

Automation Alley Newsletter

May 2009

Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act

Background

On April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court found that greenhouse gases are air pollutants covered by the Clean Air Act. The Court held that the Administrator must determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. In making these decisions, the Administrator is required to follow the language of section 202(a) of the Clean Air Act. The Supreme Court decision resulted from a petition for rulemaking under section 202(a) filed by more than a dozen environmental, renewable energy, and other organizations.

Action

The Administrator signed a proposal with two distinct findings regarding greenhouse gases under section 202(a) of the Clean Air Act:

- The Administrator is proposing to find that the current and projected concentrations of the mix of six key greenhouse gases-carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆) in the atmosphere threaten the public health and welfare of current and future generations. This is referred to as the endangerment finding.
- The Administrator is further proposing to find that the combined emissions of CO₂, CH₄, N₂O, and HFCs from new motor vehicles and motor vehicle engines contribute to the atmospheric concentrations of these key greenhouse gases and hence to the threat of climate change. This is referred to as the cause or contribute finding.

Today's proposed action, as well as any final action in the future, would not itself impose any requirements on industry or other entities. An endangerment finding under one provision of the Clean Air Act would not by itself automatically trigger regulation under the entire Act.

Proposed Finding

The Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act was signed on April 17, 2009, and was published in the Federal Register on April 24, 2009. It is available in the Docket (www.regulations.gov) under Docket ID No. [EPA-HQ-OAR-2009-0171].

Technical analyses developed in support of the Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act may be found here:

- [Technical Support Document for the Proposed Findings](#)

Submitting Comments on Proposed Finding

The public comment period is open for 60 days following publication in the Federal Register. (Please note that official comments on the proposed finding cannot be submitted until the Federal Register publication).

Written Comments

Written comments on the proposed finding (Docket ID No. EPA-HQ-OAR-2009-0171) may be submitted by using the following instructions:

- [Instructions for Submitting Written Comments](#)

When providing comments, please submit them with reference to Docket ID No. EPA-HQ-OAR-2009-0171.

Public Hearings

There will be two public hearings for this proposed finding. EPA requests those who wish to attend or give public comments, to register on-line in advance of the hearing. EPA will audio web stream both public hearings. The meeting information pages will be updated with this information as it becomes available.

- [May 18, 2009, at the EPA Potomac Yard Conference Center, Arlington, VA;](#) and
- [May 21, 2009, at the Bell Harbor International Conference Center in Seattle, WA.](#)

Public Hearings

- [Press Release](#)
- [Overview of EPA's Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act](#)
- [Frequently Asked Questions](#)
- [Summary of the Science Supporting EPA's Finding That Greenhouse Gases Threaten Public Health and Welfare](#)

Massachusetts v. EPA Supreme Court Case

- [Transcript of Oral Arguments, November 29, 2006](#)
- [Opinion of Court, April 2, 2007](#)

If you would like more information about the foregoing, please contact your Butzel Long attorney, any member of Butzel Long's Environmental, Energy and Land Use Practice Group, or those listed below:

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