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Greenhouse Gases From Mobile Sources

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Regulation & Law

Climate Change

Lawsuit Filed to Force EPA to Regulate
Greenhouse Gases From Mobile Sources

The Clean Air Act requires the Environmental Protection Agency to regulate greenhouse gases emitted from mobile sources, a coalition of environmental organizations argued in a lawsuit filed Dec. 5 in a federal court (International Center for Technology Assessment v. Whitman, D.D.C., Docket No. not available, 12/5/02)..

A coalition of environmental groups--the International Center for Technology Assessment, Sierra Club, and Greenpeace--asked the U.S. District Court for the District of Columbia Circuit to order EPA to respond to a previous petition, filed Oct. 20, 1999, to address the problem of global warming by rulemaking within 60 days of this filing. The plaintiffs also asked the court to declare that EPA's unreasonable delay in responding to their petition is a violation of the Administrative Procedure Act.

The plaintiffs argue that because greenhouse gases--such as carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons--are emitted from new motor vehicles and engines, section 202 (a)(1) of the statute requires EPA to regulate those emissions since they "may reasonably be anticipated

to endanger public health or welfare."

Carbon Cannot Be Regulated, Whitman Says

Speaking to BNA on a related matter, EPA Administrator Christine Todd Whitman said Dec. 4, "Carbon dioxide is not a Clean Air Act pollutant. While it is important to global climate change, it is not a pollutant" subject to regulation in the statute, such as criteria pollutants like nitrogen oxides, sulfur dioxide, and mercury, which "directly impact human health."

The coalition said it first filed the petition with EPA seeking regulation because of U.S. government-sponsored and international studies declaring that these human-caused emissions accelerate the concentration of heat-trapping gases in the atmosphere and cause global warming trends. The original petition also asserted, "EPA and other federal agencies have already made numerous findings that greenhouse gas emissions from new motor vehicles are air pollutants 'reasonably anticipated to endanger public health and welfare.' "

The petition cited EPA's report that certain infectious diseases may become more prevalent in geographic areas previously free of such threats as a result of increased temperatures. In addition to disease, the changing climate also will increase the likelihood of direct effects on human health, including heat stress, skin cancer, cataracts, and immune suppression, the petition said.

The Dec. 5 complaint said that among the human activities fueling global warming is the burning of fossil fuels in internal combustion engines used in automobiles and trucks.

These vehicles account for more than 10 percent of U.S. CO2 emissions and likely will grow without government intervention and because of the upward trend in the number of drivers, the groups argue.

Public Comments Requested

In response to the coalition's original petition, EPA issued a request for public comment in the Jan. 23, 2001 Federal Register (66 Fed. Reg. 7,486). Before that request, EPA had opened a public docket for those who had already requested an opportunity to comment on the issue, many of whom opposed regulation, EPA said in the notice (108 DER A-8, 6/05/00).

The environmental petitioners assert the agency received 50,000 comments after their request, "the vast majority of which strongly agree that global warming should be addressed under the Clean Air Act," the said. The comment period closed May 23, 2001, and the comments are still being reviewed by staff most familiar with the petition and notice, an official in EPA's air office told BNA Dec. 5.

By Pamela Najor

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