



EPA Issues Leded Aviation Fuel Endangerment Finding

On October 18, 2023, the U.S. Environmental Protection Agency (EPA) issued an “[endangerment finding](#)” under the Clean Air Act, concluding that the “lead emissions from aircraft engines that operate on leaded fuel cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.” The endangerment finding triggers a statutory mandate for the EPA and FAA to develop federal regulations regarding the use of leaded aviation fuel. The FAA has [publicly committed](#) to the elimination of leaded aviation fuel by 2030, but neither the EPA nor the FAA have announced any more specific timeline for issuing new regulations regarding leaded aviation fuel. The endangerment finding does *not* authorize any action by state or local agencies to regulate leaded aviation fuel.

Leaded aviation fuel, commonly referred to as “Avgas” or “100LL,” is used by most piston-powered aircraft, mostly smaller propeller-powered aircraft and some helicopters. Jet and turbo-prop aircraft use Jet A or other fuels that do not contain lead. The endangerment finding does not affect Jet A and other unleaded aviation fuels.

The endangerment finding summarizes the health and welfare impacts of lead pollution and explains why the EPA is taking this action now. Although the endangerment finding does not prohibit or regulate the use of leaded aviation fuel, its detailed discussion of the health impacts of leaded aviation fuel, including its finding that there is no safe level of lead exposure, is expected to create pressure on airport sponsors and local governments, as well as the FAA and the EPA, to take swift action to address the health risks.

As airport sponsors respond to concerns from their communities and political leadership about lead exposure, it is important to keep the following points in mind:

- The endangerment finding does not require or authorize action by airport sponsors.
- The FAA has made clear that it will closely scrutinize attempts by airport sponsors to regulate the use of leaded aviation fuel to assure compliance with airport sponsors' grant assurance and other federal obligations.
- Industry groups, including the Aircraft Owners and Pilots Association (AOPA) and the National Business Aviation Association (NBAA), have aggressively opposed local efforts to limit the use or sale of leaded aviation fuel, including initiating FAA compliance proceedings challenging local restrictions.
- Unleaded aviation fuels, although in development and certified for use in most piston-powered aircraft, are not yet widely available.
- In addition to grant assurance concerns, local restrictions on the use or sale of leaded aviation fuel may face legal challenges under other laws, including the Clean Air Act.
- Leaded avgas has been widely used since the dawn of aviation and overall volumes of emissions have been declining in recent years. The EPA has not identified any new risks.

Because of substantial legal uncertainty over the authority of airport sponsors and local governments to regulate the use of leaded aviation fuel, we urge caution in responding to local concerns. We have been tracking this issue for some time and are available to discuss how to balance those risks against the expected community pressure to take immediate action. Looking ahead, we will be following the EPA and FAA's regulatory process closely and will keep clients informed of any interim guidance and/or opportunities to comment on proposed regulations.

For additional questions about leaded aviation fuel, please contact [Eric Pilsk](mailto:epilsk@kaplankirsch.com) (epilsk@kaplankirsch.com) or [Steven Osit](mailto:sosit@kaplankirsch.com) (sosit@kaplankirsch.com) or any of our other attorneys with whom you regularly work.

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