ML STRATEGIES

Potential Fallout if Endangerment Finding Is Rescinded

March 25, 2025 | Alert | By **John Lushetsky**, **R. Neal Martin**, **Myria Garcia**

Introduction

On March 13, the Environmental Protection Agency (EPA) **announced** it would move forward with reconsideration of the **Greenhouse Gas Endangerment Finding** (Endangerment Finding) as directed in President Trump's **Executive Order 14154** (Unleashing American Energy). The Endangerment Finding is the basis for regulating GHGs under the Clean Air Act (**CAA**) and allows the EPA to set standards for GHG emissions from power plants, vehicles, aircraft, and other sources that could impact health and welfare. This analysis provides an overview of how various rules and programs could be impacted by EPA's actions related to this executive order.

Background

Section 202(a) of the Clean Air Act (**42 USC § 7521**) requires the EPA to regulate air pollutants if they "cause, or contribute to, air pollution, which may reasonably be anticipated to endanger public health or welfare." The Supreme Court case ***Massachusetts v. EPA*** (2007) held that GHGs are classified as air pollutants within the EPA's regulatory authority under the CAA, and that the EPA was required to determine the endangerment of GHGs. In 2009, the Obama administration's EPA issued a **final rule** that issued the Endangerment Finding, concluding that GHGs do endanger public health and welfare.

Statutory Overview

The **Inflation Reduction Act** of 2022 (IRA) added seven new sections of the CAA to enhance the Endangerment Finding by creating statutory determinations of GHGs as pollutants for the purposes of the amendments. Section 60101 created a program for clean heavy-duty vehicles, Section 60103 established the GHG Reduction Fund, and Section 60105 authorized a grant program for states implementing GHG emissions standards.

Potentially Impacted Programs, Strategies, and Rules

President Trump's "**Unleashing American Energy**" executive order details that the EPA administrator must create recommendations to the Director of the Office of Management and Budget "on the legality and continuing applicability of the Administrator's findings" in the 2009 Endangerment Finding. The Endangerment Finding could not be completely revoked without the Supreme Court overturning the *Massachusetts v. EPA* (2007) case. This would require a legal strategy that the EPA has not yet revealed and potential strategies for revoking the Endangerment Finding are beyond the scope of this analysis. However, if the case, and subsequently the finding, were overturned, the below rules or programs could be impacted.

The Clean Power Plan

Review of the Obama Administration's Actions. Initially announced by President Obama in 2015, the **Clean Power Plan** established final emission guidelines for states to follow while developing plans to reduce GHG emissions from existing fossil fuel–fired electric generating units (EGUs). More specifically, the Clean Power Plan established the following carbon dioxide emission performance compliance paths for fossil fuel–fired electric utility steam generating units and stationary combustion turbines: 1) state-specific CO_2 goal reflecting the CO_2 emission performance rates and 2) guidelines

for the development, submittal, and implementation of state plans that establish emission standards or other measures to implement the CO_2 emission performance rates.

The First Trump Administration's Impact. In 2017, President Trump signed an executive order mandating that the EPA review the plan. After initially repealing the Clean Power Plan in an effort to change the way the EPA calculates the health risks of air pollution in October 2017, the EPA issued a final rule on the Affordable Clean Energy Rule, the Clean Power Plan's replacement, in June 2019. On January 19, 2021, the final full day of the Trump administration, the DC Circuit Court **overturned** the Affordable Clean Energy rule and sent it back to the EPA for further review in line with its decision. The court described the ACE rule as a "fundamental misconstruction" of environmental legislation. This decision effectively left no federal regulations limiting carbon dioxide emissions from existing power plants, setting the stage for future regulatory actions. Subsequently, in June 2022, the Supreme Court's decision in *West Virginia v. EPA* (2022) further constrained the EPA's authority to regulate greenhouse gas emissions, particularly limiting the agency's ability to implement broad measures like the CPP without clear congressional authorization.

