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Environmental Protection Agency

EPA Docket Center, WJC West Building, Room 3334

1301 Constitution Avenue NW

Washington, DC 20004

RE: “Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards,” [Docket No. EPA-HQ-OAR-2025-0124; FRL-12715-01-OAR]

To Whom it May Concern:

Please see the below comments from the America First Policy Institute (AFPI) regarding the Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards, (40 CFR Parts 85, 86, 600, 1036, 1037, and 1039 [EPA-HQ-OAR-2025-0194; FRL-12715-01-OAR]). Thank you for the opportunity to comment.

The America First Policy Institute (AFPI) appreciates the opportunity to comment on the Environmental Protection Agency’s (EPA) proposed rule (“the proposal” or “the proposed rule”).

The America First Policy Institute

AFPI is a 501(c)(3) nonprofit, non-partisan research institute. AFPI exists to conduct research and develop policies that put the American people first. Our guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do. One of AFPI’s core priorities is ensuring that America is a nation that can build and prosper. That is AFPI’s public policy interest in a transparent, efficient, and predictable permitting process, which is instrumental to a prosperous America.

Introduction

On August 1st, 2025, the Environmental Protection Agency published a notice of proposed rulemaking entitled “Reconsideration of 2009 Endangerment Finding and Greenhouse Gas





Vehicle Standards¹ The proposed rule would reconsider the EPA’s statutory oversight and authority in regulating greenhouse gas emissions from new motor vehicles, while also proposing the repeal of additional greenhouse gas standards established by the EPA under section 202(a) of the Clean Air Act. Furthermore, this reconsideration would repeal greenhouse gas regulations for new light-, medium-, and heavy-duty vehicles and engines.

To enact a full repeal, the endangerment finding would, as Administrator Lee Zeldin has stated, be the most significant deregulatory action in U.S. history.² To that end, it is of the utmost importance that the EPA is provided with the support necessary to justify its decision to reconsider the endangerment finding.

Therefore, it is the intention of this comment to provide historical, legal, and scientific evidence and analysis that demonstrates the inherent issues with the origins and applications of the endangerment finding.

Background

In 2009, the Environmental Protection Agency asserted that it had the statutory authority to regulate the greenhouse gas emissions of new motor vehicles and engines based on climate change concerns related to air pollutants that endanger public health and welfare.³ Through section 202(a) of the clean air act, the EPA was granted “procedural discretion” to issue a wholesale standalone finding that necessitated a proportional regulatory response.

Rather than rely on peer-reviewed and internal scientific analysis from the Science Advisory Board, scientific basis for the endangerment finding was largely grounded in third-party evidence assessment literature presented by the United Nations Intergovernmental Panel on Climate Change (IPCC) report, along with the assessments of the United States Global Change Research Program (“USGCRP”) and the National Research Council (“NRC”) as the “primary scientific and technical basis of her endangerment decision.”

The justification from the EPA administrator at the time was as follows:

...these assessments evaluate the findings of numerous individual peer-reviewed studies in order to draw more general and overarching conclusions about the state of science...

¹ U.S. Environmental Protection Agency. nRegulations.gov, Docket ID EPA-HQ-OAR-2025-0194-0093, accessed September 22, 2025, <https://www.regulations.gov/document/EPA-HQ-OAR-2025-0194-0093>.

² U.S. Environmental Protection Agency, "ICYMI: EPA Launches Largest Deregulatory Actions in U.S. History with Proposal to Rescind Obama-Era Regulation," news release, September 12, 2025, accessed September 22, 2025, <https://www.epa.gov/newsreleases/icymi-epa-launches-largest-deregulatory-actions-us-history-proposal-rescind-obama-era>.

³ U.S. Environmental Protection Agency, "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," accessed September 22, 2025, <https://www.epa.gov/climate-change/endangerment-and-cause-or-contribute-findings-greenhouse-gases-under-section-202a>.



