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Kirkland Alert

## U.S. Environmental Protection Agency Issues Final Rule to Rescind Endangerment Finding Underpinning Federal Regulation of Greenhouse Gas Emissions

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### Executive Summary

On February 18, 2026, the U.S. Environmental Protection Agency (EPA) published a final rule (Rescission of Endangerment Finding Rule), which rescinds EPA's 2009 foundational rule for the regulation of GHG emissions from new motor vehicles and new motor vehicle engines (Endangerment Finding). The Rescission of Endangerment Finding Rule concludes that EPA lacks authority under Clean Air Act (CAA) Section 202(a) to prescribe standards for greenhouse gas (GHG) emissions based on global climate change concerns and also formally repeals GHG regulations promulgated in reliance on the Endangerment Finding, including emission standards for light-, medium- and heavy-duty on-highway vehicles and engines, as well as certain related regulations concerning test procedures, averaging, banking and trading (ABT) requirements, and reporting requirements. Subject to the outcome of litigation filed challenging the Rescission of Endangerment Finding Rule, we anticipate broader impacts on other federal GHG regulations, such as emissions standards for the power sector, oil and gas, aviation, transportation, fuels and landfills, promulgated on the same basis as the Endangerment Finding.

This *Alert* will discuss the background and history of the Endangerment Finding, the major elements of the Rescission of Endangerment Finding Rule, the implications of the final rule and an overview of the timeline for next steps.

# Overview and History of the Endangerment Finding and Related Developments

In the 2007 landmark case *Massachusetts v. EPA*, the U.S. Supreme Court held that GHGs are “air pollutants” covered by the CAA, and that EPA must determine whether emissions of GHGs from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger the public health or welfare under Section 202(a)(1) of the CAA. EPA subsequently issued the Endangerment Finding, finding that six well-mixed GHGs (i.e., carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride) in the atmosphere met the endangerment of public health and welfare standard contemplated by *Massachusetts v. EPA*. The Endangerment Finding was thus the legal underpinning of EPA’s GHG emission standards for new motor vehicles and engines.

In addition, the reasoning behind the Endangerment Finding underlies GHG emission standards later promulgated by EPA for other sectors, including for power plants, aircraft, oil and gas, electric vehicle manufacturers, alternative fuel producers and landfills. For example, GHG emissions regulations issued under Section 111 of the CAA, which directs EPA to establish new source performance standards (NSPS) for new or modified stationary sources of pollution, reference the Endangerment Finding, discuss scientific evidence released after the Endangerment Finding regarding impacts of GHG emissions on climate change, and affect various sectors, including power plants and landfills (including as described in our prior [Alert](#) on carbon emission limits and guidelines for new, modified, reconstructed and existing “fossil fuel”-fired power plants). Similarly, CAA Section 231 applies to emissions from aircraft and also relies on the Endangerment Finding’s interpretation of the phrase “any air pollutant” that “cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.”

Despite the Endangerment Finding’s broad regulatory impact beginning in 2009, subsequent Supreme Court rulings have limited the scope of EPA’s authority relating to the Endangerment Finding, and EPA now relies on these rulings in the Rescission of Endangerment Finding Rule to argue that EPA’s authority to regulate GHG emissions is more limited in scope. First, in *Utility Air Regulatory Group v. EPA*, the Supreme Court held that EPA regulation of GHG emissions from new motor vehicles under the CAA did not extend to regulations for permit requirements for stationary sources of GHG emissions. The Supreme Court’s 2022 decision in *West Virginia v. EPA*, discussed in our prior [Alert](#), further limited EPA’s GHG regulatory authority when it held that EPA lacked authority under the CAA to regulate GHG emissions from existing power plants using a

“generation shifting” approach. The court relied on the “major questions” doctrine, holding that, when undertaking regulations of broad economic and political significance, EPA must point to clear, explicit congressional authorization and cannot rely on vague, ambiguous or ancillary statutory language to promulgate such regulations. Finally, the Supreme Court’s 2024 ruling in *Loper Bright Enterprises v. Raimondo* overturned *Chevron* deference, further curtailing EPA’s discretion to interpret statutory authority by holding that courts must independently interpret ambiguous statutory language to find the best reading rather than defer to reasonable agency interpretations of ambiguous statutory language.

