



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC 21 2016

Mr. John W. Bode
Chairman
Biogenic CO2 Coalition
Corn Refiners Association
1701 Pennsylvania Avenue, NW
Suite 950
Washington, D.C. 20006

Dear Mr. Bode:

I am responding to Biogenic CO2 Coalition's petition to the U.S. Environmental Protection Agency for reconsideration of the final action, "Finding that Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare," which was published in the *Federal Register* on August 15, 2016 (81 FR 54422), and became effective on September 14, 2016.

In its October 14, 2016, petition the Biogenic CO2 Coalition requested reconsideration of this action regarding the agency's treatment of biogenic carbon-dioxide emissions from short-cycle annual herbaceous crops.

The EPA has carefully reviewed the petition and the information provided on the issues it raised. The enclosure explains the EPA's final responses to the petition. For the reasons discussed in the enclosed response, I deny the petition for reconsideration.

This response is the EPA's final decision on the Biogenic CO2 Coalition petition, and to the extent the petition requests additional or different action by the EPA, that request is denied, as explained in the enclosed response. This denial of the petition for reconsideration is effective immediately.

We appreciate your interest in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy".

Gina McCarthy

Enclosure

Response to the Biogenic CO₂ Coalition’s Petition for Reconsideration of the Final Finding that Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare

I. Introduction and Background

On July 25, 2016, EPA Administrator McCarthy signed two findings under section 231(a)(2)(A) of the Clean Air Act (CAA, or Act). These findings were that: (1) concentrations of six well-mixed greenhouse gases (GHGs) in the atmosphere endanger the public health and welfare of current and future generations (the endangerment finding), and (2) GHGs emitted from certain classes of engines used in certain aircraft¹ are contributing to the air pollution—the mix of those six GHGs in the atmosphere—that endangers public health and welfare (the cause or contribute finding, or contribution finding). The Administrator made these findings using the same definitions of “air pollution” and “air pollutant” as were used in earlier findings under CAA section 202(a)(1) regarding motor vehicle GHG emissions (2009 Findings), namely the combined mix of six key well-mixed GHGs: carbon dioxide (CO₂), methane, nitrous oxide, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). While the 2009 Findings under CAA section 202(a)(1) relate to GHG emissions from new motor vehicles and new motor vehicle engines, these findings under CAA section 231(a)(2)(A) relate to GHG emissions from certain classes of engines used in certain aircraft. These findings were published in the *Federal Register* on August 15, 2016 (81 FR 54422), and became effective on September 14, 2016 (2016 Findings).

Findings Background

In the 2009 Findings, the Administrator concluded that GHG emissions from new motor vehicles cause or contribute to the air pollution that causes climate change endangering public health and welfare.² In the 2016 Findings under CAA section 231(a)(2)(A), the EPA was informed by and placed considerable weight on the extensive scientific and technical evidence in the record supporting the 2009 Findings under section 202(a) of the CAA, including the major, peer-reviewed scientific assessments used to address the question of whether GHGs in the atmosphere endanger public health and welfare, and on the analytical framework and conclusions upon which the Administrator relied in making the 2009 Findings. The 2016 Findings for aircraft under section 231(a)(2)(A) account for the EPA’s careful consideration of the scientific and technical record for the 2009 Findings, the new, major scientific assessments issued since closing the administrative record for the 2009 Findings, and consideration of public comments.

¹ The contribution finding concludes that GHG emissions from certain classes of engines used in “U.S. covered aircraft” contribute to the air pollution that endangers public health and welfare. The finding defines “U.S. covered aircraft” to be subsonic jet aircraft with a maximum takeoff mass (MTOM) greater than 5,700 kilograms and subsonic propeller driven aircraft (e.g., turboprops) with a MTOM greater than 8,618 kilograms. This contribution finding for engines used in U.S. covered aircraft results in the vast majority (89 percent) of total U.S. aircraft GHG emissions being included in this determination.

² The 2009 Findings were upheld by the U.S. Court of Appeals for the District of Columbia Circuit. The Court found that they were consistent with the text and structure of the Clean Air Act, consistent with the U.S. Supreme Court’s decision in *Massachusetts v. EPA*, and were based on substantial scientific evidence. *Coalition for Responsible Regulation, Inc. v. Environmental Protection Agency*, 684 F.3d 102 (D.C. Cir. 2012), *reh’g en banc denied*, 2012 U.S. App. LEXIS 25997, 26313, 26315 (D.C. Cir. 2012); *see also Utility Air Reg. Group v. EPA*, 134 S. Ct. 2427, 2438 (2014).

