

CLIMATE CHANGE & SUSTAINABILITY ALERT



Shook, Hardy & Bacon applies a unique multidisciplinary approach to the business challenges, risks and opportunities arising from today's international focus on climate change and sustainability.

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EPA EXPECTED TO DEFINE GREENHOUSE GASES AS A PUBLIC HEALTH HAZARD AND ENDANGERMENT TO PUBLIC WELFARE

In a move signaling its intention to regulate greenhouse gas (GHG) emissions, EPA has reportedly sent a document to the White House designating carbon dioxide and other greenhouse gases a danger to public health and welfare under the Clean Air Act.

According to a draft document leaked to the press, EPA proposes that GHGs be defined as a public health hazard and an endangerment to public welfare. The draft points to several health hazards, including increases in morbidity and mortality purportedly caused by the increase in the number and intensity of severe heat waves, and increased risks of respiratory infection, asthma aggravation and premature death attributed to worsened regional ozone pollution.

Yet, the draft states that ambient concentrations of carbon dioxide and other greenhouse gases "remain well below published thresholds for any direct adverse health effects, such as respiratory or toxic effects[.]" The draft also proposes aggregating carbon monoxide, methane, nitrous oxide, and other GHGs for purposes of research, discussion and regulation.

EPA's endangerment finding sends the message that it will soon regulate GHG producers and is likely to hasten action by Congress to regulate GHGs. Interestingly, the proposed finding follows EPA's proposed rule to require GHG monitoring and reporting under the Clean Air Act. See www.regulations.gov, Docket ID No. EPA-HQ-OAR-2008-0508 or www.epa.gov/climatechange/emissions/ghgrulemaking.html.

If EPA Administrator Lisa Jackson signs the public health hazard finding, it will be published as a proposal in the *Federal Register* and be subject to a 60-day comment period and two public hearings.

For more information about EPA's proposed GHG reporting and monitoring system, please see SHB's March 13, 2009, Climate Change and Sustainability Alert. ■