## Key Elements and Rationales of the Rescission of Endangerment Finding Rule

On February 18, 2026, EPA issued its final rule rescinding the Endangerment Finding. Based on its statutory analysis and recent Supreme Court decisions, EPA determined that CAA Section 202(a)(1) prohibits EPA’s jurisdiction over GHG emissions for vehicle standards based on global climate change concerns. EPA also finalized the repeal of all GHG emissions standards from its regulations of light-, medium- and heavy-duty highway vehicles and engines, as well as certain related regulations concerning test procedures, ABT requirements, reporting requirements and fleet-average emission requirements.

### EPA’s Stated Primary Rationale for the Endangerment Finding Rescission

The Rescission of Endangerment Finding Rule finalizes much of the August 2025 proposed rule, discussed in our prior [Alert](#).

In its Rescission of Endangerment Finding Rule, EPA reiterates its primary rationale for rescinding the Endangerment Finding articulated in the proposed rule: EPA lacks the statutory authority under CAA Section 202(a) to regulate GHG emission standards based on global climate change concerns. Specifically, EPA states in the final rule that CAA Section 202(a) is best read as regulating emissions that cause or contribute to air pollution that endangers public health or welfare through local or regional air pollution. By contrast, the Endangerment Finding asserted that GHG emissions lead to increases in *global* temperature that produce potentially adverse public health consequences. Citing the agency’s curtailed discretion after the Supreme Court decisions in *West Virginia v. EPA* and *Loper Bright Enterprises v. Raimondo*, EPA concludes that the Endangerment Finding’s reliance on the impacts of global GHG emissions is too

attenuated to fit the definition of “air pollution” as envisioned by Congress under the CAA.

Further, EPA states in its Rescission of Endangerment Finding Rule that CAA Section 202(a) does not permit the procedural discretion asserted in the Endangerment Finding. Under the statutory language in Section 202(a) of the CAA, in order to regulate emissions, EPA must determine that emissions of a pollutant from a particular class of new vehicles (1) “cause, or contribute to” air pollution and (2) that this pollution may endanger public health. The Endangerment Finding treated these two statutory elements as severable, finding that the six designated GHGs endangered public health without simultaneously determining that emissions from a specific class of vehicles contributed to that danger. In the Rescission of Endangerment Finding Rule, EPA asserts that this approach was inconsistent with the text of the CAA, which according to EPA, requires concurrent “endangerment” and “cause and contribute” findings that link emissions from specific vehicle categories to harmful air pollution.

Lastly, EPA asserts that the Endangerment Finding conflicts with the major questions doctrine, limiting agencies from relying on vague statutory language to justify transformative regulatory actions. EPA concludes that the CAA does not provide sufficient statutory support to justify the far-reaching impacts of the Endangerment Finding, which EPA says imposes “billions of dollars in annual compliance costs on American businesses and consumers and reflect[s] an increasing trend toward forcing a transition to the use of electric vehicles (EVs) rather than gasoline- or diesel-fueled motor vehicles and engines.”

#### EPA’s “Futility” Rationale for Rescinding the Endangerment Finding

As an additional and independent rationale, EPA asserts that the GHG emission standards under CAA Section 202(a)(1) are futile in addressing global climate change and thus the standards are unreasonable to retain. Specifically, EPA contends that the emission standards have “no more than a trivial effect” on the public health and welfare impacts identified in the Endangerment Finding. EPA argues that even a complete elimination of all GHG emissions from motor vehicles in the U.S. would have a limited effect on global GHG concentrations, and thus, the GHG emissions regulations under CAA Section 202(a)(1) are futile in addressing the identified concern. According to EPA, allowing a regulation’s *de minimis* impacts on the identified danger would be “unreasonable and impermissible” given the costs associated with implementing GHG vehicle emission standards, thereby serving as an independent basis for rescinding the Endangerment Finding.

## EPA Does Not Rely on Scientific and Alternative Rationales Stated in Proposed Rule

Notably, the Rescission of Endangerment Finding Rule does not rely on the alternative rationale outlined in the August 2025 proposed rule, namely that the Endangerment Finding should be rescinded because of uncertainty in the scientific record since 2009. While the Rescission of Endangerment Finding Rule does note scientific uncertainty underlying the Endangerment Finding, EPA does not independently rely on any scientific conclusions and ultimately relies on the legal conclusions in the Rescission of Endangerment Finding Rule as sufficient to rescind the Endangerment Finding and repeal vehicle and engine emissions standards.

