

Can We Regulate Greenhouse Gas Emissions in the U.S.?

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Department of
Political Science

... UNDER THE *CLEAN AIR ACT*

E.P.A. Is Said to Draft a Plan to End Its Ability to Fight Climate Change

According to two people familiar with the draft, it would eliminate the bedrock scientific finding that greenhouse-gas emissions threaten human life by dangerously warming the planet.



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The E.P.A. has sent to the White House a draft plan to repeal a rule known as the “endangerment finding,” according to people familiar with the plan. Benjamin Rasmussen for The New York Times



By **Lisa Friedman**

July 22, 2025

The Trump administration has drafted a plan to repeal a fundamental scientific finding that gives the United States government its authority to regulate greenhouse-gas emissions and fight climate change, according to two people familiar with the plan.

The proposed Environmental Protection Agency rule rescinds a 2009 declaration known as the “endangerment finding,” which

E.P.A. Is Said to Draft a Plan to Erase Its Ability to Fight Climate Change



NEWSLETTERS SIGN IN NPR SHOP

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CLIMATE

Trump's EPA now says greenhouse gases don't endanger people

JULY 24, 2025 · 5:00 AM ET

HEARD ON MORNING EDITION

Jeff Brady

3-Minute Listen

+ PLAYLIST

TRANSCRIPT



The U.S. Environmental Protection Agency building in Washington, D.C.

Jose Luis Magana/AP

The Trump administration wants to overturn a key 2009 [Environmental Protection Agency finding](#) that underpins much of the federal government's actions to rein in climate change.

E.P.A. Is Said to Release Proposal to Rescind Obama-Era Endangerment Finding, Regulations that Paved the Way for Electric Vehicle Mandates

According to two people familiar with the bedrock scientific finding that threatened human life by

If finalized, this proposal would undo the underpinning of \$1 trillion in costly regulations, save more than \$54 billion annually

Listen to this article · 4:20 min

July 29, 2025

Contact Information

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July 22, 2025

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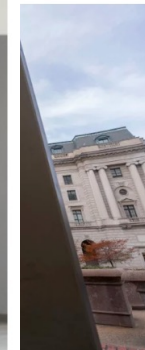


INDIANAPOLIS – At an auto dealership in Indiana, U.S. Environmental Protection Agency (EPA) Administrator Lee Zeldin released the agency’s proposal to rescind the 2009 Endangerment Finding, which has been used to justify over \$1 trillion in regulations, including the Biden-Harris Administration’s electric vehicle (EV) mandate. If finalized, the proposal would repeal all resulting greenhouse gas

IRS SIGN IN NPR SHOP

Use gases

TRANSCRIPT



Environmental
government's



FEDERAL REGISTER

The Daily Journal of the United States Government



PR Proposed Rule



You may be interested in this newer document that published on 08/15/2025 with action 'Notification; extension of public comment period.'

[View Document](#)

Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards

A Proposed Rule by the [Environmental Protection Agency](#) on 08/01/2025



Comments on this document are being accepted at [Regulations.gov](#).

SUBMIT A PUBLIC COMMENT

84135 comments received. [View posted comments](#)

Climate Science Consensus

- It's happening
- It's us
- It *is* and *will continue to* cause harm

Climate Policy

Approaches

- **Mitigation**
- Adaptation
- Geoengineering

Climate Policy

Approaches

- **Mitigation**
- Adaptation
- Geoengineering

Instruments

- **Regulatory**
- Market-based
- *Inflation Reduction Act*

The Clean Air Act

- **Section 108: Air quality criteria and control techniques**
 - Requires EPA to identify air pollutants that may “*reasonably be anticipated to **endanger** public health or welfare*”
 - From either *stationary* or *mobile* sources
- **Section 202(a):**
 - *The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, 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 his judgment cause, or contribute to, air pollution which may **reasonably be anticipated to endanger public health or welfare.***

Endangerment Finding Background

- 1999: Several private groups petitioned the EPA to regulate GHG under the Clean Air Act
- 2003: EPA denied the petition
 - It can't regulate GHG under the EPA
 - Not appropriate at this time; *discretion*
- 2005: The D.C. Circuit Court of Appeals upheld the EPA denial
 - Divided over standing
- 2006: US Supreme Court grants cert

Massachusetts v. EPA (2007)

- The questions presented are:
 1. Whether the EPA Administrator may decline to issue emission standards for motor vehicles based on policy considerations not enumerated in section 202(a)(1).
 2. Whether the EPA Administrator has authority to regulate carbon dioxide and other air pollutants associated with climate change under section 202(a)(1).
- In a 5-4 decision, the Supreme Court ruled *no* and *yes*
- Massachusetts has standing
- The Clean Air Act's definition of air pollutant is "sweeping"
- *If EPA makes a finding of endangerment, the Clean Air Act requires the agency to regulate emissions of the deleterious pollutant from new motor vehicles*

