are directly subject to federal GHG emissions rules will face an uncertain regulatory landscape for years to come as a result of the legal challenges to the Rescission Rule and potential Trump administration efforts to repeal additional GHG regulations. Public companies subject to SEC reporting requirements should consider the materiality of this uncertainty and the Rescission Rule itself to their operations and financial condition in updating their public environmental disclosure.
- Although the Rescission Rule repeals federal vehicle GHG emissions standards, and the CAA has long preempted state vehicle emissions standards, California has historically been allowed to set its own vehicle GHG standards via waivers, and these standards are followed by seventeen additional states. However, in 2025, Congress used the Congressional Review Act to override the waivers for key California emissions standards, although this action is currently tied up in legal challenges. Because the Rescission Rule explicitly states that the CAA's preemption of state vehicle emissions standards will continue to apply regardless of whether the federal government actually regulates vehicle GHG emissions, the future of California's ability to set its own standards may now be even more uncertain.

- Other GHG emissions regulations at the state, regional, and international level are unaffected by the Rescission Rule, so companies will continue to face GHG-related compliance obligations in these jurisdictions. In addition, some commentators expect that the Rescission Rule will cause certain U.S. states to expand or implement their own GHG-related laws and regulations, which could result in a potentially complex patchwork of competing requirements.
- Defendants in state-law climate nuisance lawsuits sometimes argue that federal regulation of GHG emissions preempts such state law claims. The Rescission Rule and any subsequent rollback of federal GHG emissions regulations could complicate this argument.
- Companies whose business model relies on the existence of federal GHG emissions regulations, or that directly or indirectly benefit from a push to lower GHG emissions (such as electric vehicle manufacturers and renewable energy companies), may face business impacts resulting from less stringent federal regulation of GHG emissions. By the same token, companies that disclose “climate transition”-related opportunities in TCFD-style climate risk reporting should consider revisiting the assumptions underlying these analyses, including any assumptions that U.S. GHG emissions regulations will become progressively more stringent over time.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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1 549 U.S. 497 (2007).

2 597 U.S. 697 (2022).

3 EPA issued a separate endangerment finding in advance of its regulation of aircraft engine GHG emissions, although this endangerment finding drew heavily on the reasoning of the original 2009 Endangerment Finding.

4 *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102 (D.C. Cir. 2012). On the other hand, in his dissenting opinion in *Massachusetts v. EPA* , Justice Antonin Scalia cited *Chevron* as a basis to uphold EPA's decision not to regulate GHG emissions.

5 144 S. Ct. 2244 (2024).

6 Note that the Rescission Rule does not affect NHTSA's Corporate Average Fuel Economy (CAFE) standards, which operate under separate statutory authority and remain in effect. Nor does it affect emission standards for criteria pollutants (NOx, PM, CO, VOCs) or air toxics under the CAA.