The Clean Air Act and Aircraft Regulation

Section 231(a)(2)(A) of the CAA directs the Administrator of the EPA to, from time to time, propose aircraft engine emissions standards applicable to the emission of any air pollutant from any classes of aircraft engines which in her judgment causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare. The EPA did not propose or finalize aircraft engine GHG emissions standards as part of the 2016 Findings for aircraft GHG emissions under section 231(a)(2)(A). The EPA's 2016 Findings for aircraft GHG emissions do not prejudice what future EPA standards will be for engines used in covered aircraft. Instead, the EPA's 2016 Findings are in preparation for a future domestic rulemaking process to adopt future GHG standards. As the EPA explained, the 2016 Findings do not impose obligations on any non-federal entity. 81 FR at 54423. The 2016 Findings triggered EPA's duty under the Clean Air Act to promulgate emission standards applicable to GHG emissions from the classes of aircraft engines included in the contribution finding. Any such future proposed domestic regulatory actions will be open to the appropriate public comment and review, providing opportunity for stakeholders and the public to provide input, as required by CAA section 307(d). As EPA explained, only such future standards will apply to and impose any obligation on any non-federal entity. *Id.*

Petition for Reconsideration

The Biogenic CO₂ Coalition (Petitioner) submitted a petition dated October 14, 2016 asking EPA to reconsider the aircraft GHG endangerment and contribution findings with respect to the Agency's treatment of biogenic carbon dioxide (CO₂) emissions from short-cycle annual herbaceous crops, and raising two issues. First, the Petitioner claims that biogenic CO₂ emissions from agricultural-based feedstocks are carbon neutral or negligible for purposes of emissions accounting under the CAA and must be afforded exempt or *de minimis* status and accounted as carbon neutral. Second, the Petitioner alleges that the 2016 Findings potentially affect future EPA rulemakings with regard to eligibility of agricultural crop-derived feedstocks used in aircraft fuels.

This decision document contains the EPA's response to the petition for reconsideration. As explained in detail below, the Petitioner has not met the criteria for reconsideration under section 307(d)(7)(B) of the Clean Air Act (CAA) for either of the grounds for reconsideration that were raised. Accordingly, EPA is denying the petition for reconsideration of the 2016 Findings as discussed below.

II. Standard for Reconsideration

CAA section 307(d)(7)(B) establishes a procedure governing petitions seeking reconsideration of Agency actions taken pursuant to section 307(d), such as the aircraft GHG endangerment and contribution findings. That section strictly limits petitions for reconsideration both in time and scope. It states that:

Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised

during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b) of this section). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

Thus the requirement to convene a proceeding to reconsider a rule is based on the petitioner demonstrating to the EPA: (1) that it was impracticable to raise the objection during the comment period, or that the grounds for such objection arose after the comment period but within the time specified for judicial review (*i.e.*, within 60 days after publication of the final rulemaking notice in the *Federal Register*, *see* CAA section 307(b)(1)); and (2) that the objection is of central relevance to the outcome of the rule. Regarding the first criterion for reconsideration, a petitioner must show why the issue could not have been presented during the comment period, either because it was impracticable to raise the issue during that time or because the grounds for the issue arose after the period for public comment (but within 60 days of publication of the final action). Thus, CAA section 307(d)(7)(B) does not provide a forum to request the EPA to reconsider issues that actually were raised, or could have been raised, during the comment period. Regarding the second criterion for reconsideration, an objection is of central relevance to the outcome of the rule only if it provides substantial support for the argument that the regulation should be revised. *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 125 (D.C. Cir. 2012).

The petition states that reconsideration is sought “pursuant to CAA section 307(b).” Petition at 1. While section 307(b) acknowledges the possibility that petitions for reconsideration might be filed on an EPA action, it does so only to provide that filing such petitions does not affect the finality of the action or extend the timeframe for filing a petition for judicial review, and does not postpone the effectiveness of the action. The standards and procedures for determining whether to convene reconsideration proceedings are contained in CAA section 307(d)(7)(B), as explained above, not in section 307(b). Petitioner neither cites section 307(d)(7)(B) nor explains why the governing provision’s criteria are satisfied for the objections raised in the petition. The petition never makes any claim that either of its two objections could not have been raised during the public comment period, or that any objections that could not have been raised during the comment period were of central relevance to the outcome of the 2016 Findings. Accordingly, Petitioner has not shown that it is entitled to reconsideration for either objection raised in the petition. This alone supports EPA’s denial of the petition for reconsideration. However, EPA has additionally reviewed the objections raised in the petition under the criteria in CAA section 307(d)(7)(B), and explains below why those criteria are not met.