No other source of information provides such a comprehensive and in-depth analysis across such a large body of scientific studies, adheres to such a high and exacting standard of peer review, and synthesizes the resulting consensus view of a large body of scientific experts across the world. For these reasons, the Administrator is placing primary and significant weight on these assessment reports in making her decision on endangerment.⁴

The IPCC report specifically, among many other claims, argued that “emissions resulting from human activities are substantially increasing the atmospheric concentrations of . . . greenhouse gases [which] will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface.”⁵

Moreover, the IPCC has maintained similar prescriptions regarding their conclusions concerning climate change. In a 2021 report, the IPCC stated that the "evidence is clear that carbon dioxide (CO₂) is the main driver of climate change," where "main driver means responsible for more than 50% of the change."⁶

By identifying carbon dioxide as the primary cause of climate change, the IPCC provided the EPA administrator in the Obama Administration with the justification necessary to enact a wholesale regulation on greenhouse gases. The timing for the Obama Administration's enforcement of the endangerment finding centered largely on an ideological desire to be the first nation in the world to regulate GHG emissions, in anticipation of the 2009 Copenhagen international climate conference.⁷ The timing of the administration's enactment (December 7th, the same day the Copenhagen conference began)⁸ was more of a reflection of the stated goal to “lead by example” on climate issues than a concerted effort to respond to an identified threat to

⁴ U.S. Environmental Protection Agency, "Decision Document: Denial of Petitions for Reconsideration of the Final Rule for Phasedown of Hydrofluorocarbons: Restrictions on the Use of HFCs in Specific Sectors or Subsectors," April 2022, accessed September 22, 2025, https://www.epa.gov/system/files/documents/2022-04/decision_document.pdf.

⁵ Intergovernmental Panel on Climate Change, "Scientific Assessment of Climate Change: Summary for Policymakers," 1990, accessed September 22, 2025, https://www.ipcc.ch/site/assets/uploads/2018/05/ipcc_90_92_assessments_far_wg_I_spm.pdf.

⁶ Intergovernmental Panel on Climate Change, "Climate Change 2021: The Physical Science Basis – IPCC Working Group I Report," news release, August 9, 2021, accessed September 22, 2025, <https://www.ipcc.ch/2021/08/09/ar6-wg1-20210809-pr/>.

⁷ United Nations Framework Convention on Climate Change, "Copenhagen Climate Change Conference – December 2009," accessed September 22, 2025, <https://unfccc.int/conference/copenhagen-climate-change-conference-december-2009>.

⁸ U.S. Environmental Protection Agency, "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," accessed September 22, 2025, <https://www.epa.gov/climate-change/endangerment-and-cause-or-contribute-findings-greenhouse-gases-under-section-202a>.

the environment and human health.⁹ Thus, one of the most significant efforts to regulate the nation's energy production was established under political motivations, not scientific.

The Need to Revoke the Endangerment Finding

It is abundantly clear that America's industry's economic potential has been throttled by years of regulatory burdens and prohibitive compliance costs. Multiple economic data points confirm this impact. The Competitive Enterprise Institute estimated that regulations cost American businesses \$2.155 trillion, nearly 7% of America's total Gross Domestic Product (GDP) in annual regulatory costs.¹⁰

Regulatory costs in the energy industry, combined with carve-outs and political favoritism towards unreliable energy sources, have long been persistent and prohibitive. Both the Obama and Biden administrations have prioritized intermittent wind and solar energy, despite the diminishing returns these energy sources provide, or the increasing proof of the direct damage they do to grid reliability.¹¹ Even after receiving an unprecedented amount of funding from the falsely entitled "Inflation Reduction Act", wind and solar energy have not kept pace with the oil and gas industry, despite the fact that renewables are subsidized 30 times more than fossil fuels.¹² America's oil and gas industries have faced numerous attacks from administrations and leaders who plainly stated their plans to limit the development of America's most reliable energy sources.¹³ CEOs of major energy companies believe that America's onerous regulatory environment has made it impossible to permit a new crude oil refinery.¹⁴

Unlike our competitors on the world market, who are rapidly building hundreds of gigawatts of new coal plants, America's unyielding regulatory pressure makes it effectively impossible to

⁹ Barack Obama, "Presidential Memorandum of October 5, 2009: Designation of Officers of the United States Section, International Boundary and Water Commission, United States and Mexico," Federal Register, October 8, 2009, accessed September 22, 2025, <https://www.govinfo.gov/content/pkg/DCPD-200900783/pdf/DCPD-200900783.pdf>.

¹⁰ Competitive Enterprise Institute, "Ten Thousand Commandments 2025," 2025, accessed September 22, 2025, <https://cei.org/studies/ten-thousand-commandments-2025/>.