The Biden Administration's Clean Power Plan 2.0. In April 2024, the EPA **issued** Greenhouse Gas Standards and Guidelines for Fossil Fuel-Fired Power Plants, establishing stringent limits on CO? emissions from both existing coal-fired power plants and new natural gas–fired combustion turbines. Under this rule, facilities planning to operate beyond 2039 are required to implement carbon capture and sequestration (CCS) technologies to achieve a 90% reduction in CO? emissions by 2032. The implementation of these standards has faced legal challenges from various states and industry groups. However, as of October 16, 2024, the US Supreme Court declined to pause the enforcement of the EPA's power plant emissions rule, allowing the regulations to remain in effect while litigation continues.

The Second Trump Administration. On March 12, 2025, the EPA **announced** it would reconsider the Clean Power Plan 2.0 regulations. The EPA provided no specifics about how they plan to reconsider the rule, but **overturning the Endangerment Finding would likely cause the existing power plant regulations to be nullified.**

Industrial Sources

Overturning the Endangerment Finding would likely nullify the New Source Performance Standards (NSPS) for Industrial Sources and CO? emission limits set under Section 111(b) of the CAA for new industrial sources. This rule impacts new cement plants, steel mills, refineries, and chemical plants. In addition, methane emissions standards for new and existing oil and gas facilities under Section 111(b) and (d) would also likely be nullified.

Methane Sources

In November 2024, the EPA finalized its rule establishing the Methane Emissions Reduction Program, which includes a fee (starting in 2025) on methane emissions that exceed certain defined thresholds from onshore and offshore oil and natural gas facilities that are subject to the EPA's GHG reporting rule. On March 14, President Trump signed into law a Congressional Review Act (CRA) to repeal this rule. However, because a Waste Emissions Charge is explicitly required by statute, the CRA resolution repealing the rule still leaves the underlying statutory provisions in place, thus obligating the EPA to promulgate a replacement rule implementing the fee. **However, if the Endangerment Finding is overturned, the fee would go away entirely.**

Transportation Sources

Overturning the Endangerment Finding would nullify the EPA's ability to regulate CO_2 emissions for passenger cars, light trucks, and heavy-duty vehicles. In March 2024, the EPA **finalized** the "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles," targeting further reductions in GHG and other pollutants. The proposed standards aim for a 56% reduction in projected fleet average GHG emissions levels by MY 2032 compared to the existing MY 2026 standards. Depending on manufacturers' compliance strategies, the EPA projects that electric vehicles (EVs) could account for 67% of new light-duty vehicle sales and 46% of new medium-duty vehicle sales by MY 2032.

Note that overturning the Endangerment Finding would not impact Corporate Average Fuel Economy (**CAFE**) standards set by the Department of Transportation (DOT). CAFE standards are regulated by the National Highway Traffic Safety Administration (NHTSA) under the Energy Policy and Conservation Act (EPCA) of 1975, not the CAA. CAFE standards set requirements for the average fuel economy (measured in miles per gallon) of vehicle fleets rather than directly regulating CO? emissions. Automakers could comply with CAFE by improving fuel economy without necessarily reducing CO? emissions as effectively.

GHG-Related Programs & Tools

Overturning the Endangerment Finding is not necessary to eliminate the tools listed below; however, any action to reverse the finding could put a spotlight on the programs and lead to their modification or elimination through other means.

- **DOE Appliance Standards**
  The US Department of Energy (DOE) derives its authority to set appliance and equipment efficiency standards from a combination of legislative acts, primarily the EPCA, as amended by subsequent laws. The EPCA was enacted to reduce energy consumption in the United States and established the foundation for federal appliance efficiency standards. Under this act, the DOE was given the authority and requirement to develop, revise, and enforce minimum energy conservation standards for a wide range of consumer products and commercial equipment. Additional authorities were granted under the National Appliance Energy Conservation Act (**NAECA**) of 1987, the Energy Policy Act (**EPAct**) of 1992 and 2005, and the Energy Independence and Security Act (**EISA**) of 2007. **DOE's authority to set appliance standards would NOT be impacted by the Endangerment Finding being overturned.**
    - Independent of the above, on March 5, 2025, the House passed a **CRA**, 223-203, to rescind the Biden administration's energy-efficiency final rule for certain consumer products and commercial equipment. If passed in the Senate, the resolution would rescind the original standards. Similarly, DOE also recently **announced** a hold on appliance standards — including those for central air conditioners, clothes washers and dryers, general service lighting, walk-in coolers and freezers, gas instantaneous water heaters, commercial refrigeration equipment, and air compressors. However, under the existing statute referenced above, DOE is still required to revise and publish both these sets of standards.