III. EPA Response to the Objections Raised in the Petition for Reconsideration of the Aircraft GHG Endangerment and Contribution Findings

The Petitioner raises two issues as the basis for its petition for reconsideration. Each issue is discussed and responded to separately in sections III.A and III.B below.

A. Treatment of Biogenic CO₂ Emissions from Agricultural-Based Feedstocks

The Petitioner objects to the EPA's 2016 Findings based on its claim that biogenic CO₂ emissions from agricultural-based feedstocks are carbon neutral or negligible for purposes of emissions accounting under the CAA and must be afforded exempt or *de minimis* status and accounted as carbon neutral. The Petitioner also asserts, "There is no authority in the [CAA] that allows or mandates that EPA ignore the source of feedstocks associated with biogenic CO₂ emissions at stationary sources subject to air emissions permitting under the [CAA], nor allows EPA to ignore the basic science of life cycle analysis applicable to greenhouse gas flows and stocks." Petition at 3. The Petitioner goes on to argue that the EPA did not identify a scientific basis for treating crop-derived CO₂ as 100% equivalent to fossil fuel-derived CO₂ in the following CAA-related contexts: (1) the aircraft endangerment and contribution findings, and (2) as a pollutant subject to regulation for purposes of the Prevention of Significant Deterioration (PSD) or Title V permitting programs. The Petitioner makes a related argument that the EPA did not make a science-based endangerment or contribution finding specifically for crop-derived biogenic CO₂ emissions that shows that these emissions are associated with elevated (as opposed to natural or baseline) atmospheric levels of GHGs.

The EPA finds that the objection raised relating to the treatment of crop-derived biogenic CO₂ emissions does not satisfy the statutory criteria of CAA section 307(d)(7)(B) for reconsideration both because the challenges either could have been raised or actually were raised during the public comment period, and because they are not of central relevance to the outcome of the 2016 Findings.

First, the Petitioner submitted public comments on the EPA's 2015 proposed aircraft GHG endangerment and contribution findings (80 FR 37758), raising the same arguments regarding the alleged carbon neutrality of crop-derived CO₂ emissions and the asserted lack of a scientific basis for treating crop-derived CO₂ emissions the same as fossil fuel-derived CO₂ emissions in the aircraft endangerment and contribution findings and in a PSD/Title V permitting context (available at <https://www.regulations.gov>, docket ID# EPA-HQ-OAR-2014-0828-0916). The EPA responded to the Petitioner's public comments in both the preamble for the 2016 Findings (81 FR at 54446-47, 54460-61) and in the response to comments document (available at <https://www.regulations.gov>, docket ID# EPA-HQ-OAR-2014-0828-1025 at pp. 8-9, 34-35). For these issues, the Petitioner identifies no new information or arguments that were not already stated in their public comments, to which EPA has already fully responded.

In repeating its previously raised objections, the Petitioner raises some additional supporting points that it did not raise in its public comments on the 2015 proposed findings, including its argument that the EPA did not make a science-based endangerment or contribution finding specifically for crop-derived biogenic CO₂ emissions and that EPA needed to show that these

specific emissions, separate from other aircraft-emitted GHGs, are associated with elevated atmospheric levels of GHGs. For these newly raised points, there is no explanation in the petition as to why they could not have been raised during the public comment period, and the EPA is not aware of any reason the points could not have been timely raised in the Petitioner's prior comments on the 2015 proposed findings. Moreover, the Petitioner identifies no new information that became available after the public comment period but within 60 days after publication of the final rulemaking notice in the *Federal Register*, and therefore has not demonstrated that its new points constitute new grounds arising under section 307(d)(7)(B).

Because the objections related to the EPA's consideration of crop-derived biogenic CO₂ emissions either could have been raised or actually were raised during the public comment period, the first criterion under section 307(d)(7)(B) for reconsideration is not met.