¹¹ Mackinac Center for Public Policy, "Michigan's Expensive Net-Zero Gamble," August 5, 2025, accessed September 22, 2025, <https://www.mackinac.org/netzero>, Mackinac Center for Public Policy, "Shorting the Great Lakes Grid: How Net Zero Plans Risk Energy Reliability," August 9, 2024, accessed September 22, 2025, <https://www.mackinac.org/S2024-04>.

¹² Cato Institute, "Fossil Fuel Subsidies Are Mostly Fiction; Real Energy Subsidies Should Go," Cato at Liberty Blog, accessed September 22, 2025, <https://www.cato.org/blog/fossil-fuel-subsidies-are-mostly-fiction-real-energy-subsidies-should-go>.

¹³ Patrick Moore, "The Truth About CO2, Fossil Fuels, and Climate Change," YouTube video, 1:23:45, posted by "The Heartland Institute," February 22, 2023, accessed September 22, 2025, https://youtu.be/_M_kMDSdISQ?si=z6eXa3rij5kiyB1y.

¹⁴ Fox Business, "Chevron CEO says there may never be another oil refinery built in the U.S.," accessed September 22, 2025, <https://www.foxbusiness.com/markets/chevron-ceo-oil-refinery-built-u-s>.

build a new coal-fired power plant.¹⁵ While coal still accounts for nearly 20% of America’s electricity generation, that stable and affordable supply of electricity is only one regulatory rule away from near-total termination.¹⁶

Overregulation of industries stifles innovation and growth, inevitably leading to a lower standard of living and a lesser quality of life. Not only do businesses incur the direct cost of shifting their capital to comply with the federal rulemaking process, but they also risk undermining innovation, investment, and job growth.¹⁷

The Biden-Harris Administration and California’s EV mandates threatened to eliminate nearly 200,000 jobs in the automotive manufacturing industry by forcing auto manufacturers to shift to producing electric vehicles. Their proposed tailpipe emissions standards would have effectively mandated phasing out internal combustion engine vehicles by requiring 100% of new vehicles to be emissions-free by 2040.¹⁸

The regulatory environment that businesses must navigate is onerous, bureaucratic, and prohibitive to those seeking to grow the economy through innovation and free enterprise. In 2017 alone, EPA regulations totaled over 27,000 pages¹⁹, accounting for approximately one-sixth of the entire Code of Federal Regulations.²⁰ Compliance with federal regulations imposes complex

¹⁵ National Public Radio, "China Is Building Six Times More New Coal Plants than Other Countries, Report Finds," March 2, 2023, accessed September 22, 2025, <https://www.npr.org/2023/03/02/1160441919/china-is-building-six-times-more-new-coal-plants-than-other-countries-report-fin..>

¹⁶ America First Policy Institute, "Issue Brief: Grid Security—Evaluating the Effects of Reliance on Wind and Solar-Based Renewable Energy," accessed September 22, 2025, <https://www.americafirstpolicy.com/issues/issue-brief-grid-security-evaluating-the-effects-of-reliance-on-wind-and-solar-based-renewable-energy>.

¹⁷ ‘_Competitive Enterprise Institute, “Ten Thousand Commandments Report on Federal Regulation Exposes Washington’s Big Costs, Little Accountability,” news release, May 23, 2024, https://cei.org/news_releases/ten-thousand-commandments-report-on-federal-regulation-exposes-washingtons-big-costs-little-accountability/.

¹⁸ America First Policy Institute, “Ban on Gas-Powered Cars Would Eliminate Nearly 200,000 Auto Manufacturing Jobs,” accessed September 22, 2025, <https://www.americafirstpolicy.com/issues/ban-on-gas-powered-cars-would-eliminate-nearly-200000-auto-manufacturing-jobs>.

¹⁹ Larry Cahill, “U.S. EPA Regulatory Outlook: Yesterday, Today and Tomorrow,” Specialty Technical Publishers Blog, February 14, 2017, <https://blog.stpub.com/u.s.-epa-regulatory-outlook-yesterday-today-and-tomorrow>.

