

The U.S. Chamber of Commerce has filed another legal challenge, this time to EPA's refusal to reconsider its finding that climate change endangers human health or welfare. Although there is a large flurry of these challenges, they seem to be filed more for political reasons and to achieve delay than because of any prospect of success. Although it's never possible to be completely certain how judges will rule, the challenges to the endangerment finding face some severe barriers. The odds are probably 20:1 or more in favor of EPA winning.

The Supreme Court ruled in *Massachusetts v. EPA* that the agency decision had to be based solely on a factual determination of whether greenhouse gases do or do not endanger human health or welfare. So questions about whether the Clean Air Act is a good vehicle for addressing climate change are simply irrelevant apart from the very unlikely possibility that the Supreme Court would hear the case and change its mind. This could only happen if one of Obama's appointees voted to overrule *Mass. v. EPA* or if Justice Kennedy changed his mind — and he's not someone who likes to admit to making mistakes.

To decide whether "endangerment" exists, EPA had to consider some legal questions: Does harm to people outside the U.S. count? Are harmful impacts offset by favorable ones? EPA's interpretation of the law will be upheld so long as a court thinks it's reasonable, even if the court would have preferred another interpretation. In any event, EPA protected itself by giving a detailed analysis of why harm to people in the United States would be considered endangerment even if we considered possible offsetting benefits.

That leaves purely scientific challenges. Here, EPA is on the strongest ground. Its scientific conclusions can be overturned only if they are "arbitrary or capricious." EPA in this case was acting on the basis of a strong scientific consensus, and its explained its scientific conclusions in massive detail. It would take a very foolhardy judge to find this analysis arbitrary and capricious.

It's impossible ever to be completely certain about future human actions. It's possible, for example, that despite the current polls, the Democrats will sweep the Fall elections and gain five or ten seats in both houses of Congress. It's also possible that the challenges to the endangerment finding will succeed. But both outcomes are highly unlikely.