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EPA ISSUES GHG ENDANGERMENT FINDING

On December 7, the EPA Administrator signed two distinct findings regarding greenhouse gases (GHG) under section 202(a) of the Clean Air Act. The Administrator finds that six GHGs taken in combination endanger both the public health and the public welfare of current and future generations. The Administrator also finds that the combined emissions of these GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG air pollution that endangers public health and welfare. These findings cover emissions of the same six gases – carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride – that are included in other EPA efforts associated with GHGs.

By issuing this action, EPA is responding to the April 2007 Massachusetts v. EPA Supreme Court decision, in which the court found that GHGs are air pollutants under the Clean Air Act. The Court held that EPA must determine whether or not emissions of GHGs 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 findings, EPA has stated that they “considered how elevated concentrations of the GHGs and associated climate change affect public health by evaluating the risks associated with changes in air quality, increases in temperatures, changes in extreme weather events, increases in food- and water-borne pathogens, and changes in aeroallergens”. EPA asserts that “the evidence concerning adverse air quality impacts provides strong and clear support for an endangerment finding”.

The timing of this declaration coincided with the Copenhagen climate summit presumably giving the Obama administration some international credibility in participating in the climate talks.

These findings, which become effective on January 14, 2010, do not themselves impose any requirements on industry or other entities. However, this action is a prerequisite to finalizing the EPA’s proposed GHG emission standards for light-duty vehicles, which were jointly proposed by EPA and the DOT this past September.