



Endangerment Finding Proceeding

Testimony of James Goodwin
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August 22, 2025

My name is James Goodwin, and I'm the policy director at the Center for Progressive Reform. One of our core beliefs is that the regulatory system can help promote an inclusive economy that works for everyone. If implemented well, the Regulatory Flexibility Act can contribute to goal.

I am testifying today to explain why EPA likely violated Reg Flex by incorrectly certifying that its proposed reconsideration would not have a significant impact on a substantial number of small entities.

The proposal incorrectly bases this certification on its conclusory assertion that "the rule relieves regulatory burden on the small entities subject to the rule." This assertion fundamentally misunderstands what is required of the agency under the law, however.

The current edition of "A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act" prepared by the Small Business Administration's Office of Advocacy makes clear that the concept of "impact" under Reg Flex is substantively neutral, and thus should account for both negative and beneficial impacts.

This means that the EPA would have been under an obligation to assess the beneficial impacts of its existing auto GHG emissions standards for small firms in the automobile industry. And make no mistake: These rules have had significant beneficial impacts.

For instance, a 2017 [report](#) from BlueGreen Alliance and NRDC found that there were more than 1,200 manufacturer facilities supplying green technology for the automobile industry at that time. And that number has only grown in the last 8 years. Unsurprisingly, many of those facilities are small businesses, which are nimble enough to drive rapidly evolving technological innovation in the sector.

And here's why this is important: The presence of these significant beneficial impacts necessarily implies that rescinding those existing rules will likewise have a significant economic impact on small businesses. The reconsideration's certification does not address, much less account for, the real lost revenues these small firms will experience as a result of these rules being rescinded.

You should be aware that a defective certification risks leaving the finalized reconsideration vulnerable to remand on judicial review. Accordingly, the EPA would be wise to abandon its certification and reissue its proposed reconsideration after having convened a proper Small Business Advocacy Review panel and conducted a proper Initial Regulatory Flexibility Analysis.