- **The ENERGY STAR Program.** The **ENERGY STAR Program** utilizes more than 15,000 private and public sector organizations to deliver the technical information and tools that organizations and consumers need to choose energy-efficient solutions and best management practices. The program has resources for creating energy-efficient **commercial buildings** and **industrial plants**, provides tools to **small businesses**, and certifies products that use less energy, save money, and protect the environment.
    - The ENERGY STAR Program's **Portfolio Manager** tool helps companies track their **greenhouse gas emissions**. This tool helps companies understand the value of a GHG inventory and the emissions they avoided by utilizing green power. Additionally, the tool calculates direct emissions, indirect emissions, and biomass emissions.

- **The EPA's GHG Emission Factors Hub:** The **GHG Emission Factors Hub** includes tools such as the **Greenhouse Gas Reporting Program**, the Emission and Generation Resources Integrated Database, and an **Inventory of US Greenhouse Gas Emissions and Sinks**.

- **The Combined Heat and Power Partnership (CHP) Resource Center**. The EPA's **Combined Heat and Power (CHP) Partnership Resource Center** provides tools, resources, and information to help evaluate CHP as a means to reduce the environmental impacts of power generation, increase a facility's operational efficiency, and decrease energy costs.
    - CHP provides users with an **Energy and Emissions Savings Calculator** that is used to calculate and compare the estimated fuel consumption and air pollutant emissions (these pollutants include GHGs) of a CHP system and comparable separate heat and power system.

- **State and Local Climate and Energy Program.** This **program** helps state, local, and tribal governments develop policies and programs that can reduce GHG emissions, lower energy costs, improve air quality and public health, and help achieve economic development goals. This includes resources such as the **Tribal Greenhouse Gas Inventory Tool**, the **Local Greenhouse Gas Inventory Tool**, and the **State Inventory and Projection Tool**.

- **The EPA's Renewable Energy Programs.** The **Green Power Partnership** is a voluntary program that encourages organizations to use green power as a way to reduce the environmental impacts associated with conventional electricity use. To become a partner, organizations are required to meet several **requirements**, including an incremental green power requirement that mandates that renewable electricity generation is sourced from a state that has a mandatory GHG cap.

- **The EPA's Supply Chain Network.** The **Green Suppliers Network** works with large manufacturers to engage their suppliers in low-cost technical reviews to identify strategies for improving process lines, using materials more efficiently, and reducing waste. This is part of the **E3 program**, a federal technical assistance framework to help companies engage in a green economy.

- **Methane Emissions Reduction Strategies.**
    - **The AgSTAR Program. AgSTAR** promotes the use of biogas recovery systems to reduce methane emissions from livestock waste.

- **The Landfill Methane Outreach Program (LMOP).** LMOP promotes the use of landfill gas as a renewable, green energy source. Landfill gas is the natural by-product of the decomposition of solid waste in landfills and is comprised primarily of carbon dioxide and methane.

- **Natural Gas STAR Method Challenge Program.** This **program** recognizes oil and natural gas companies that make specific and transparent commitments to reduce methane emissions.

- **Strategies to Increase Fuel Efficiency in Transportation and Logistics**

  - **SmartWay** is a public-private partnership between the EPA and the freight transportation industry that helps freight shippers, carriers, and logistics companies improve fuel efficiency and save money.

Authors

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