²⁰ Regulatory Studies Center, “Total Pages Published in the Code of Federal Regulations (1950 - 2021),” George Washington University, November 1, 2022, https://regulatorystudies.columbian.gwu.edu/sites/g/files/zaxdzs4751/files/2022-11/totalpagescodefedreg_11-01-2022.pdf.



and time-consuming burdens on businesses.²¹ Nevertheless, the previous administration used the endangerment finding and similar climate policies to significantly expand the federal register.

In February of 2024, the Biden administration issued 766 final rules, adding more than \$450 billion in additional compliance costs for American businesses.²² By January of 2025, that number had grown to 1176 final rules, at a cost of \$1.8 trillion, with \$1.06 trillion representing costs generated through rules issued by the EPA.²³ Moreover, these additional final rules resulted in a total of 17,178,591 additional paperwork hours required to navigate the EPA's code of federal regulations.²⁴ Reducing the burden of regulatory compliance is essential for businesses to operate successfully. The rescission of the endangerment finding is a critical component in the process of creating right-sized regulations that incentive businesses to grow.

Regulations, like taxes, operate according to the Laffer Curve. That is, if applied in excess, taxes (or regulations), will inevitably reach a point of diminishing returns.²⁵ Overregulation, however, imposes additional burdens beyond just a fixed cost. Regulations stifle innovation, growth, and development by imposing costs and mandating additional time and resources to ensure compliance. This is why financial industries rank regulatory compliance as their top concern, even more impactful than an economic recession.²⁶

The Need for Sensible Policy

America's electrical grid faces a severe reliability crisis in the coming years, as AFPI has written in previously submitted comments.²⁷ In written testimony before a hearing held by the U.S.

²¹ Associated General Contractors of America, "EPA Rulemaking Process Handout," accessed September 22, 2025,

https://www.agc.org/sites/default/files/Galleries/enviro_members_file/EPA_Rulemaking_Process_Handout.pdf.

²² House Committee on Small Business, "Chairman Williams: 'Burdensome Regulations: Examining the Impact of EPA Regulations on Main Street,'" news release, accessed September 22, 2025,

<https://smallbusiness.house.gov/news/documentsingle.aspx?DocumentID=405881>.

²³ American Action Forum, "The Biden Regulatory Record," accessed September 22, 2025,

<https://www.americanactionforum.org/insight/the-biden-regulatory-record/>.

²⁴ American Action Forum, "The Biden Regulatory Record," accessed September 22, 2025,

<https://www.americanactionforum.org/insight/the-biden-regulatory-record/>.

²⁵ Hillsdale College, "Deep Dive: Understanding the Laffer Curve," Hillsdale College Online Courses Blog, accessed September 22, 2025, <https://onlinecoursesblog.hillsdale.edu/deep-dive-understanding-the-laffer-curve/>.

²⁶ Conference of State Bank Supervisors, "Regulatory Burden Is Top Community Bank Concern in Annual Survey," news release, accessed September 22, 2025,

<https://www.csbs.org/newsroom/regulatory-burden-top-community-bank-concern-annual-survey>.

²⁷ America First Policy Institute, "AFPI Supports Repealing Clean Power Plan 2.0," accessed September 22, 2025, <https://www.americafirstpolicy.com/issues/afpi-supports-repealing-clean-power-plan-2.0>.





Senate Committee on Energy & Natural Resources on May 4th, 2023, former Federal Energy Regulatory Commission (FERC) Commissioner James Danly stated²⁸,

Intermittent renewable resources like wind and solar are simply incapable, by themselves, of ensuring the stability of the bulk electric system. As the wholesale markets' prices are distorted by subsidies, the generation assets with the attributes required for system stability will retire and system stability will be imperiled. Given these market failures, there will be, in time, a catastrophic reliability event.

In an opening statement for the same hearing, Commissioner Mark Christie declared²⁹,

The United States is heading for a reliability crisis. I do not use the term 'crisis' for melodrama, but because it is an accurate description of what we are facing... Dispatchable generating resources are retiring far too quickly and in quantities that threaten our ability to keep the lights on. The problem generally is not the addition of intermittent resources, primarily wind and solar, but the far too rapid subtraction of dispatchable resources, especially coal and gas.

Therefore, it should be the purpose of any administration that is tasked with serving the American people to enable America's industries and economies to add as much reliable power to the grid as possible. "Net-zero" and "carbon-free" policies are fundamentally at odds with this purpose. This is why a policy of net-zero could never receive the approval of Congress.

