

EPA Administrator Says U.S. is Obligated to Reduce Greenhouse Pollutants under the Clean Air Act

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On December 9, 2009, in a speech to the United Nations Climate Change Conference in Copenhagen, Denmark, U.S. EPA Administrator Lisa Jackson signaled that the EPA intends to use its recent endangerment findings to regulate greenhouse gas emissions.

In her speech, Administrator Jackson stated that "I'm proud to say that – hours before I stepped on the plane to come here, I announced EPA's finalized endangerment finding that greenhouse gases pose a threat to our health and welfare." On December 7, 2009, the Administrator signed two distinct findings regarding greenhouse gases under section 202(a) of the Clean Air Act:

"Endangerment Finding: The Administrator finds that the current and projected concentrations of the six key well-mixed 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.

"Cause or Contribute Finding: The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare."

Although the endangerment findings do not, by themselves, regulate greenhouse gas emissions, Administrator Jackson said in her speech in Copenhagen that "[b]y taking action and finalizing the endangerment finding on greenhouse gas pollution, we have been authorized and obligated to take reasonable efforts to reduce greenhouse pollutants under the Clean Air Act."

The first step in those efforts, according to Administrator Jackson, will be to attempt to work with Congress to pass "clean energy reform":

"And when we return home, we will work closely with our Congress to pass comprehensive clean energy reform through the U.S. Congress – reform that will promote clean energy investments and lower U.S. greenhouse gas emissions by more than 80 percent below current levels by 2050. A strong program of reforms and incentives can help the market get to work – making clean energy the profitable kind of energy. Once legislation is passed, we're betting on our entrepreneurs, innovators, and workers to accelerate the pace of clean energy development in the US and around the globe."

However, Administrator Jackson also seems to be signaling that, if the Congressional efforts fail, EPA is authorized and obligated to regulate greenhouse gas emissions on its own.

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