

CONSERVATION LAW FOUNDATION

One key feature of RGGI that we urge EPA to not emulate is the methodology for formulating a cap. The RGGI cap was built upwards from estimates of anticipated emissions in 2009 and negotiated amongst the states. We urge EPA to design a program that sets a cap level based current emission levels and sound scientific principles – avoiding the paper tiger effect that comes from comparing the cap to a hypothetical model of emissions anticipated to occur given “business as usual.”

Finally, we disagree with concerns expressed in the ANPR regarding complications allegedly posed by the Clean Air Act’s Prevention of Significant Deterioration (PSD) provisions. First, the PSD provisions are not legally relevant to § 202(a) endangerment petition that is the reason for the ANPR. Second, we disagree that the PSD program’s 100 tons of emissions per year permitting threshold is problematic. As noted above, to avert the worst impacts threatened by climate change, our response must be massive and must reach all sectors of all economies across the globe. Thus, the fact that the PSD threshold could bring in a large number of new permittees that would not otherwise be subject to preconstruction permit requirements under the Act is appropriate. Indeed, in order to meet the widely accepted climate goals of reducing emissions 50 to 80 percent by 2050, we must ensure that from here on out all new infrastructure uses best practices to reduce climate pollution. We believe EPA can meet these PSD requirements of the Act and help speed reduction of climate emissions while also using general permits and other potential ways to reduce regulatory costs and administrative burdens.

Conclusion and Summary of Recommendation

EPA must immediately issue the required endangerment finding and begin developing federal emission standards. EPA can also atone for past failures, make up for the lost time and opportunities, and assist the legislative process by moving quickly to develop a national, economy-wide program to control climate pollution. Time is of the essence. We urge the agency to move forward now.

Sincerely,

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Conservation Law Foundation, by
Seth Kaplan, Vice President for Climate Advocacy
Steve Hinchman, Staff Attorney

Attachment:

Lessons Learned From RGGI, A review of key components of the nation’s first mandatory greenhouse gas cap & trade system (2008).