



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE ADMINISTRATOR

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*Attorneys for Concerned Household
Electricity Consumers Council and
its members*

Dear Messrs. Kazman, Hadzi-Antich, Wallace, Menton, and MacDougald:

I am responding to your petitions to the U.S. Environmental Protection Agency to reconsider our 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act.

The EPA has reviewed your petitions and the information available on the issues you raised. For the reasons discussed in the enclosed response, the EPA denies your petitions.

I would like to thank you for your interest in these issues. The EPA looks forward to working with you and other stakeholders as we continue to protect human health and the environment in accordance with law.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andrew R. Wheeler", is written over the word "Sincerely,".

Andrew R. Wheeler

Enclosure

Denial of Petitions to Reconsider the EPA's Greenhouse Gas Endangerment Finding

This document is in response to four petitions requesting that the EPA reconsider its 2009 Endangerment Finding for Greenhouse Gas (GHG). The petitions were submitted by the Concerned Household Electricity Consumers Council (CHECC) on January 20, 2017, the Competitive Enterprise Institute and the Science and Environmental Policy Project (CEI & SEPP) on February 23, 2017,¹ Liberty Packing Company LLC and several other entities represented by the Texas Public Policy Foundation on May 1, 2017, and the FAIR Energy Foundation (received by the Agency in 2019).

As you know, we issued our Endangerment Finding in 2009 in response to the U.S. Supreme Court's holding in *Massachusetts v. EPA*, that under section 202(a)(1) of the Clean Air Act, the EPA must either decide whether greenhouse gases cause or contribute to climate change or provide a reasoned justification for declining to form a scientific judgment. 549 U.S. 497, 533–35 (2007).

Our Endangerment Finding concluded on the basis of scientific evidence from the U.S. Global Climate Research Program, the Intergovernmental Panel on Climate Change, and the National Research Council that certain long-lived and directly emitted greenhouse gases in the atmosphere—the six well-mixed greenhouse gases—may reasonably be anticipated both to endanger public health and to endanger public welfare.

The Endangerment Finding was the subject of ten separate petitions for reconsideration that the EPA denied in 2010. We incorporate by reference our Response to the Petitions to Reconsider the Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, *available at* <https://www.epa.gov/ghgemissions/epas-response-petitions-reconsider-endangerment-and-cause-or-contribute-findings>.

The petitioners brought a judicial challenge following EPA's denial of their reconsideration petitions, and the D.C. Circuit upheld the 2009 Endangerment Finding in 2012. *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 120-26 (D.C. Cir. 2012).

In the intervening years, we have issued several new rules that rely on the Endangerment Finding as a predicate. These include the *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2*, 81 Fed. Reg. 73,478, 73,486 (Oct. 25, 2016); the Affordable Clean Energy Rule, *Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units*, 84 Fed. Reg. 32,520 (July 8, 2019); and *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks*, 85 Fed. Reg. 24,174 (Apr. 30, 2020). In 2016, EPA issued an endangerment finding as the predicate for the airplane greenhouse gas standards. *See Control of Air Pollution From Airplanes and Airplane Engines: GHG Emission Standards and Test*

¹ The Competitive Enterprise Institute and the Science and Environmental Policy Project characterize theirs as a petition “to initiate a rulemaking proceeding on the subject of greenhouse gases and their impact on public health and welfare” or, in the alternative, “as a petition for reconsideration of its Endangerment Finding.” CEI & SEPP Petition at 1.

Procedures, 86 Fed. Reg. 2136, 2143 (Jan. 11, 2021). (The 2016 airplane endangerment finding was based on “[t]he Administrator’s view is that the body of scientific evidence amassed in the record for the 2009 Endangerment Finding also compellingly supports an endangerment finding under CAA section 231(a)(2)(A).” 81 Fed. Reg. at 54,424.)

To the extent we have considered new assessments of the danger posted by greenhouse gases, we have concluded that they “further strengthen[] the case that GHG emissions endanger public health and welfare.” *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2*, 81 Fed. Reg. 73,478, 73,486 (Oct. 25, 2016). We incorporate this discussion by reference.

And we have sometimes responded to comments that question the scientific basis for our Endangerment Finding. *See, e.g.*, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles - Phase 2*, EPA-420-R-16-901, at 1435-36 (Aug. 2016). We incorporate those responses here by reference.

The three petitions from CHECC, CEI & SEPP, and the FAIR Energy Foundation each challenge the 2009 Endangerment Finding’s reliance on three lines of evidence that the petitioners allege have been called into question by new scientific research.

Liberty Packing Company and its co-petitioners challenge the EPA’s 2009 Endangerment Finding for not having gone through peer review with Science Advisory Board, for relying on information from international organizations, and for causing adverse economic impacts.

Upon consideration of the four petitions, the EPA concludes that they present insufficient information to warrant revisiting the 2009 Endangerment Finding. EPA therefore denies the petitions.