

# CLEAN AIR ACT LIGHT 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 light- and medium-duty multi-pollutant rule. The lead case is *Kentucky v. EPA*, D.C. Cir. No. 24-1087.

## KEY POINTS:

- In April 2024, EPA promulgated a final Clean Air Act (CAA) rulemaking establishing multipollutant standards for Model Year (MY) 2027-2032 and later light- and medium-duty vehicles. The rulemaking also established new durability and warranty requirements relating to electric vehicles, and revised various regulations relating to compliance and enforcement.
- Various States, petroleum and renewable fuel associations, agricultural associations, automobile dealers, trucking associations, business groups, and other groups filed challenges in the D.C. Circuit. The petitioners allege that the final rule exceeds EPA's statutory authority and is arbitrary and capricious. The briefs argue the following arguments:
  - EPA lacks statutory authority to effectively mandate electric vehicles (under the Major Questions Doctrine) and to set fleetwide-average standards that incorporate electric vehicles.
  - EPA's rulemaking is arbitrary and capricious because EPA did not consider upstream emissions or fuel-based alternatives, and EPA's cost-benefit analysis is flawed.
- Other States, automobile manufacturers, NGOs, and other groups intervened in support of EPA.
- This case is related to *Texas v. EPA*, D.C. Cir. No. 22-1031, which raises similar 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 *Nebraska v. EPA*, D.C. Cir. No. 24-1129, which raises similar challenges to EPA's 2024 heavy-duty Phase 3 rule and for which we have prepared a separate transition briefing paper.
- In the same rulemaking, EPA also promulgated certain regulations relating to compliance with NHTSA's Corporate Average Fuel Economy (CAFE) program. Various agricultural and fuel associations filed petitions for review of certain aspects of these regulations in the Fifth Circuit. These petitions challenge only those portions of the rule promulgated under the Motor Vehicle Information and Cost Savings Act, 49 U.S.C. Chapter 329, not the emission standards or any other portion promulgated under the CAA. In their brief, petitioners claim that EPA's "R-factor" is unreasonably or unreasonably explained. The R-factor is a number used to adjust fuel economy test results to reflect the differences in the various fuels used to test vehicle fuel economy, and it is used to meet the statutory requirement to produce results comparable to 1975 test procedures. The lead case is *Texas Corn Producers v. Regan*, 5th Cir. No. 24-60209.

## ONGOING/UPCOMING REVIEWS:

- EPA’s brief in *Kentucky* is due November 26, 2024, with final briefs due January 31. EPA’s brief in *Texas Corn Producers* is due on November 15, 2024.

#### KEY EXTERNAL STAKEHOLDERS:

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

#### MOVING FORWARD:

- EPA’s defense of the cases is proceeding.