



RESEARCH SUMMARY

A DANGEROUS PRECEDENT: HOW THE ENDANGERMENT FINDING EXPANDED THE EPA'S REGULATORY POWERS

The Clean Air Act does not explicitly call for the regulation of greenhouse gases, and the clear intent of Congress was to avoid such regulation. However, judicial overreach has given the U.S. Environmental Protection Agency unprecedented power to inject climate politics into air quality rulemaking. Unelected bureaucrats have been allowed to treat greenhouse gases as real pollutants, ignoring scientific realities and obscuring the public's understanding of both air quality and climate change.

- In 2007, the Supreme Court determined in *Massachusetts v. EPA* that greenhouse gases are air pollutants and that the EPA must decide whether they endanger human health to the degree required by the CAA for regulation.
- In 2009, the EPA issued a finding of endangerment for greenhouse gas emissions from vehicles, beginning a campaign by the Obama Administration to use the CAA to enact regulations for a wide variety of mobile and stationary sources.
- Under President Trump, the EPA limited its greenhouse gas regulations but declined to eliminate any endangerment finding for greenhouse gases.

As the Biden administration is seeking to drastically expand the EPA's regulatory power, the time is now to shed light on the role of judicial overreach in expanding the administrative state far beyond legislative intent.

This paper is the first of a two-part series detailing how the EPA is pushing GHG regulations on large swaths of the U.S. economy despite the lack of explicit authority from Congress.

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