

June 4, 2009

Environmental Protection Agency  
EPA Docket Center, Mailcode 6102T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Request for Extension of Comment Period  
Proposed Endangerment and Cause or Contribute Findings for  
Greenhouse Gases Under Section 202(a) of the Clean Air Act  
Docket EPA-HQ-OAR-2009-0171**

To Whom It May Concern:

The following organizations (“the Associations”) join in urging EPA to extend, by 60 days, the comment period on EPA’s Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act (“Proposed Endangerment Findings”), 74 Fed. Reg. 18886 (April 24, 2009):

**National Association of Manufacturers  
American Chemistry Council  
American Coke and Coal Chemicals Institute  
American Forest & Paper Association  
American Iron and Steel Institute  
American Petroleum Institute  
American Public Power Association  
Corn Refiners Association  
National Automobile Dealers Association  
National Federation of Independent Business  
National Oilseed Processors Association  
National Petrochemical and Refiners Association  
Rubber Manufacturers Association  
Society of Chemical Manufacturers and Affiliates  
Titanium Dioxide Stewardship Council**

The Associations and their members represent a sizeable and diverse collection of commercial interests.<sup>1</sup> While the Proposed Endangerment Findings would not, by themselves, establish any regulatory requirements, they nonetheless would have significant consequences on the Associations and their members as the Proposed Endangerment Findings are predicates for any standard-setting rulemaking for greenhouse gases.

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<sup>1</sup> An addendum to this letter contains a description of each of the Associations.

Given the complexity of the proposed action and the technical analyses and scientific findings that underlie it, the current 60-day comment period is insufficient and we respectfully request that it be extended. If finalized, the Proposed Endangerment Findings would lay the groundwork for EPA to propose regulation of greenhouse gases for numerous industrial sectors under the Clean Air Act. The potential sweep of those regulations raises significant legal, policy, and economic issues for all segments of the economy, including the Associations and their members. An extension of the comment period is critically needed so that potentially regulated parties have a sufficient and fair opportunity to evaluate the Proposed Endangerment Findings and to make constructive recommendations. The supporting information is detailed and complicated, and EPA has specifically requested comments on those aspects of the proposal, including “the data on which the proposed findings are based, the methodology used in obtaining and analyzing the data, and the major legal interpretations and policy considerations underlying the proposed findings.” 74 Fed. Reg. at 18890. The Associations appreciate the opportunity to provide their views, but given the complexity and breadth of these subjects, the 60-day comment period is inadequate.

EPA recently denied requests to extend the public comment period on its Proposed Rule on Mandatory Reporting of Greenhouse Gases (“Proposed Reporting Rule”), 74 Fed. Reg. 16448 (April 10, 2009), based on its view that the Fiscal Year 2008 Appropriations Act requires EPA issue a final rule by June 26, 2009. In contrast, there is no such deadline for finalizing the Proposed Endangerment Findings. As the Supreme Court has made clear, EPA has discretion in the timing of its issuance of any regulations. See *Massachusetts v. EPA*, 549 U.S. 497, 533 (2007) (“EPA no doubt has significant latitude as to the manner, timing, content, and coordination of its regulations with those of other agencies.”). The Agency similarly has discretion as to when it finalizes its Proposed Endangerment Findings. See *Massachusetts v. EPA*, No. 03-1361, Order, Document No. 0121688432, at 2 (D.C. Cir. June 26, 2008) (“nothing in section 202 [of the Clean Air Act], [or] the Supreme Court’s decision in *Massachusetts v. EPA* . . . imposes a specific deadline by which EPA must determine whether a particular air pollutant poses a threat to public health or welfare.”); *SF Chapter of A. Philip Randolph Institute v. EPA*, No. C 07-04936 CRB, 2008 WL 859985, at \*4 (N.D. Cal. March 28, 2008) (“The Supreme Court was careful not to place a time limit on the EPA, and indeed did not even reach the question whether an endangerment finding had to be made at all.”). Given the complexity of the Proposed Endangerment Findings and the significant impacts that any subsequent regulation of greenhouse gases would have on all sectors of industry and the American economy, the Agency should not rush to finalize its Proposed Endangerment Findings until the public has had an adequate opportunity to review them and comment.

