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# The Clean Air Act and Climate Change



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# Origins of U.S. Climate Policy

Who was the first President to ask Congress for climate legislation?

- Lyndon Johnson, 1965



When did Congress pass climate legislation?

- 1970 Clean Air Act, signed by Richard Nixon



And strengthen it?

- 2022 Inflation Reduction Act, signed by Joe Biden



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# Climate at the Supreme Court

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Supreme Court ruled four times that EPA has authority to curb climate-changing pollution under the Clean Air Act.

- *Massachusetts v. EPA* (2007)
- *American Electric Power v. Ct* (2011)
- *UARG v. EPA* (2014)
- *West Virginia v. EPA* (2022)



plus

- *Coalition for Responsible Regulation v. EPA* (D.C. Cir. 2012, upholding Endangerment Finding)

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# Three Marquee Biden Climate Regs

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Clean Air Act standards for the biggest climate polluters issued this spring

All under legal challenge, but all standing on firm ground.

- Oil and gas industry methane - *Texas v. EPA*
- Car and truck GHGs - *Kentucky v. EPA*
- Power plant CO<sub>2</sub> - *West Virginia v. EPA*
  - NRDC and allies intervened to support EPA

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# Key Arguments

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Traditional standards, no major questions

- Section 202 expressly authorizes EPA to set emission standards for new cars and trucks
  - Not just add-on controls, but complete systems
- Section 111 gives EPA power to set traditional technology-based standards for power plants, oil and gas, and other industrial sources
  - Standards that make stationary sources operate more cleanly

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# Timing

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- Stay motions in O&G and power plant cases likely to be decided by D.C. Circuit this summer
  - Challengers likely to appeal to SCOTUS on shadow docket this fall
- Merits briefing likely in D.C. Circuit this fall, arguments next spring