Second, even assuming for the sake of argument that the Petitioner could not have raised this objection during the public comment period or that its new points constitute new grounds arising after the comment period closed, the request for reconsideration based on the EPA's consideration of crop-derived biogenic CO₂ emissions is appropriately denied because it is not of central relevance to the outcome of the 2016 Findings. An objection is of central relevance to the outcome of a rule only if it provides substantial support for the argument that the regulation should be revised. *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 125 (D.C. Cir. 2012). As the EPA explained in the 2016 Findings, the Administrator has defined the "air pollution" for the endangerment finding and "air pollutant" for the contribution finding under CAA section 231(a)(2)(A) as the combined mix of six well-mixed GHGs—CO₂, methane, nitrous oxide, HFCs, PFCs, and SF₆.

The Administrator had five primary reasons for focusing on this aggregate group of gases for purposes of determining whether their aggregate concentrations endanger public health and welfare and whether aircraft emissions of those GHGs contribute to those concentrations: (1) they share common physical properties that influence their climate effects; (2) on the basis of these common physical properties, they have been determined to be the root cause of human-induced climate change, are the best-understood driver of climate change, and are expected to remain the primary driver of future climate change; (3) they are the common focus of climate change science research and policy analyses and discussions; (4) using the combined mix of these gases as the definitions of "air pollution" and "air pollutant" (versus an individual gas-by-gas approach) is consistent with the science, because risks and impacts associated with GHG-induced climate change are not assessed on an individual gas-by-gas basis; and (5) using the combined mix of these gases is consistent with past EPA practice, where separate substances from different sources, but with common properties, may be treated as a class (e.g., oxides of nitrogen, particulate matter, volatile organic compounds).³ These reasons constituted a reasonable basis for the EPA to group the six well-mixed GHGs as a single class for purposes of the 2016 Findings, and the Agency is not required to undertake a separate endangerment or contribution analysis for each of the six well-mixed gases individually. The Petitioner has not submitted any new scientific or technical information challenging these scientific conclusions about the effects of GHG aggregate concentrations or the contributions of GHG emissions from aircraft to the aggregate GHG concentrations.

³ 81 FR at 54443-54446, 54459.

Additionally, the EPA is not required to make individual endangerment and contribution determinations that account for whether a gas emitted from a particular source category is due to combustion of a particular fossil fuel or feedstock-based fuel. Any given molecule of CO₂, regardless of whether it is derived from biogenic or fossil fuel sources, has the same properties and behaviors in the atmosphere that are relevant to the climate change problem, namely radiative forcing, chemical reactivity, and atmospheric lifetime. As the EPA explained in response to the Petitioner's comments on the 2015 proposed findings, any differential treatment of biogenic CO₂ in the context of the 2016 Findings would be inconsistent with the primary scientific basis (*i.e.*, the five reasons described above) for the grouping of the six well-mixed GHGs as a single class for purposes of identifying the endangering air pollution and contributing air pollutant emissions. The 2016 Findings explain that the analytical framework for the endangerment and contribution findings is focused on the emission of air pollutants from classes of aircraft engines which in the Administrator's judgment cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. The origin and constitution of a fuel prior to its combustion and the subsequent release of emissions into the atmosphere are not relevant in the context of the endangerment and contribution findings and have no bearing on the five primary reasons for focusing on the aggregate group of GHGs. The 2016 Findings explain that the major, peer-reviewed scientific assessments of climate change continue to support the fundamental scientific understanding regarding the intrinsic physical, chemical, and atmospheric properties of emissions of CO₂ and the other well-mixed GHGs that are relevant to the climate change problem (81 FR 54443). All emissions of CO₂ and the other well-mixed GHGs—no matter their original source—become globally well mixed in the atmosphere, trap outgoing heat that would otherwise escape to space, and all are directly emitted from a source as a GHG rather than becoming a GHG in the atmosphere after emission of a precursor gas (81 FR 54443). Moreover, commenters also raised this issue in the 2009 Findings, and in the 2016 Findings the EPA cites its response in the record of the 2009 Findings, stating that “all CO₂ emissions, regardless of source, influence radiative forcing equally once it reaches the atmosphere and therefore there is no distinction between biogenic and non-biogenic CO₂ regarding the CO₂ and the other well-mixed GHGs within the definition of air pollution that is reasonably anticipated to endanger public health and welfare” (81 FR 54446 (internal citation omitted)).

