

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In re: )  
 ) EPA Docket No.  
Endangerment and Cause or Contribute )  
Findings for Greenhouse Gases Under ) EPA-HQ-OAR-2009-0171  
Section 202(a) of the Clean Air Act )

PETITION FOR RECONSIDERATION OF ENDANGERMENT AND  
CAUSE OR CONTRIBUTE FINDINGS FOR GREENHOUSE GASES  
UNDER SECTION 202(a) OF THE CLEAN AIR ACT

**I. INTRODUCTION**

Pursuant to Section 307 of the Clean Air Act (“CAA”), the State of Texas (“Texas” or the “State”), through its Attorney General and on behalf of its Governor, Commissioner of Agriculture, Commissioner of the General Land Office, Commission on Environmental Quality, and the Chairman of the Public Utility Commission, files this Petition for Reconsideration requesting that the Administrator of the U.S. Environmental Protection Agency (the “EPA”) reconsider her Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act (“Endangerment Finding”).<sup>1</sup> In support of this Petition, the State of Texas shows the following:

**II. OVERVIEW**

Texas has an acclaimed record of working with EPA to enforce environmental laws. Texas is also a recognized leader in using renewable energy sources. But, Texas is compelled to take action against EPA’s Endangerment Finding issued on December 15, 2009 because it will lead to unprecedented bureaucratic licensing and regulatory burdens on farmers, ranchers, small businesses, hospitals, and even schools.<sup>2</sup> Any location that

<sup>1</sup> See Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496 (Dec. 15, 2009) (describing procedures for requesting that the Administrator convene a proceeding for reconsideration).

<sup>2</sup> As the Texas Commission on Environmental Quality observed in its June 23, 2009 Comment on the mobile source Endangerment Finding, “The positive endangerment finding and cause or contribute findings under Section 202(a) will trigger a similar finding under provisions of Clean Air Act regulating point sources.” Letter from Mark Vickery, Executive Director, Texas Commission on Environmental Quality to Hon. Lisa Jackson, Administrator, U.S. Environmental Protection Agency (June 23, 2009), *available at* [www.regulations.gov](http://www.regulations.gov), Docket: EPA-HQ-OAR-2009-0171. That is, as the Texas Commission on Environmental Quality noted, by finding that mobile source GHG emissions—which are regulated exclusively by EPA and not by the states—constitute a danger to the public’s health and safety within the meaning of Section 202(a) of the Clean Air Act, the Administrator has essentially required that stationary source GHGs—which are regulated by the states—shall also be regulated. The Executive Director of the Texas Commission on Environmental Quality put it succinctly, “the findings that the four specific GHG[s]...emitted from motor vehicles cause or contribute to air pollution that is reasonably anticipated to endanger public health and welfare necessarily triggers regulation of [state-regulated] point sources of GHG ‘pollutants’ under Title I and Title V of the CAA.” This position is shared by the National Association of Clean Air Agencies, which represents state and local regulatory agencies that are