Importantly, this is also why the Obama and Biden administrations relied so heavily on the regulatory avenues and direct ambiguity found within the endangerment finding to enforce rules that deliberately sought to push America towards a net-zero system.

Opponents of traditional energy have long criticized the fossil fuel industry as monolithic, unconcerned about pollution or environmental degradation, and seeking environmental protection only when forced to do so by federal regulation and oversight. This could not be further from the truth. America possesses — and produces — the cleanest energy in the world, a direct result of American ingenuity and a commitment to excellence.³⁰ Through numerous technological innovations over the last quarter-century alone, America has transitioned from being an import-reliant nation to becoming the world's leading producer of oil and natural gas.

²⁸ Oversight of the Federal Energy Regulatory Commission, U.S. Senate Committee on Energy and Natural Resources. 118th Cong. (May 4, 2023) (written statement of James P. Danly, Commissioner, FERC). <https://www.energy.senate.gov/services/files/0A896B12-2895-4F68-A367-74009F2975C4>.

²⁹ Oversight of the Federal Energy Regulatory Commission, U.S. Senate Committee on Energy and Natural Resources, 118th Cong. (May 4, 2023) (opening statement of Mark C. Christie, Commissioner, FERC). <https://www.energy.senate.gov/services/files/1D618EDD-7CED-4BC5-8F09-C8F0668FE608>.

³⁰ Jason Hayes and Brandon Burton, Michigan and National Energy Report Card (Midland, MI: Mackinac Center for Public Policy, 2024), 21, https://www.mackinac.org/archives/2024/MCPP-NWU_Energy_Report_Card.pdf.



For example, in Fiscal Year 2018, oil and natural gas production hit its then-highest level while using the least amount of acreage of federal land on record.³¹ Across this timeframe, America reduced emissions as it increased its share of natural gas production by 532 million tons, more than double the reduction in carbon emissions from renewable sources.³² The conventional wisdom of climate advocates would have indicated that this would have been impossible, that emissions reductions and increased production of oil and gas are mutually exclusive.

American industries prospered during the first Trump Administration, thanks to the administration's focus on removing barriers to energy development. This is because the administration keenly recognized, then and now, that lowering regulatory barriers does not necessarily come at the expense of environmental protection and innovation.

Junk Science

The impact that the endangerment finding has had on the enlargement of federal agencies' authority over the economy cannot be understated. Nearly all sectors of the economy, including, but not limited to, manufacturing, transportation, mining, construction, energy production, transmission, power generation, and agriculture, are subject to regulation born of the endangerment finding.

While proponents of the endangerment finding argue that the EPA's determination that carbon dioxide represents a danger to human health and well-being must not take into account economic impacts, as the regulatory nature of the EPA must be economically agnostic, the EPA's enforcement of the endangerment finding has been implicitly connected to economic consequences and outcomes. Proponents of climate change policy have argued that both the costs and benefits of greenhouse gas emission reductions cannot go unconsidered by the EPA.³³

The primary issue with this approach is that the EPA is permitted to employ a single perspective in evaluating cost inputs, which justifies regulatory action if the estimated costs of greenhouse gas emissions exceed the claimed benefits. This means that the burden of proof depends on two principles: that carbon dioxide and other air pollutants harm individuals' well-being, and that removing these pollutants from the air offers a greater benefit than the cost. Therefore, it is up to the body of evidence, led by research from the EPA and the scientific community, to

³¹ David Vasquez, "Sorry, But the Losers in Washington Can't Pick Energy Winners," RealClearEnergy, September 13, 2023,

https://www.realclearenergy.org/articles/2023/09/13/sorry_but_the_losers_in_washington_cant_pick_energy_winners_979102.html.

³² Glenn McGrath, "Electric Power Sector CO2 Emissions Drop as Generation Mix Shifts from Coal to Natural Gas," U.S. Energy Information Administration, June 9, 2021,

<https://www.eia.gov/todayinenergy/detail.php?id=48296>.

³³ Institute for Policy Integrity, "The Bottom Line: Regulatory Costs Don't Belong in Endangerment Findings," New York University School of Law, March 2025,

<https://policyintegrity.org/publications/detail/the-bottom-line-regulatory-costs-dont-belong-in-endangerment-findings>.

demonstrate that greenhouse gas emissions are truly harmful to the country's economic and environmental health.

