



If nothing else, you have to give credit to the Trump Administration for incredible gall. Yesterday, the Department of Justice filed suit against [Michigan](#) and [Hawaii](#) seeking to stop those states from filing lawsuits against fossil fuel companies for climate damages. The fact that DOJ is seeking to prevent even the filing of the lawsuits — without knowing the basis for the states' claims — is pretty remarkable and unusual.

But it's the substance of the suits that is even more galling. The U.S. is claiming that the Clean Air Act preempts state lawsuits from claiming damages for the effects of climate change because the CAA "displaces the ability of States to regulate greenhouse gas emissions beyond their borders." You may recall that EPA Administrator Lee Zeldin has announced that [he is seeking to revoke a finding](#) — made under the very same Clean Air Act — that greenhouse gases endanger public health and welfare. If he revokes the endangerment finding, the U.S. will withdraw all its rules that require various industries to cut greenhouse gases. So, by the U.S. government's logic, states are preempted from any lawsuit seeking to recover damages because the Clean Air Act regulates greenhouse gases except that if Zeldin has his way, it won't regulate them. [In the words of Bob Dylan](#), I can't even.

The lawsuits also make a series of claims that Hawaii and Michigan, in seeking to recover damages for climate change harms, interfere with foreign affairs in various ways. The Supreme Court, in [Massachusetts v. EPA](#), rejected similar claims that if EPA regulated greenhouse gases under the Clean Air Act it would undermine the President's foreign affairs powers. And the first Trump Administration tried this tack before when it sued California for the state's agreement to link its carbon cap-and-trade program to Quebec's. A district court [dismissed that case](#), holding that "the United States has failed to show that California's program impermissibly intrudes on the federal government's foreign affairs power."

Attorney General Pam Bondi was directed, in an Executive Order called "[Protecting](#)

[American Energy from State Overreach](#),” to “expeditiously take all appropriate action to stop the enforcement of State laws and continuation of civil actions identified in subsection (a) of this section that the Attorney General determines to be illegal.” If this is the best she can come up with, states should rest assured that they are on solid footing in working to combat climate change.