EPA also does not rely on the alternatives set forth in the proposed rule, which stated that (1) because the elimination of all emissions from vehicles would have a minimal effect on public health and welfare and global climate change, there is no requisite control technology for heavy-duty vehicles and engines that could meaningfully address public health and welfare and global climate change and (2) all vehicle emissions standards should be repealed because emissions standards increase the price of vehicles to consumers and therefore disincentivize consumers from purchasing newer vehicles that are safer and emit fewer air pollutants, including criteria and hazardous air pollutants. Similar to the unutilized scientific rationale, EPA states that the legal conclusions offered by EPA in the Rescission of Endangerment Finding Rule are sufficient to rescind the Endangerment Finding and repeal vehicle and engine emission standards.

## Implications and Next Steps

EPA, in its press release announcing the Rescission of Endangerment Finding Rule, stated that the rule is the “single largest deregulatory action in U.S. history,” which will have broad implications for industry, GHG emission regulatory frameworks and efforts to address climate change. Upon formal publication of the Rescission of Endangerment Finding Rule, environmental and public health advocacy groups, including the Center for Biological Diversity, Sierra Club, American Lung Association and the Natural Resources Defense Council, Inc., immediately filed a lawsuit in the U.S. Court of Appeals for District of Columbia Circuit, challenging the Rescission of Endangerment Finding Rule as illegal and contrary to broad scientific consensus. Subsequent similar legal challenges have been filed and consolidated with the lead case of *American Public Health Association v. EPA*. The litigation concerning the Rescission of Endangerment Finding is ongoing and is likely to be further supplemented by lawsuits from proponents and opponents alike.

The Rescission of Endangerment Finding Rule may also have wide-ranging impacts beyond motor vehicle regulations. The EPA's 2009 reasoning behind the Endangerment Finding served as the basis for many other regulatory actions targeting GHG emissions, and the rationales underlying the Rescission of Endangerment Finding Rule may be applied broadly, including to regulations that were not directly based on the Endangerment Finding such as those concerning emissions from stationary sources. For example:

- EPA's regulations on GHG emissions from power plants and oil and gas facilities are promulgated under CAA Section 111(b)(1), which concerns stationary sources and requires EPA to make an endangerment finding specific to new stationary sources. Accordingly, EPA's regulations on GHG emissions from power plants and oil and gas facilities do not directly rely on the Endangerment Finding because EPA had already made separate endangerment findings for power plants and oil and gas sources. Nonetheless, these regulations discuss the Endangerment Finding and the latest scientific evidence regarding GHG emissions from such stationary sources, and the Rescission of Endangerment Finding Rule may ultimately impact rules issued for stationary sources because they rely on similar statutory terms (e.g., "air pollution") as rules promulgated for mobile sources and because EPA's rationale for the Rescission of Endangerment Finding Rule could be applied to rules issued for stationary sources (e.g., EPA may argue that certain GHG emission standards for stationary sources are futile in addressing global climate change and are therefore unreasonable to retain).
- In addition, as discussed in our prior [Alert](#), EPA announced in June 2025, a proposed rule to repeal GHG emission standards for power plants, under Section 111(b)(1) of the CAA. In its proposed rule, EPA laid out a reinterpretation of Section 111(b)(1): in order to regulate a pollutant, EPA must first affirmatively establish an endangerment finding for that pollutant with respect to the relevant stationary source. Applying the rationale asserted in the Rescission of Endangerment Finding Rule, EPA may find that, like GHG emissions from motor vehicles, GHG emissions from power plants do not contribute *significantly* to global GHG emissions, and thus, cannot be regulated. According to the regulatory agenda, the final rule for GHG emissions standards for Electric Generating Units was expected to be published in or around December 2025 and should be forthcoming shortly.

The Rescission of Endangerment Finding is set to become effective on April 20, 2026, and all legal challenges must be filed with the D.C. Circuit by that date.

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## Suggested Reading

- 25 August 2025 Kirkland Alert U.S. Environmental Protection Agency Proposes to Alter Framework for Regulating Many Sources of Air Emissions
- 17 May 2023 Kirkland Alert EPA's Proposed New Emission Limits are Latest Development in Conflicting Visions to Regulate Power Plants
- 06 July 2022 Kirkland Alert The Major Questions Doctrine Reigns Supreme in *West Virginia v. Environmental Protection Agency* – Implications for Climate Policy and Impact Investing

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