The Associations and their members are working hard to confront the challenges of global climate change and to play their part in reducing the nation’s greenhouse gas emissions. In addition to EPA’s Proposed Findings, the Associations and their members are analyzing numerous other regulatory and legislative proposals, including EPA’s Proposed Reporting Rule,

EPA's proposed revisions to the National Renewable Fuel Standard program, and the recently-released H.R. 2454, American Clean Energy and Security Act, introduced by Representatives Waxman and Markey. Unfortunately, these many proposals arrive at a time of economic crisis; resources are scarce and budgets are stretched. Given the potential interplay among the many climate change proposals and the cumulative demands that they impose, the Associations respectfully request EPA provide a 60-day extension.

Respectfully Submitted,

National Association of Manufacturers  
American Chemistry Council  
American Coke and Coal Chemicals Institute  
American Forest & Paper Association  
American Iron and Steel Institute  
American Petroleum Institute  
American Public Power Association  
Corn Refiners Association  
National Automobile Dealers Association  
National Federation of Independent Business  
National Oilseed Processors Association  
National Petrochemical and Refiners Association  
Rubber Manufacturers Association  
Society of Chemical Manufacturers and Affiliates  
Titanium Dioxide Stewardship Council

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### **Addendum – Description of Associations Joining In Request for Extension**

**American Chemistry Council** is a nonprofit trade association whose member companies represent the majority of the productive capacity of basic industrial chemicals within the United States. The business of chemistry is a \$664 billion enterprise and a key element of the nation's economy.

**American Coke and Coal Chemicals Institute** is a trade association representing approximately 80% of the U.S. production of metallurgical coke, by both merchant coke producers and integrated steel companies with coke production capacity, and 100% of the U.S. manufacture of coal chemicals produced from coke byproducts.

**American Forest & Paper Association** is the non-profit, national trade association of the forest products industry, representing 75 companies that manufacture pulp, paper, packaging and wood products, and own forestland. The forest products industry accounts for approximately 6 percent of the total U.S. manufacturing GDP, and is among the top 10 manufacturing sector employers in 48 states.

**American Iron and Steel Institute** represents approximately 28 member iron and steel companies, and 138 associate and affiliate members who are suppliers to or customers of the steel industry. These members operate and hold ownership interests in various steel manufacturing and related operations across the United States and its producer, associate and/or affiliate members supply various customers and projects in the United States.

**American Petroleum Institute** is a national trade association that represents all aspects of America's oil and natural gas industry. API has approximately 400 members, from the largest major oil company to the smallest of independents, from all segments of the industry, including producers, refiners, suppliers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry.

**American Public Power Association** is a non-profit, non-partisan service organization for the nation's more than 2,000 community-owned electric utilities that provide electricity for approximately 45 million Americans. These public power systems are among the most diverse of the electric utility sectors, representing utilities in small, medium and large communities in 49 states.

**Corn Refiners Association** is the national trade association representing the corn refining (wet milling) industry of the United States. Corn refiners manufacture sweeteners, ethanol, starch, bioproducts, corn oil, and feed products from corn components such as starch, oil, protein, and fiber.

**National Association of Manufacturers** is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states.

**National Automobile Dealers Association** represents 19,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair, and parts sales. Together they employ more than 1,000,000 people nationwide.

**National Federation of Independent Business** is the nation's leading small business association, with offices in Washington, D.C., and all 50 state capitals. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate and grow their businesses. NFIB represents about 350,000 member businesses nationwide.

**National Oilseed Processors Association** is a national trade association comprised of 15 companies engaged in the production of vegetable meals and oils from oilseeds, including soybeans. NOPA's member companies process more than 1.4 billion bushels of oilseeds annually at 65 plants located throughout the country, including 60 plants which process soybeans.

**National Petrochemical and Refiners Association** is a national trade association whose members comprise more than 450 companies, including virtually all United States refiners and petrochemical manufacturers. NPRA's members supply consumers with a wide variety of products and services that are used daily in homes and businesses.

**Rubber Manufacturers Association** is the national trade association for the rubber products industry. RMA has more than 80 members, including all of the country's major tire manufacturers, as well as manufacturers of such rubber products as belts, hoses, gaskets, seals, anti-vibration components, and other automotive and industrial rubber goods.

**Society of Chemical Manufacturers and Affiliates** is committed to serving the batch, custom and specialty chemical industry. SOCMA's members operate more than 2,000 manufacturing sites and employ more than 100,000 workers. SOCMA members encompass every segment of the industry – from small specialty producers to large multinational corporations – and manufacture 50,000 products valued at \$60 billion annually.

**Titanium Dioxide Stewardship Council** consists of the U.S. manufacturers of titanium dioxide (TiO<sub>2</sub>) pigment, and was formed to promote the safe use of TiO<sub>2</sub> through research, product stewardship, advocacy, and outreach efforts within the framework of responsible chemical management.