However, the evidence does not support either of these conclusions. The Endangerment Finding is built upon flawed scientific analysis, which has led to further flawed analysis. The EPA based a majority of its scientific foundation for the finding on a confused narrative presented in summaries of the United Nations IPCC science reports.

The Texas Public Policy Foundation, in formal comments submitted to the EPA, articulated the glaring issue with the way the EPA administered the endangerment finding.³⁴

In promulgating the Endangerment Finding, EPA made no showing that the finding or any of its related greenhouse gas rules will remove or lessen any dangers to human health or welfare. Indeed, EPA disclaimed any obligation to define its ultimate regulatory objectives or its chosen means of achieving them and even refused to articulate how the Endangerment Finding could lead to successfully combating the climate change issues that EPA postulated.

EPA claimed implausibly that it was 90–99% certain that human-caused climate change threatened public health and welfare, see 74 Fed. Reg. at 66,518 & n.22, while failing to state what constitutes a safe climate, acceptable global temperature ranges, how levels of greenhouse gases in the atmosphere (whether natural or man-made) may affect those ranges, or even whether its regulatory actions would ameliorate any risk. Because of these substantial gaps in its analysis, no one could accurately judge whether EPA achieved any discernable public benefit or congressionally authorized goal when it made the Endangerment Finding.

Furthermore, the Clean Air Act requires the Administrator to exercise independent judgment to determine how a regulatory response to a perceived risk will reduce or eliminate that risk. Amazingly, the Obama Administration left the gathering, sifting, and analyzing of the evidence, as well as the risk assessment, almost entirely to international non-governmental organizations. The conclusions borrowed from those organizations rest primarily on theoretical computer modeling projections, which themselves are based on untested assumptions. Indeed, EPA acknowledged that the assumptions upon which it relied are subject to substantial uncertainty. That means EPA's professed high confidence in its Endangerment Finding is unsupported. EPA's almost complete reliance on the work of nongovernmental organizations was an abdication of its responsibilities under the Clean Air Act.

³⁴ Texas Public Policy Foundation, "CAF Submits Comments Supporting EPA Proposal to Rescind Flawed 2009 Endangerment Finding," Texas Public Policy Foundation, March 25, 2025, <https://www.texaspolicy.com/press/caf-submits-comments-supporting-epa-proposal-to-rescind-flawed-2009-endangerment-finding>.

Moreover, the IPCC’s report is not actually even based on the often-discussed popularity metric of the “scientific consensus.” Instead, the public-facing account promoted by the IPCC often diverges from the findings in the science reports to a carefully scripted ideological narrative found in the more easily digestible Summary for Policymakers (SPM).³⁵

Whereas a 1995 IPCC science report found that "No study to date has positively attributed all or part (of the climate warming observed) to (manmade) causes...", the SPM proclaimed, "The balance of evidence suggests a discernible human influence on global climate." This skewed method of reporting the alleged scientific consensus can confuse and even contradict the understanding of the findings in the UN IPCC science reports. The UN has maintained the assertions promulgated by the SPM’s alteration of the 1995 IPCC report, citing the same conclusions regarding climate change in their 2021 report, ‘Climate Change 2021: The Physical Science Basis’³²

Even if the arguments and assumptions the EPA cited from IPCC SPMs to justify the endangerment finding were accurate, historical evidence has not reaffirmed these findings over the last 16 years. Across multiple categories, data used by the EPA to justify its conclusions has been proven invalid. For example, in 2009, the EPA concluded that “Increases in ambient ozone are expected to occur over broad areas of the country.” However, they later reported a 26% decline in the national ozone trend from 1980 to 2023.³⁶

Per the Department of Energy’s Climate Working Group (CWG) study published in July of 2025, there are many inaccuracies and alternative scientific rationales when evaluating the repeal of the endangerment finding. Importantly, the CWG report found that:³⁷

- “The Endangerment Finding relied primarily on IPCC AR4 to predict global temperature increases between 1.8 and 4 degrees Celsius by 2100,” which EPA claims “appear[s] unduly pessimistic.” 90 Fed. Reg. at 36,308.7
- “Recent empirical data and analyses suggest that the Endangerment Finding was unduly pessimistic in attributing health risks from heat waves to increases in global

³⁵ Richard Lindzen and William Happer, “Re: The Committee’s Charge to Review Evidence Whether Anthropogenic Emissions of Greenhouse Gases to the Atmosphere Are Reasonably Anticipated to Endanger Public Health and Welfare in the United States,” CO2 Coalition, August 25, 2025, <https://co2coalition.org/wp-content/uploads/2025/08/Lindzen-Happer-Natl-Academy-Sciences-comment-2025-08-25-1.pdf>.

