

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

September 23, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

Thank you for your interim response to our August 4, 2009 letter concerning openness and transparency in the scientific process at EPA. We are eagerly anticipating your full response. Moreover, we believe strongly that you should not finalize the Agency's *Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act* (proposed rule) until you provide the public with a thorough response to our letter.

In order for the public to have a complete understanding of the scientific process behind the endangerment finding, we request that you should not finalize the endangerment rule or any further related affirmative findings under Section 202(a) of the Clean Air Act without developing a response to these transparency issues outlined in our August 4th letter. In this instance, there is no legally imposed deadline by which the Agency must finalize the proposed rule. So we believe the Agency has ample time to respond to the transparency issues outlined in our letter and place the response in the record to receive public feedback. Our investigation focuses on the process EPA used to determine the credibility and relevance of scientific data and studies that support its proposed endangerment finding. We appreciate the Technical Support Document (TSD) accompanying the proposed finding, but, in many respects, we do not believe the TSD answers our questions.

For example, our letter asks for—and we believe it's important for the public to know—all communications between experts inside and outside of the agency who helped influence how the Agency arrived at the scientific conclusions found in the TSD. This is important to promote transparency and openness in how the Agency conducts its operations. In addition, we asked whether it is appropriate for the Agency to rely solely or predominantly on documents produced by outside bodies that have not been subject to independent EPA review.

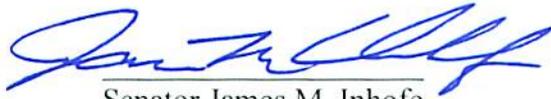
Our request for this information should only increase the transparency and quality of the information before the Agency. For example, because of a recent similar request, the U.S. Department of Treasury released several documents relating to the Administration's cap and trade proposal that previously were not made available for public comment. Therefore, we believe that you can only ensure full public confidence in the endangerment finding process if you address our concerns *before* you finalize the proposal. The public should know before the

rule is finalized whether the Agency followed agency guidelines, procedures, and all relevant federal laws, and whether there was any undue influence from a particular person or group on the finding itself.

In addition, since your interim response on September 15, you announced a joint rulemaking proposal with the Department of Transportation to establish light-duty vehicle greenhouse gas emission standards and to increase corporate average fuel economy standards in order to respond to *Massachusetts v. EPA*. While we appreciate the opportunity to comment on this rule as part of the rulemaking process, we are concerned with some of the key scientific and legal conclusions found in the proposal. For example, these greenhouse gas emission standards utilize a new “social cost of carbon” metric that points back to some of the very questions raised in our investigation. This is because the proposal is contingent in part on the endangerment finding going final. Therefore, it would be inappropriate for the Agency to go final while these transparency issues are unresolved.

We believe the resolution of these issues is critical to the policy proposal going forward. Moreover, allowing the public to further comment only increases the transparency and the quality of the information before the Agency. If you or your staff has any questions, please contact Tom Hassenboehler (224-6176) or Brian Clifford (224-0800).

Sincerely,



Senator James M. Inhofe
Ranking Member
Senate Committee on
Environment and Public Works



Senator John Barrasso
Ranking Member
Subcommittee on Oversight