In addition, the Petitioner's statements that EPA may not “ignore the source of the feedstocks associated with biogenic CO₂ emissions at stationary sources subject to air emissions permitting under the [CAA]” are not relevant in the context of these findings, which address aircraft engine source categories that are the focus of CAA section 231, not stationary source permitting requirements.

For all the reasons stated above, this issue does not provide substantial support for revising the 2016 Findings, and Petitioner has failed to demonstrate that this objection is of central relevance to the outcome of the 2016 Findings. The EPA is therefore denying reconsideration of the findings based on this objection, both because these issues either could have been raised or actually were raised during the public comment period, and because they are not of central relevance to the outcome of the action.

B. Treatment of Crop-Derived Feedstocks in Aircraft Fuels

The Petitioner's second objection does not relate to any direct impacts of the 2016 Findings themselves, but addresses potential future EPA rulemakings with regard to eligibility of agricultural crop-derived feedstocks used in aircraft fuels. The Petitioner does not specify what is meant by "eligibility" in this context (e.g., eligible for what), but asserts that the EPA does not have authority to condition eligibility on the means of agricultural production or processing of a crop-derived feedstock, such as placing restrictions based on an evaluation of the sustainability of farming, agricultural production or processing practices. The Petitioner argues that such action, were it to be taken in an unspecified separate future rulemaking, would exceed EPA's CAA authority and intrude on the States' and U.S. Department of Agriculture's (USDA's) authorities over farming, farm fields, and agricultural practices. The Petitioner goes on to describe how it believes the EPA already overstepped its authority on this issue in its Clean Power Plan (another rulemaking that was independent of and outside the scope of the 2016 Findings), and that any similar application in the context of aircraft would be equally unacceptable.

This objection was not raised during the public comment period on the proposed findings. The Petitioner has not provided any reason why it was impracticable to raise this objection during the public comment period or demonstrated that the grounds arose after that period. Accordingly, the EPA finds that the first statutory criterion for granting reconsideration is not met. However, even if this challenge could not have been presented during the public comment period, denial of reconsideration on this objection is warranted because it is not of central relevance to the outcome of the aircraft GHG endangerment and contribution findings.

As noted above, an objection is of central relevant to the outcome of a rule only if it provides substantial support for the argument that the regulation should be revised. *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 125 (D.C. Cir. 2012). In the 2016 Findings, the EPA did not take any action with respect to aircraft fuels or the eligibility of agricultural crop-derived feedstocks to be used in such fuels. Any such action would have been outside the scope of these findings, which are scientific determinations that GHGs emitted from certain classes of engines used in certain aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare. The 2016 Findings do not prejudice how any future rulemakings addressing aircraft engine GHG standards will be promulgated, nor how the regulation of aircraft fuels may be affected. For most mobile sources subject to EPA emission standards, EPA issues separate regulations for fuels under section 211 of the Clean Air Act. However, the EPA does not regulate aviation fuels. Rather, such fuels fall within the FAA's regulatory authority. 49 U.S.C. § 44714. The 2016 Findings in no way prejudice how the FAA may undertake such regulation in the future.

In fact, this objection does not refer to any aspect of the action actually taken in the 2016 Findings, but rather challenges a hypothetical action that the Petitioner is concerned that the EPA (or the FAA) might take in future actions because of statements that the EPA made in an entirely separate action. Because this objection does not raise concerns with or relate to the effect of any action the EPA took in the 2016 Findings, or with any statement made in the 2016 Findings, it

cannot provide substantial support for the argument that the 2016 Findings themselves must be revised. Even if the EPA had regulatory authority over aviation fuels, which it does not, an objection relating to the speculative possibility that the EPA might take a particular action in regulating such fuels in the future is not of central relevance to the present action for which reconsideration is sought – the endangerment and contribution findings, which simply trigger EPA’s statutory duty to promulgate aircraft engine emission standards and have no direct effect on any entity outside the federal government.

The EPA is therefore denying reconsideration of the findings based on this objection both because the Petitioner has not demonstrated that it could not have been presented during the public comment period and because it is not of central relevance to the outcome of the 2016 Findings.