The EPA Endangerment Finding

- Issued by the EPA in December 2009
- *Pursuant to CAA section 202(a), the Administrator finds that **greenhouse gases in the atmosphere may reasonably be anticipated both to endanger public health and to endanger public welfare.** ... mix of six long-lived and directly-emitted greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)*

Federal

Part V

Environmental Protection Agency

40 CFR Chapter I

Endangerment and Cause or Contribute
Findings for Greenhouse Gases Under
Section 202(a) of the Clean Air Act; Final
Rule

The EPA Endangerment Finding

- *Coalition for Responsible Regulation, Inc. v. EPA* (2012)
 - DC Circuit
 - *Massachusetts v. EPA* (2007): “held that EPA had a ‘statutory obligation’ to regulate harmful greenhouse gases”
 - The Endangerment Finding is : “a ‘scientific judgment’ about the potential risks greenhouse gas emissions pose to public health or welfare — not policy discussions”
 - **Endangerment Finding was not from “arbitrary or capricious decision-making”**
- EPA denied petitions for reconsideration of the Endangerment Finding in 2010 and 2022

Mobile Source Regulations

- *The Energy Policy and Conservation Act (1975)*
 - Established *Corporate Average Fuel Economy* (CAFE) standards for fuel efficiency. Administered by the *DOT*
- *Clean Air Act*
 - EPA sets tailpipe emissions standard for motor vehicles
 - Eight tailpipe standards for light-duty, medium-duty, and heavy-duty vehicles and engines
- California Waiver
 - *Congressional Review Act* (1996) resolutions of disapproval in 2025

Stationary Source Regulations

Clean Power Plan (Obama Administration)

- Set of goal of GHG emission reductions of 32 percent below 2005 levels by 2030
 - *2024 estimates are about 20 percent below 2005 levels*
- *Performance standard:*
 - Set a limit on the amount of GHGs that states can emit
 - Allowed states to come up with how they could meet the standard
 - If states didn't develop a plan, then the EPA would

Stationary Source Regulations

Clean Power Plan (Obama Administration)

- To develop standards, EPA examined whether states could:
 - Run coal plants more efficiently
 - Replace coal with natural gas
 - Increase renewable energy sources
- **The Supreme Court issued a stay in February 2016 and the CPP was never implemented**

Stationary Source Regulations

Affordable Clean Energy Rule (Trump Administration 1.0)

- Estimated to cut emissions by 0.7 to 1.5 percent of 2005 levels by 2030
- No state-based requirement, only facility requirements
- Efficiency standard that meant coal plants could be used more

Stationary Source Regulations

Affordable Clean Energy Rule (Trump Administration 1.0)

- EPA's impact assessment:
 - *the proposed rule is expected to increase emissions of carbon dioxide (CO₂) and increase the level of emissions of certain pollutants in the atmosphere that adversely affect human health*
- **Vacated by the DC Circuit in January 2021**

Stationary Source Regulations

The Zombie Clean Power Plan

- *West Virginia v. EPA* (2022)
 - “outside the fence line”
 - Congress did not grant the Environmental Protection Agency in Section 111(d) of the Clean Air Act the authority to devise emissions caps based on the **generation shifting** approach the Agency took in the Clean Power Plan
 - **Major Questions Doctrine**

Reconsidering the Endangerment Finding

- CAA Section 202(a) does not provide EPA authority to set emission standards
 - refers to “air pollution” (not just “air pollutant”), which is local and regional
 - *Major Question*
- The Endangerment Finding did not sufficiently account for scientific uncertainty
- Could repeal motor vehicle standards anyway
 - No “requisite technology ... because reducing GHG emissions from such vehicles to zero would not measurably impact GHG concentrations in the atmosphere”

WHAT HAPPENS NEXT?



What Happens Next?

- DC Circuit
 - Probably blocks it as *arbitrary and capricious*
- Supreme Court
 - Does it grant cert?
 - Does it allow it to be rescinded, but a future administration could bring it back?
 - Overturn *Massachusetts v. EPA*?

Massachusetts v. EPA (2007)

5-4 DECISION FOR MASSACHUSETTS

MAJORITY OPINION BY JOHN PAUL STEVENS

Ginsburg

Breyer

Roberts

Scalia



Stevens

Souter

Kennedy

Alito

Thomas

Thank you!

Questions or Comments?

Matthew C. Nowlin

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Department of Political Science

EPA Actions

- EPA's previous denials of 2010 and 2022 petitions for reconsideration of the Endangerment Finding
- "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards," 75 FR 25324 (May 7, 2010)
- "Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles," 76 FR 57106 (Sept. 15, 2011)
- "2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards," 77 FR 62624 (Oct. 15, 2012)
- "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles-Phase 2," 81 FR 73478 (Oct. 25, 2016)
- "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks," 85 FR 24174 (April 30, 2020)
- "Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards," 86 FR 74434 (Dec. 30, 2021)
- "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles," 89 FR 27842 (April 18, 2024)
- "Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles-Phase 3," 89 FR 29440 (April 22, 2024)