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Reversing the EPA's Endangerment Finding on Greenhouse Gases

Kevin D. Dayaratna, PhD, and Diana Furchtgott-Roth

BOTTOM LINE

On July 29 the Environmental Protection Agency (EPA) issued a notice of proposed rulemaking to rescind its 2009 "endangerment finding"—the *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*. The finding determines six "greenhouse gases" are causing or contributing to climate change, and that they are reasonably expected to endanger public health and welfare as defined under the Clean Air Act. The endangerment finding was based on data from 2007. New data, presented in a report by the Department of Energy on the same day, show that the 2009 findings are obsolete and misrepresent evidence of the effect of carbon-dioxide (CO_2) emissions on the climate.

Reconsideration of the endangerment finding is important because the EPA used the finding to justify sweeping restrictions on CO_2 emission and other greenhouse-gas emissions across the economy. Those restrictions, in the form of emissions standards promulgated by the EPA under the Clean Air Act, have imposed enormous costs on the American economy. Accordingly, the EPA is also reconsidering the many regulations based on the endangerment finding. Given new data, policymakers would be right to reverse the 2009 decision and all the subsequent and misguided rules based upon it.

- Many climate models have overpredicted warming, raising doubts about their use in guiding policy.
- New data show no long-term increase in the frequency and intensity of hurricanes and tornadoes, despite higher greenhouse gas concentrations.
- Moderate warming and elevated CO_2 levels can result in benefits, such as reduced cold-related mortality, extended growing seasons, and better agricultural productivity.

- Global changes in rainfall and extremes can't be explained by a single factor such as CO_2 emissions. The evidence that climate change is linked to rising asthma rates or higher particulate matter–related deaths is weak.

- The "social cost of carbon"—a metric often used to justify sweeping regulatory interventions—relies on speculative assumptions and is not valid as a policy tool.

STATE OF PLAY

On July 29, the EPA issued a proposed rule to withdraw President Biden's electric vehicle (EV) mandate and rescind the endangerment finding.[1] The rule will have a comment period of 45 days during which the public can submit comments. After the comment period, EPA staff will incorporate public comments and issue a final rule.

ANALYSIS

Kevin Dayaratna's new book, *Cooling the Climate Hysteria: Separating Fact from Fiction*, is an anthology of research and essays from leading scientists and policy experts.[2] It examines the foundations of climate alarmism and presents evidence to underscore a simple yet powerful finding: Although climate change is occurring, the associated risks have been vastly exaggerated, and the proposed policy responses often rest on shaky scientific ground. The real and immediate harms from emissions cuts compelled by regulatory policy raise the costs of energy, burden Americans, reduce economic growth, and stifle job creation.[3]

In both Title I (stationary sources) and Title II (mobile sources) of the Clean Air Act, regulation of pollutants is triggered by an endangerment finding.[4] Once the EPA makes such a finding, the agency is required to regulate the relevant emissions, usually taking cost and other factors into account.

The standards are slightly different under different Clean Air Act programs. For example, a stationary source category, such as power plants, the subject of an EPA rule issued June 11, 2025, may be subject to New Source Performance Standards under Section 111(b) of the Clean Air Act if the EPA Administrator finds that it "contributes significantly" to dangerous air pollution.[5] For vehicle emissions under Section 202(a), on the other hand, the subject of the proposed rule issued on July 29, the EPA Administrator need only determine that emissions of a pollutant from motor vehicles "contributes to" dangerous air pollution, without a finding of significance.[6]

In *Massachusetts v. EPA* (2007), the Supreme Court ruled that greenhouse gases meet the definition of "pollutant" under the Clean Air Act.[7] But under the Supreme Court's broad reading of the statute, even clean air is a "pollutant." The critical question is whether CO_2, a component of the ambient air, which is crucial for life on Earth, can be considered "air pollution."

The answer is "No." The Clean Air Act was not designed for the regulation of such essential components of the air that humans and animals breathe.

Nevertheless, in 2009 the EPA published its greenhouse gas endangerment finding, based largely on studies compiled by the United Nations Intergovernmental Panel on Climate Change (IPCC), rather than on its own scientific assessments.[8] The EPA found that CO_2 and other greenhouse gases "contribute to" dangerous air pollution in the form of climate change. The following year, the EPA began regulating carbon emissions, starting with vehicle emissions. It took the position that its regulation of vehicle carbon emissions required it to regulate stationary sources as well. It adopted a suite of regulations on greenhouse gases, culminating in the Obama-era Clean Power Plan. That plan was ultimately overturned in *West Virginia v. EPA* (2022).[9]

In 2024, the EPA once again tried to impose stifling regulations of carbon emissions on the power plant sector through a rule that would have required natural gas and coal plants to eliminate virtually all carbon emissions starting in 2032. That rule was withdrawn on June 17, 2025, when the EPA proposed repealing all greenhouse-gas-emissions standards for power plants.[10] The EPA proposed to find that greenhouse gas emissions from power plants do *not* contribute *significantly* to dangerous air pollution.

A finding that greenhouse gas emissions from power plants do not contribute significantly to dangerous air pollution would eliminate any basis for regulating carbon emissions from stationary sources, such as power plants. It would not, however, eliminate the predicate for regulating carbon emissions from motor vehicles under Title II of the Clean Air Act, because of the lower "contribute to" standard that applies to motor vehicles. This is why the EPA is currently considering a finding that greenhouse gas emissions from motor vehicles do not contribute dangerous air pollution *at all*.

