

## **EPA Declaration of CO2 as a pollutant**

**Background:** The Supreme Court in 2007 under *Massachusetts vs. EPA* found that greenhouse gases including CO2 are pollutants and instructed EPA to regulate the gases under the Clean Air Act. EPA has been moving steadily toward that position.

The EPA kick-started the regulatory process in April, 2009 when it proposed declaring carbon dioxide and five other gases as pollutants that jeopardize the public health and welfare.

The EPA can formalize the finding anytime, now that it has closed its 60 day public comment period. A formal endangerment filing would obligate the agency to regulate the greenhouse gas pollution under the Clean Air Act – even if Congress doesn't pass a final climate change bill.

Even so, EPA Administrator Lisa Jackson said “Legislation is so important, because it will combine the most efficient, most economy-wide, least costly and least disruptive way to deal with carbon dioxide pollution.”

Supporters of climate change legislation are hoping the threat of EPA-mandated limits will spur congressional action.

**Current Status:** On September 30, 2009, EPA issued two new proposed rules and began the process of calling for comments:

1. Proposed Rule: Prevention of Significant Deterioration (PSD):  
Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by the Federal PSD Permit Program;
2. Proposed Rule: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring.