

National Air Transportation Association Regulatory Update

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

In 1999, a group of private entities petitioned the U.S. Environmental Protection Agency (EPA) to find that greenhouse gases (GHG) were an air pollutant, as defined by the Clean Air Act, and begin the process of establishing emissions standards for new surface vehicles. The petition was denied by the EPA, and the petitioners, along with the State of Massachusetts, filed suit. In April 2007, the United States Supreme Court issued a ruling in *Massachusetts v. EPA*, 549 U.S. 497 (2007) that found that the EPA's reasons for denying the petition to regulate GHGs were insufficient and mandated that the EPA begin the rulemaking process unless more appropriate reasoning for denying the petition was found.

On April 24, 2009, the EPA issued a proposed endangerment finding under the Clean Air Act relating to GHGs. This finding held that GHGs, including carbon dioxide, are air pollutants as defined by the Clean Air Act and do create or contribute to Global Warming, which poses significant risk to the health and welfare of individuals. This proposed finding signals the agency's intention to move forward with the regulation of GHGs emissions for new motor vehicles and motor vehicle engines.

The proposed finding currently only relates to new cars and trucks; however, the Clean Air Act language that allows regulation of aircraft and aircraft engines is very similar, and many of the assumptions and relationships postulated in this finding could be easily transferred to an endangerment finding for aircraft.

While the April 24 proposed endangerment finding does not directly address aircraft emissions it does indicate the agency's intention, under the new administration, to look closely at GHG emission regulations. This new focus will undoubtedly put more pressure on Congress to work quickly to establish its own GHG regulation policy, currently in the form of the American Clean Energy and Security Act of 2009.

The proposed finding of endangerment is now open for public comment until June 23, 2009. The NATA will develop comments over the next several weeks, and will keep its membership updated on related environmental regulation and legislation.

[Click here to read the proposed endangerment finding.](#)

For more information, please contact:

Mike France
Manager of Regulatory Affairs
mfrance@ata.aero