While this *Policymaker Memo* refers to the EPA's reconsideration as a "reversal" of the Endangerment Finding, it is important to note that every regulation of greenhouse gas emissions has amended and restated the original endangerment finding. Hence, to unwind those regulations and effectively "reverse" the endangerment finding, the EPA may need to make a *new* finding, to the effect that greenhouse gas emissions from power plants and motor vehicles do not contribute to dangerous air pollution. To survive judicial review, this new finding will need to be firmly grounded in a scientific assessment that highlights the flaws of the prior endangerment findings and updates the science. The papers in *Cooling the Climate Hysteria* provide the building blocks for the analysis.

Reality Check. Access to affordable and reliable energy is one of the central pillars of a growing economy.[11] It underpins virtually every aspect of modern life, from powering hospitals and schools to supporting economic growth and feeding families. The many successes of the developed world are deeply rooted in dependable energy systems, which have contributed to far higher life expectancy, greater wealth, enhanced

agricultural productivity, and lower child mortality rates than in less developed countries.

Yet over recent decades, the endangerment finding has been used as a rationale for regulating energy sources that emit greenhouse gases, driven by widespread fears about climate change. While the Earth is warming slowly, it is crucial to recognize that Earth's climate has been changing naturally for billions of years, and temperatures are not necessarily tied to greenhouse gas emissions.

No Scientific Consensus on CO_2 Harm. Climate alarmists often claim that 97 percent of scientists agree that CO_2 causes dangerous warming—and that this CO_2 increase is caused by human activity.[12] But this claim is false. The misleading figure stems from a 2013 study in *Environmental Research Letters* that examines the abstracts of nearly 12,000 academic papers on climate change and global warming between 1991 and 2011.[13] Of those papers, 66.4 percent did not express an opinion on anthropogenic warming, 32.6 percent endorsed it, 0.7 percent rejected it, and 0.3 percent were uncertain about the cause. Among the 33.6 percent expressing an opinion on man-made global warming, "97.1 percent endorsed the consensus position that humans are causing global warming" without commenting on danger or urgency. That is about a third of the total polled, not 97 percent.

New Data Show the 2009 EPA Decision Was Wrong. Climate models used by the IPCC significantly overestimated warming trends, raising doubts about the trends' reliability in guiding energy and environmental policy.[14] These models neglect analyses of natural factors, such as solar activity, that play substantial roles in climate variability, challenging the narrative that recent warming is predominantly driven by human activity.[15]

Empirical evidence shows no long-term increase in the frequency or intensity of hurricanes and tornadoes, despite higher greenhouse gas concentrations.[16] While damages from such events have risen, they are largely attributable to increased development in vulnerable areas rather than stronger storms themselves. When people build multimillion-dollar homes on the coast of Florida instead of homes that cost hundreds of thousands of dollars, the same storm causes more damage.

Similarly, the historical records of major river systems and long-term rainfall data reveal natural patterns of variability rather than consistent trends linked to human emissions.[17]

Contrary to dire warnings, moderate warming and elevated CO_2 levels can yield net benefits, including reduced cold-related mortality, extended growing seasons, and enhanced agricultural productivity.[18] The data and methodology that link climate change to rising asthma rates or higher particulate matter-related deaths reveal significant gaps and biases.[19]

Evidence suggests that many plant and animal species demonstrate remarkable resilience and adaptability to environmental changes, undermining predictions of widespread ecosystem collapse.[20]

The social cost of carbon exaggerates benefits from climate reduction in future years. It is used in cost-benefit analyses to justify sweeping

regulatory interventions. It relies on speculative assumptions and is highly sensitive to input parameters, and it has no validity as a policy tool.[21]

Unnecessary Climate Regulation Disproportionately Harms the Poor. While climate change deserves thoughtful attention, new data show that greenhouse gases cannot be demonstrated to significantly harm human health. That is why the EPA is reconsidering the endangerment finding and all regulations based on the finding.

Alarmist rhetoric and extreme policy measures threaten to undermine energy affordability and economic prosperity without delivering commensurate environmental or societal benefits. Instead of imposing heavy-handed regulations on one of the most critical sectors of the economy, policymakers should prioritize empirical evidence, technological innovation, and adaptive strategies that encourage economic growth.[22]

Kevin Dayaratna, PhD, is Director of the Center for Data Analysis and Chief Statistician at The Heritage Foundation. **Diana Furchtgott-Roth** is Director of the Center for Energy, Climate, and Environment at The Heritage Foundation.

RELATED MATERIALS

- Joe D'Aleo and Kevin D. Dayaratna, "Keeping an Eye on the Storms: An Analysis of Trends in Hurricanes Over Time," Heritage Foundation *Special Report* No. 295, December 2, 2024.
- Theano Iliopoulou and Demetris Koutsoyiannis, "Have Rainfall Patterns Changed? A Global Analysis of Long-Term Rainfall Records and Re-Analysis Data," Heritage Foundation *Special Report* No. 306, January 10, 2025.
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- S. Stanley Young and Warren B. Kindzierski, "Air Quality and Public Health: Is There a Link?" Heritage Foundation *Special Report* No. 304, December 5, 2024.
- Susan J. Crockford, "Defying Predictions: How Increased CO2 and Innovation Are Mitigating Effects of Drought on U.S. Crops and Forest Productivity," Heritage Foundation *Special Report* No. 299, November 7, 2024.

ENDNOTES

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