

J. DOUG PRUITT, President

TED L. AADLAND, Senior Vice President

**ELECTRONIC DELIVERY: GHG-Endangerment-Docket@epa.gov**

June 23, 2009

U.S. Environmental Protection Agency  
EPA Docket Center (EPA/DC), Mailcode 6102T  
Attention Docket ID No. EPA-HQ-OAR-2009-0171  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**RE: EPA-HQ-OAR-2009-0171: Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, Proposed Rule, 74 Fed. Reg. 18886 (April 24, 2009)**

Dear Sir/Madam:

The Associated General Contractors of America (AGC) submits this letter in response to the U.S. Environmental Protection Agency's (EPA) proposed finding that carbon dioxide and other greenhouse gases in the atmosphere "endanger" public health and welfare and that greenhouse

**determination or to set a deadline by which EPA must issue its finding. It remanded the matter to EPA to reevaluate its decision not to regulate greenhouse gases and directed EPA to “ground its reasons for action or inaction in the [CAA].”**

**AGC continues to maintain that the CAA is the wrong tool to regulate greenhouse gas emissions. An endangerment finding would lead to a huge economic and regulatory burden. Furthermore, an endangerment finding is unnecessary in light of current legislative efforts to reduce these emissions.**

without first undergoing the PSD permitting technology for each pollutant subject to regulate impact many buildings including new school action could have on the economy is a threat whether to finalize the endangerment finding

**An Endangerment Finding under the Clean**

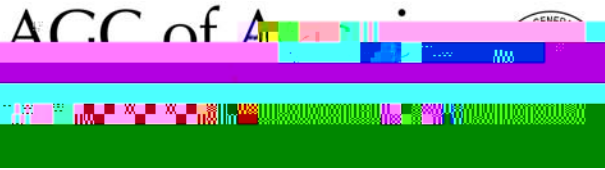
AGC urges EPA to wait for Congressional action to address those emissions. In light of current conditions the "American Clean Energy and Security Act" that our legislators are debating and addressing legislative efforts, voluntary and mandatory programs to reduce greenhouse gas emissions through the high performing buildings, as well as energy efficiency Legislation and programs specifically 11.9773 0 0 12 2a1773 12 231 479.7 Tm0.002 Tc-0.004 Tw(451 TcQ11.9 would be more effective at reducing emissions making that a more suitable route

Sincerely,



Melinda L. Tomaino  
Director, Green Construction

**ATTACHMENT 1**



***SUBMITTED VIA E-MAIL: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov)***

November 26, 2008

Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Re: Regulating Greenhouse Gases Under the Clean Air Act  
Docket ID: EPA-HQ-OAR-2008-0318**

Dear Sir or Madam:

The Associated General Contractors of America (AGC) submits these comments in response to the U.S. Environmental Protection Agency's Advance Notice of Proposed Rulemaking (ANPR) on regulating greenhouse gases under the Clean Air Act (CAA), which appeared in the *Federal Register* on July 30, 2008. As these comments make clear, the CAA is ill-suited for regulating greenhouse gas emissions, and EPA must not move

The Associated General Contractors of America  
November 26, 2008  
Docket ID: EPA-HQ-OAR-2008-0318

The Associated General Contractors of America  
November 26, 2008

generally call for similar elements: whether the emissions cause or contribute to air pollution which may reasonably be anticipated to “endanger public health or welfare.” 73 Fed. Reg. at 44419. EPA notes that “similar” endangerment language is found in sections 108 (NAAQS), 111 (NSPS), 112 (HAPs), 115 (international air pollution), 211 (fuels), 213 (nonroad engines and vehicles), 231 (aircraft) and 615 (ozone protection). *Id.*

The scope of the endangerment finding required by *Massachusetts* is relatively limited, and pertains only to the precise issue of whether greenhouse gas emissions from any class (or classes) of new motor vehicles or new motor vehicle engines meet the endangerment test, in EPA’s judgment. However, an endangerment finding limited to motor vehicles could trigger obligations to promulgate National Ambient Air Quality Standards (NAAQS), New Source Performance Standards (NSPS) and other requirements such as Prevention of Significant





The Associated General Contractors of America  
November 26, 2008

Major sources are defined as either a source in one of 28 listed categories (mostly industrial manufacturers and energy producers) that emits at least 100 tons per year (tpy) of an air pollutant, or *any other source* with the potential to emit 250 tons-per-year (tpy) of an air pollutant.

According to a report released by the U.S. Chamber of Commerce entitled “A Regulatory Burden: The Compliance Dimension of Regulating CO<sub>2</sub> as a Pollutant,”<sup>8</sup> over one million businesses would be exposed to PSD for CO<sub>2</sub>. Many of these would be previously-unregulated establishments, such as:

- a. 260,000 office buildings;
- b. 150,000 warehouses;
- c. 92,000 health care facilities;
- d. 71,000 hotels and motels;
- e. 51,000 food service facilities;
- f. 37,000 churches and other places of worship; and
- g. 17,000 farms.

The PSD process is far from easy. Often it requires a determination of best available control technologies (BACT), performed on a case-by-case basis and with considerable cost and burden placed on the applicant. For sources covered for

4. *Title V*

Title V (operating permits) is triggered the moment CO<sub>2</sub> becomes a regulated pollutant under the CAA. Like NSPS, AGC of America is concerned that the requirements under Title V would have an indirect negative impact on construction as it would likely increase the cost of operating a business within the U.S., setting local businesses at a global disadvantage, and encouraging businesses to move to countries with less onerous requirements.

At a permitting level, Title V poses a problem similar to PSD, though the permit process itself is not nearly as onerous as PSD. However, Title V reaches an even broader segment of the economy, because it applies to all sources that emit over 100 tons per year of an air pollutant, regardless of source categories. And Title V includes a citizen suit provision that, if exploited, could have severe consequences because each permit application could be challenged by any citizen.

When a source becomes subject to Title V, it must apply for a permit within one year of the date it becomes subject. The permitting authority then uses this information to issue the source a permit to operate, as appropriate. A Title V source generally may not operate without a permit.

EPA estimates there are 15,000 to 16,000 Title V sources in the U.S. Because the threshold for Title V is 100-tpy





The Assoc  
November  
Docket ID

decision  
gas emis