

March 10, 2009

Leaked EPA document shows greenhouse gas endangerment finding on fast track

By DARREN SAMUELSON, [Greenwire](#)

The Obama administration is fast-tracking its response to the Supreme Court's 2007 climate decision with plans to issue a mid-April finding that global warming threatens both public health and welfare, according to an internal U.S. EPA [document](#) (pdf) obtained by *Greenwire*.

EPA has been working feverishly since January to complete a scientific review of whether greenhouse gas emissions are influencing everything from crop failures to more intense heat waves and more severe coastal storms.

That study is expected to wrap up internally by March 18, prompting a three-week, inter-agency review led by the White House Office of Management and Budget, the document shows. EPA Administrator Lisa Jackson then intends to sign the endangerment finding April 16, followed by a 60-day public comment period and two public hearings before the document goes final.

Importantly, Jackson does not plan to propose immediate regulations aimed at controlling heat-trapping gases from cars, power plants and other key contributors to climate change. Instead, the EPA chief will hold back on new emission rules to sync with a final endangerment finding and other fast-moving environmental policies.

EPA spokesman Allyn Brooks-LaSure declined comment on the specifics of the 34-page PowerPoint presentation. "We're considering every option available," he said.

Environmental groups welcomed the sneak peek into the Obama administration's timeline for responding to a Supreme Court decision that actually dates back to the tail end of the Clinton administration.

"They're proceeding even faster than I had thought," said David Bookbinder, an attorney at the Sierra Club. "They're making all the right decisions."

Vickie Patton, a senior attorney at the Environmental Defense Fund, added, "There's an enormous amount of lost ground to reclaim, given that we had eight years of inaction, delay and denial."

But Jeff Holmstead, the head of EPA's air office under President George W. Bush, said he would wait to pass judgment until the Obama administration begins the rulemaking process.

"It's clever politically," Holmstead, now an industry attorney at Bracewell & Giuliani, said of Jackson's plan to focus first on just the endangerment finding.

"This will be a big splash that they're proposing this," Holmstead added. "But in terms of the real impact,

what the regulations will look like, those will take a little longer to figure out."

Obama's EPA inherited the global warming review following an April 2007 Supreme Court decision that ordered the Bush administration to reconsider whether greenhouse gas emissions are pollutants subject to regulation under the Clean Air Act.

EPA under Bush dedicated 70 staffers and spent about \$5.3 million on outside government contracts to prepare its response, but the White House resisted finalizing any actions linked to the Supreme Court opinion and ultimately punted the issue to the Obama administration ([Greenwire](#), Aug. 7, 2008).

Focus on public health

According to the internal EPA document, Jackson's staff appears intent on issuing an endangerment finding that covers both welfare and public health. That is important because the Bush administration had just focused on welfare and the links between greenhouse gases and visibility, weather, crop damage and soil.

To expand to public health, EPA plans to make connections between climate change and everything from temperatures to air quality and expanded ranges of vector-borne and tick-borne diseases.

The EPA document said dealing with public health and welfare had "solid legal defensibility." And agency staffers explain the possible political repercussions of avoiding public health. "Excluding public health would raise perception that the Agency is ignoring health risks associated with climate change," the document said.

Elsewhere, the EPA document also suggests grouping together the six primary greenhouse gases -- carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride -- into a single group. Doing this would provide a "common currency" for future regulations. That strategy also would follow other scientific bodies, including the Nobel Prize winning U.N. Intergovernmental Panel on Climate Change.

On the science, EPA is also pledging to take into account the threats to poor communities from global warming, as well as "other more recent significant peer reviewed studies."

Many people have been focused on EPA completing the endangerment finding by April 2 -- the two-year anniversary of the Supreme Court opinion. But Jackson herself insisted last month that such a target was too ambitious ([E&ENews PM](#), Feb. 27).

"Somehow, I think in one interview I mentioned that I'm very mindful that we're approaching two years on April 2 and suddenly that's become carved in stone," she said. "I don't think that's helpful and probably was certainly not my intention in saying that. That being said, I also want people to know that it's very much something that people are waiting for this agency to speak on, one way or another."

Holmstead said he had doubts about the timeline.

"Whether they can get it out this quickly, it'll be interesting to see," he said. "Ordinarily, something this important would not be done in less than a month. And that's what their schedule appears to call for. I wouldn't be surprised if this slipped a little."

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