C. Other Arguments Not Raised as a Basis for Reconsideration

In the petition for reconsideration, but not identified as a basis for reconsideration, the Petitioner made a number of requests to the EPA. The first request is for the Agency to categorically exclude from the section 231 endangerment and contribution findings those CO₂ emissions resulting from the combustion of biofuels derived from annual herbaceous crops. The second request is for the EPA to “expressly confirm that such exclusion prevents any standard of performance for aircraft resulting from any endangerment or cause or contribute finding under section 231 from making such CO₂ ‘a pollutant subject to regulation’ for purposes of the PSD and Title V permitting programs under the Clean Air Act.” Petition at 4. The Petitioner requested that if the EPA does not exclude such CO₂ emissions categorically, the Agency should complete the development of and apply its Biogenic Accounting Framework (specifically establishing a default factor of zero for biogenic CO₂ emissions) within the context of any findings and any future standards under section 231.

These same requests were raised in the Petitioner’s public comments on the EPA’s 2015 proposed aircraft GHG endangerment and contribution findings (80 FR 37758) (available at <https://www.regulations.gov>, docket ID# EPA-HQ-OAR-2014-0828-0916). The EPA fully responded to these comments, as explained below. The Petitioner identifies no new information or arguments that were not already stated in their public comments; therefore, even if these points were identified as a basis for reconsideration, which they were not, they would not meet the first statutory criterion under section 307(d)(7)(B) for granting reconsideration.

These points also do not meet the second statutory criterion for granting reconsideration because they are not of central relevance to the outcome of the 2016 Findings. As discussed in the response to comments document for the 2016 Findings (available at <https://www.regulations.gov>, docket ID# EPA-HQ-OAR-2014-0828-1025 at pp. 8-9), the EPA’s 2014 revised draft *Framework for Assessing Biogenic CO₂ Emissions from Stationary Sources* (hereafter, *Framework*) presents a methodological framework for assessing the extent to which the production, processing, and use of biogenic material at stationary sources for energy production results in a net atmospheric contribution of biogenic CO₂ emissions. The EPA Science Advisory Board is currently engaged in a second round of targeted peer review on the *Framework*. However, any findings reached in the context of the *Framework*’s technical process

would not change the primary scientific basis of the definition of the air pollution for purposes of the 2016 endangerment finding (*i.e.*, the five reasons described in section III.A above). Thus, the EPA does not agree that the *Framework* is relevant in the context of the endangerment finding.

In addition, because the EPA did not create such a categorical exclusion in the 2016 Findings and, for the reasons explained above, is not doing so in this action, it need not address what the scope or effect of such an exclusion might be for the PSD and title V permitting programs. Regulation of such substances under these permitting programs is a separate issue that the EPA is handling separately. Moreover, as the EPA explained in 2010 (after the 2009 Findings), it does not view an endangerment finding or cause and contribute finding alone as making the requirements of the major source permitting programs applicable to a pollutant. *See* 75 FR 17012-13 (discussing PSD) and *id.* at 17023 (applying a similar approach for title V as for PSD). This interpretation applies for an endangerment finding under CAA section 231, in light of the analogous language and structure of sections 202 and 231. Furthermore, as with the 2009 Findings, while the endangerment and contribution findings for aircraft GHG emissions under section 231(a)(2)(A) are a necessary preliminary step to establishing emissions standards under CAA section 231, this action is not establishing such emissions standards or otherwise establishing requirements for the actual control of aircraft GHG emissions.

In addition, the 2016 Findings address the same GHG air pollution and GHG air pollutant that are addressed in the 2009 Findings. The 2009 Findings led to the promulgation of emissions standards under CAA section 202(a) in 2010 in the Light Duty Vehicle Rule. 75 FR 25324. When controls on GHGs in the Light Duty Vehicle rule took effect, the pollutant GHGs became a pollutant “subject to regulation under the Act,” and therefore subject to PSD and title V requirements. 75 FR 17004 (identifying January 2, 2011, as the date when GHGs first became subject to regulation).

IV. Conclusion

For the reasons described above, the Biogenic CO₂ Coalition’s petition for reconsideration of the 2016 Findings that Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare, published at 81 FR 54422 (Aug. 15, 2016), is denied. This response is EPA’s final decision on the Biogenic CO₂ Coalition’s petition for reconsideration, and to the extent the petition requests additional or different action by EPA, that request is denied for the reasons set forth herein, and in the record of the 2016 Findings. This denial of the Biogenic CO₂ Coalition’s petition for reconsideration is effective immediately.