³⁶ Benjamin Zycher, "Comment to the Environmental Protection Agency: Proposed Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards," American Enterprise Institute, September 2, 2025, <https://www.aei.org/research-products/testimony/comment-to-the-environmental-protection-agency-proposed-reconsideration-of-2009-endangerment-finding-and-greenhouse-gas-vehicle-standards/>.

³⁷ Climate Working Group, A Critical Review of Impacts of Greenhouse Gas Emissions on the U.S. Climate (Washington, DC: United States Department of Energy, July 23, 2025), https://www.energy.gov/sites/default/files/2025-07/DOE_Critical_Review_of_Impacts_of_GHG_Emissions_on_the_US_Climate_July_2025.pdf.

temperature.” Specifically, heat waves peaked in the 1930s, the urban island effect introduces a confounding variable, and “mortality risk from cold temperatures remains by far the greater threat to public health in the United States and around the world.” This critique becomes more pertinent in light of the fact that climate-related mortality has decreased by 99% over the past century.³⁸

- “[E]xtreme weather events have not demonstrably increased relative to historical highs.”
- “Recent data and analyses suggest that aggregate sea level rise has been minimal, at least with respect to impacts on the United States.” Further, EPA should have considered human adaptation, particularly to changes in sea-level rise.
- “Recent data and analysis show that even marginal increases in CO2 concentrations have substantial beneficial impacts on plant growth and agricultural productivity, and that this benefit has been significantly greater than previously believed.”

Ultimately, one can succinctly conclude that the fundamental basis and scientific justifications for the endangerment finding are neither rooted in science nor have their forecasts of an impending climate catastrophe materialized. In either case, the endangerment finding lacks the foundation necessary to justify enacting regulations across the economy.

The courts have long held—and continue to hold, as *Loper Bright V. Raimondo* concludes³⁹—that Congress does not delegate to individual agencies the sole power or discretion to unilaterally enact regulatory power and actions that cover a significant portion of the American economy.

Such major questions of economic importance are left to Congress to determine, ensuring that the constitutionally enumerated powers and congressional oversight are established and maintained. By allowing the continuation of the endangerment finding, as has persisted since 2009, proper federal powers would continue to be abdicated to unelected bureaucrats and agencies that have promulgated scientifically and legally unsound policies to the detriment of the well-being of the American people.

Conclusion

Thank you for the opportunity to comment on the proposed “**Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards**” rule and for your consideration of these comments. It is our sincere belief that a reversal of the 2009 endangerment finding for GHG and the GHG vehicle standards is justified on scientific, legal, economic, and

³⁸ Marian L. Tupy, “The Collapse of Climate-Related Deaths,” Human Progress, August 24, 2022, <https://humanprogress.org/the-collapse-of-climate-related-deaths-2/>; Julian Morris, Global Warming: No Urgent Danger; No Quick Fix, Reason Foundation Policy Brief (Los Angeles: Reason Foundation, October 2011), https://reason.org/wp-content/uploads/files/deaths_from_extreme_weather_1900_2010.pdf.

³⁹*Loper Bright Enterprises v. Raimondo*, No. 22-451, 603 U.S. ____ (2024), https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf.



environmental grounds, and should be finalized. The Trump Administration has taken bold, daring, and unprecedented action by calling for the revocation of this rule.

By shifting the carte blanche oversight and authority of a single agency to levy an economy-wide regulation without congressional approval, the Trump Administration has demonstrated a welcome return to the federalism that the founding fathers advocated and fought for. This presents a unique opportunity to return to America First policies that seek to promote prosperity and economic flourishing by reducing the size and scope of big government.

For these reasons, we urge the Environmental Protection Agency to proceed as proposed with its final rule.

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The America First Policy Institute

AFPI is a 501(c)(3) nonprofit, non-partisan research institute. AFPI exists to conduct research and develop policies that put the American people first. Our guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.

