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NEWS ANALYSIS

The Fight Plan for Clean Air

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The Environmental Protection Agency, about to declare heat-trapping gases to be dangerous pollutants, has embarked on one of the most ambitious regulatory challenges in history.

The move is likely to have a profound effect across the economic spectrum, affecting transportation, power plants, oil refineries, cement plants and other manufacturers.

It sets the agency on a collision course with carmakers, coal plants and other businesses that rely on fossil fuels, which fear that the finding will impose complex and costly rules.

But it may also help the Obama administration’s efforts to push through a federal law to curb carbon dioxide emissions by drawing industry support for legislation, which many companies see as less restrictive and more flexible than being monitored by a regulatory agency. And it will lay a basis for the United States in the negotiations leading up to a global climate treaty to be signed in Copenhagen in December.

Once made final, the agency’s finding will pave the way for federal regulation of carbon dioxide, methane and other heat-trapping gases linked to global warming.

In practical terms, the finding would allow quick federal regulation of motor vehicle emissions of heat-trapping gases and, if further actions are taken by the E.P.A., it could open the doors for regulatory controls on power plants, oil refineries, cement plants and other factories.

On Friday, the E.P.A. sent its finding to the Office of Management and Budget for review, according to a Web site that lists pending federal rules. Once the budget office clears the finding, it can be signed by the E.P.A.’s administrator, Lisa P. Jackson. There is also likely to be a public comment period on the proposed finding, but there is wide expectation that it will be put in place.

Some policy makers greeted the agency’s action as the first step in a new approach to climate change.
“This finding will officially end the era of denial on global warming,” Representative Edward J. Markey, a Massachusetts Democrat who leads a select committee on global warming, said in a statement.

But Bill Kovacs, a specialist on global warming issues with the United States Chamber of Commerce, said that an endangerment finding would automatically provoke a tangle of regulatory requirements for businesses large and small.

If finalized, the finding by the agency could lead to a vast extension of its reach. Much is unknown about the details of what the E.P.A. is proposing, including how stringently the agency would regulate the emissions and how it would go about doing so.

But in February, Ms. Jackson indicated she was aware the agency could be stepping into a minefield by issuing such a finding. “We are poised to be specific on what we regulate and on what schedule,” she said at the time. “We don’t want people to spin that into a doomsday scenario.”

Experts said Monday that the E.P.A.’s action would put pressure on Congress to pass federal legislation that could supplant the agency’s plan or guide how it was carried out. A federal bill is preferred by many environmentalists and policy makers, as well as by industry.

John D. Walke, a senior lawyer at the Natural Resources Defense Council, said he welcomed the agency’s decision but hoped it would ultimately lead to federal legislation.

“For some period we may have parallel efforts of Environmental Protection Agency pursuing or even adopting regulation while the eventual main show will be in Congress,” Mr. Walke said.

Still, many doubt that legislation to cap emissions can pass this year, in the midst of a recession and at a time when carbon dioxide emissions are down because production is lower.

The E.P.A.’s move is the latest in a flurry of proposals that signal its determination to break from the Bush administration, which infuriated environmentalists by sidestepping the issue of regulating heat-trapping gases.

Earlier this month, the agency proposed creating a greenhouse-gas emissions registry, which would require industries — including oil refineries and cement makers, as well as utilities and pulp and paper manufacturers — to report how much pollution they were emitting.

The endangerment proposal is another step. In 2007, the Supreme Court ordered the E.P.A. to determine whether carbon dioxide and other heat-trapping gases qualified as pollutants under the Clean Air Act. Ms. Jackson, the agency’s administrator, suggested to The New York Times in February that she hoped to act on emissions of heat-trapping gases by early April, before the second anniversary of the court’s ruling.
The Bush administration had stalled in complying with the court order, opting for more study of the issue, although there was wide consensus among E.P.A. experts that a determination that carbon dioxide was a danger to the public was supported by scientific research.

Asked about the E.P.A.’s move, the White House press secretary, Robert Gibbs, emphasized the importance of going through Congress. “The way to deal with greenhouse gases,” Mr. Gibbs said, “is to work with Congress in order to put together a plan that deals with this and creates a market for renewable energy.”

There are several reasons that there is a widespread preference for a legislative “cap-and-trade” approach to regulating carbon dioxide emissions, as opposed to E.P.A. regulation.

A central reason, said Paul Bledsoe of the National Commission on Energy Policy, is that Congressional action is less subject to litigation and could not be easily overturned by a new administration.

But a deeper concern among the industry is that regulation by the E.P.A. is a blunt tool. The agency’s regulatory powers have previously been applied mainly to pollutants that do damage on a regional level, like nitrogen oxide and hydrocarbons.

By contrast, carbon dioxide, methane and other heat-trapping gases that the E.P.A. proposes to regulate do harm on a global scale.

“The act does not deal well with an emission that’s virtually ubiquitous and travels through the atmosphere,” said Carol Raulston, a spokesman for the National Mining Association, a coal industry group.