

CLIMATE

The EPA Says Carbon Pollution Isn't Dangerous. What Comes Next?

A conversation with Harvard Law School's Jody Freeman about life after the endangerment finding.

EMILY PONTECORVO · JULY 29, 2025



Heatmap Illustration/Getty Images

The Environmental Protection Agency unveiled a proposal on Tuesday to reverse its own conclusion that greenhouse gases are a threat to public health and welfare. Known as the “endangerment finding,” this 2009 determination initially compelled the agency to regulate carbon emissions from vehicles under the Clean Air Act. But the agency has since used it as the basis for many of its efforts to tackle climate change, including emissions limits on power plants, oil and gas operations, and aviation.

If the reversal is finalized as written — and survives court challenges — the EPA will no longer have the legal authority to regulate carbon dioxide from the tailpipes of cars or trucks, invalidating the vehicle standards issued by the Biden administration last year.

While other greenhouse gas regulations wouldn’t automatically disappear, the agency could easily use the same arguments to repeal them. Indeed, the agency said that it has already initiated or intends to initiate “separate rulemakings that will address any overlapping issues” related to other sources of greenhouse gas emissions, such as power plants.

EPA’s primary justification for reversing course, detailed in a 302-page document, is that the Clean Air Act is designed to target air pollution that endangers public health “through local or regional exposure,” and therefore that it cannot be used to rein in greenhouse gases “based on global climate change concerns.” Richard Revesz, a professor of law at New York University and former Biden official, told me this was “breathtakingly broad,” and said that it was “inconsistent with 55 years of regulation under the Clean Air Act. That limitation was never understood to be there.”

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The EPA also put forth a host of other legal and scientific arguments, “basically throwing the kitchen sink at this issue,” Revesz said. The proposal asserts that the EPA should have considered the downstream costs of making the finding, as well as weighed the potential benefits of a warmer climate. In a section entitled “Alternative Rationale for Proposed

Rescission,” the agency attempts to poke holes in the scientific evidence that climate change is a threat to public health, concluding that the research is uncertain. It cites a [report from the Department of Energy](#), also released Tuesday, that says the warming caused by greenhouse gases is not as bad for the economy as people once thought, and that regulating such emissions will have “undetectably small direct impacts on the global climate.”

The proposal cherry-picks data and misinterprets scientific findings. For example, it says that recent evidence suggests that the temperature projections EPA used to make the endangerment finding were “unduly pessimistic,” citing a 2020 paper by climate scientist Zeke Hausfather. But Hausfather has already [posted on social media](#) that this is wrong — his paper supported the EPA’s 2009 temperature projections.

My inbox is currently full of statements from legal experts, scientists, and activists adamant that the administration’s arguments are baseless. The agency will be taking public comments on the proposal through September 21, and hold at least two public hearings on August 19 and 20. To get a sense of what to expect over the coming months and years as a result of this move, I called up [Jody Freeman](#), the director of the Environmental and Energy Law Program at Harvard and a former White House counsel for the Obama administration. Our conversation has been lightly edited for clarity.

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What will EPA have to do in order to finalize this proposal?

What they do is put it out for public comment. There’ll be a huge reaction to this, and so they’ll have a very big set of comments that they’re going to have to go through, which then will take them several months at a minimum. And they’re not necessarily going to be in a rush, right? At a minimum, we’re going to be getting into 2026 before we’d see a final rule. And then the lawsuits would start.

Other than just responding to the public comments, are there certain things that they would have to demonstrate to finalize this determination?

The normal process is you have to respond to the most serious and relevant comments. So if the comment says, *The claims you're making about the science are wrong*, they'd have to respond to that. The normal course is they come back with a final rule that explains why they're doing what they're doing, and why they either didn't agree with the comments, or they do agree with some of them, and they've adapted the proposal.

And as you said, then the lawsuits would start.

It doesn't take effect for 30 days after it's final. But yes, at that point, they get sued. These rules go to the D.C. Circuit Court of Appeals because that's what the Clean Air Act says, and usually it would take about a year or so for a D.C. Circuit decision to happen. So now you're in 2027. You can see the timeline on this stretching out. And if you ultimately think this could go to the Supreme Court, you can imagine that's another year away. So basically, for the rest of President Trump's term, you really shouldn't expect to see enforcement or action on federal climate rules.

Even if the EPA hadn't taken this step, wouldn't that still have been the case, since the Trump administration is fighting the power plant rules and the vehicle emissions rules?

