

CLEAN AIR ACT HEAVY DUTY VEHICLE RULE LITIGATION

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

ISSUE SUMMARY:

- EPA is defending litigation against the recently promulgated heavy-duty Phase 3 rule. The lead case is *Nebraska v. EPA*, D.C. Cir. No. 24-1129.

KEY POINTS:

- In April 2024, EPA promulgated a final Clean Air Act (CAA) rulemaking establishing greenhouse gas (GHG) standards for Model Year (MY) 2027-2032 and later heavy-duty vehicles. The rulemaking also established new durability and warranty requirements relating to electric vehicles, and revised various regulations relating to compliance and enforcement.
- Petitioners' briefs were filed October 16, 2024.
- Various States, petroleum and renewable fuel associations, agricultural associations, trucking associations, business groups, and other groups filed challenges in the D.C. Circuit. In their non-binding statements of issues, the petitioners allege that the final rule exceeds EPA's legal authority and is arbitrary and capricious, including because:
 - EPA exceeded its statutory authority and violated the major questions doctrine.
 - The final emission standards violate the four-year lead-time and three-year stability requirements of CAA section 202(a)(3)(C).
 - EPA's rulemaking is arbitrary and capricious, including because (i) EPA failed to account for upstream emissions impacts, (ii) EPA's cost-benefit analysis is flawed, (iii) EPA failed to consider the harms and effects stemming from its decision, and (iv) EPA's reliance on the social cost of GHGs is flawed.
- Other States, a vehicle manufacturer, NGOs, and other groups intervened in support of EPA.
- This case is related to *Texas v. EPA*, D.C. Cir. No. 22-1031, which raised many similar issues in challenges to EPA's 2021 light-duty greenhouse gas rule. A decision in that case is pending and is expected by fall 2024.
- This case is also related to *Kentucky v. EPA*, D.C. Cir. No. 24-1087, which raises similar challenges to EPA's 2024 light- and medium-duty multi-pollutant rule and for which we have prepared a separate transition briefing paper.

ONGOING/UPCOMING REVIEWS:

Remaining deadlines for briefing schedule:

- Briefs of Amici Curiae supporting Petitioners: October 23, 2024
- EPA's Brief: January 14, 2025
- Briefs of Amici Curiae supporting Respondents: January 21, 2025
- Briefs of Intervenors Supporting Respondents: February 7, 2025
- Petitioners' Reply Briefs: February 24, 2025

KEY EXTERNAL STAKEHOLDERS:

☒ Congress ☒ Industry ☒ States ☐ Tribes ☒ Media ☒ Other Federal Agency
☒ NGO ☐ Local Governments ☒ Public

MOVING FORWARD:

- EPA's defense of the case is proceeding.