

If the EPA Endangerment Finding Is Repealed, We Need a Market-Based Path to Protect America

By Mike MacCracken
Chief Scientist, Climate Institute

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For 15 years, EPA's 2009 Endangerment Finding has provided the legal and scientific foundation for regulating carbon dioxide (CO₂) and other greenhouse gas emissions that are raising sea level and disrupting weather and climate worldwide. Rather than strengthening emission limits as climate impacts intensify, the Administration is moving toward repeal—contrary to the nearly 20-year-old Supreme Court decision in *Massachusetts v. EPA* that required EPA to determine whether greenhouse gases endanger public health and welfare.

Repealing without proposing a credible and effective alternative framework will surely invite further legal challenges and leave the nation without a coherent federal climate strategy. If repeal were paired with acknowledgment of the overwhelming scientific consensus—that climate change is real and driven primarily by the combustion of coal, oil, and natural gas—and accompanied by a more economically efficient policy approach, it could potentially open the door to improved climate action. However, no such alternative has been advanced.

In the absence of a regulatory framework grounded in the Endangerment Finding, a more effective and economically sound approach would be to impose a rising fee or “tariff” on fossil fuels extracted from or imported into the United States—reflecting the real and growing damages their emissions impose on the public and the environment.

Carbon dioxide differs from traditional air pollutants because it is naturally present in the atmosphere and essential for plant growth and maintaining a habitable climate. For that reason, regulating CO₂ under the Clean Air Act was not initially viewed as the optimal long-term policy solution. However, when Congress and the Administration failed to act in the face of mounting scientific evidence, states and environmental groups turned to the courts to require EPA to use its existing authority.

In 2007, the Supreme Court ruled that greenhouse gases fall within the Clean Air Act's definition of pollutants if they endanger public health and welfare. EPA's subsequent 2009 Endangerment Finding concluded—based on extensive national and international scientific assessments—that human-caused greenhouse gas emissions pose such dangers. That determination has only been reinforced by subsequent research and observed impacts.

Given the deep integration of fossil fuels into the economy, regulating emissions source-by-source under the Clean Air Act has always been a challenging and litigious path. Economists across the political spectrum have long agreed that a more efficient approach would be to place a steadily rising price on fossil fuels—whether through a carbon tax, fee, or permit system—based on the principle that one taxes what one seeks to reduce. Revenues could support affected workers and communities, accelerate innovation, and reduce transition costs.

Today, solar and wind power are among the lowest-cost sources of electricity generation. The economic case for pricing carbon has strengthened, not weakened. Programs in California, the Northeast, and internationally demonstrate that market-based approaches can reduce emissions while sustaining economic growth.

Meanwhile, climate impacts are accelerating. The nation and the world are experiencing more intense heatwaves, increasing wet and dry extremes, accelerating glacier and ice sheet melt, and rising sea levels. Continuing to expand fossil fuel use not only increases long-term climate risks but also imposes growing economic and security costs.

The national and international scientific consensus underlying the Endangerment Finding remains robust. If updated today, the findings would be even stronger, reflecting more severe and imminent impacts throughout the United States that demand urgent action.

It is well past time for climate change to be addressed through coordinated action by Congress, the Executive Branch, industry, and state and local governments. Repealing the Endangerment Finding without replacing it with a credible and economically sound alternative would move the nation backward at a moment when forward-looking leadership is urgently needed.

If policymakers choose to describe a carbon price as “a Great Big Beautiful Tariff” on fossil fuels drawn from Mother Earth, so be it. What matters is not the label, but that the United States adopt an effective strategy to reduce emissions, protect its citizens, and remain economically competitive in a rapidly evolving global energy system.

*Dr. MacCracken has served as Chief Scientist for Climate Change Programs at the Climate Institute since 2002, following his retirement from the Lawrence Livermore National Laboratory (LLNL). At LLNL, he led research for 25 years focused on advancing understanding of both natural and human-induced factors driving climate change. He subsequently served for nine years as a senior scientist with the interagency U.S. Global Change Research Program, including four years as Executive Director and five years leading the coordination office for the first U.S. National Climate Assessment. Dr. MacCracken's scientific brief for the plaintiffs in *Massachusetts v. EPA*—the Supreme Court decision that led to the Endangerment Finding—was cited favorably in the majority opinion (see paragraphs 23 and 31).*



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