Well, you could see them dragging their feet enforcing these standards. Of course, they would get sued if they weren't enforcing vehicle emission standards against the auto industry. There would be efforts to force them to enforce. But it's more serious and more long term damage for them to try to rescind the underlying endangerment finding because depending on what the Supreme Court does with that, it could knock out a future administration from trying to bring it back. Now that would be the nuclear option. That would be their best case scenario. I don't think that's likely, but it's possible.

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At a minimum, let's say they don't win everything, but the court says they can do this for now — they have the discretion, the flexibility not to make this finding. Another administration can come back and make it and restore the rules. But that would take, again, several years. So even if they lose, they

win.

If they do finalize this, would the other lawsuits that are going on around the power plant rules and the vehicle emissions rules automatically be dropped?

There are a few lawsuits that were challenging the Biden-era rules, but the Trump administration asked the courts to hold them in abeyance because they said, *We're going to go revisit all those rules and replace them.* So those lawsuits aren't moving forward anyway at the moment. It would probably be true that the administration, in taking this action, wants to set up a situation where it can go back into court and say, *Well, now all these challenges are moot. We don't have any authority to regulate anyway.* But for now, they're all on hold.

Are there other regulations this will affect besides those for vehicles and power plants?

The methane rule for oil and gas facilities is more of a question mark because they don't seem to be announcing they'll eliminate it. It's possible they push off compliance. It's possible they make the rule weaker. But there are a couple reasons why they might not rescind that.

One is that there's a very complicated history of this rule. Congress disapproved of a weaker methane rule the first time around in the Trump administration, and because of that congressional action, there's a barrier there. They can't easily just rescind that methane rule. They've got more legal hurdles to jump through.

The other reason is there are some good reasons to regulate methane that have to do with ozone pollution and pollution that isn't just about climate change. And the third reason is the oil and gas industry might actually want a methane rule. They might want a weak one, but they might want one federally. So that's a bit separate, and you have to be on the lookout for them handling methane differently.

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Could a future EPA just develop stronger pollution standards for other pollutants that would indirectly reduce greenhouse gas emissions?

It's true that when you set toxics standards, for example, for power plants to control their toxic pollution, a side benefit is those power plants become more efficient, and that means they control their carbon pollution, too. But this is more around the margins. This is not taking big bites out of power plant greenhouse gas emissions or big bites out of car and truck emissions. It would be a much, much, much weaker version of what you can do with the endangerment finding.

So if the endangerment finding is reversed, is the only path for future regulation for Congress to explicitly tell EPA that it must regulate greenhouse gases?

That's one option, but it may not necessarily be the only one. It depends on where this lands after it moves through the courts. If the Supreme Court said, *You, Trump EPA, you can rescind this finding, but another administration could bring it back*, then another administration can say, *Well, we think the science is clear, and we're going to make the finding again and issue these rules*. So it all depends on how far the court goes. If it's going to agree with EPA, how much will it agree? But if the court were to essentially say, this agency has no authority now and forever to make this finding, well then yes, you need new law.

Will the overturning of the Chevron doctrine also play into this?

That's another interesting one. So what they have to do now is argue that greenhouse gases might be pollutants, but we don't have to regulate them. And when they argue that we don't have to regulate them, they're going to be asking for a lot of deference. And so in that sense, they're kind of asking for what Chevron used to give you — deference. But they don't have Chevron anymore, so they're going to have to say to the court, *You should agree with our reading of this law. This is the best reading of this law, that we don't have to regulate*. They no longer can just say, you ought to defer to us under Chevron.

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In that scenario, is it left to the court to decide?

It's left to the court to say, your reading of the law is right. You have flexibility here, and you can decide you don't need to regulate. The court would have to agree with their reading of the Clean Air Act.

Isn't the endangerment finding more of a scientific question than a legal one?

Well, in making that scientific decision about what constitutes a danger to human health, there's a lot of judgment in there. How do we interpret the science? Is it okay for us to say, well, there are a lot of good things that happen because of climate change? This is what they might do, right? They might say, *The EPA, long ago, they ignored all the good stuff about climate change, and we think that's really important.* They might say some ludicrous stuff that leading scientists would think is completely wrong. But there's some discretion in there about how you count the science and what you weigh, and they're going to try to get the court to agree that they have a lot of flexibility in what method they use. That means the court will have to agree with them on how they read the law.

So they might say, *We have flexibility to interpret the science,* and the court might say, *No, you don't, the science is really clear.* Then they might say, *Okay, well even so, the U.S. contribution is so infinitesimally small that we don't consider it a contribution to the problem.* Now there, the court might say, *Okay, you have discretion there.* So it's a little bit of a moving target, where at every opportunity they're going to say, *We have flexibility, don't you agree?*, and hope the court bites on one of those.

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