

AMERICANS FOR PROSPERITY

Talking Points: EPA's Regulation of Greenhouse Gases

On Friday, July 11, 2008 the EPA released an Advanced Notice of Proposed Rulemaking (ANPR) declaring its intention to regulate greenhouse gases under the Clean Air Act (CAA). This overextension of the Act would result in a massive reordering of the American economy without a vote of the people's representatives.

A Brief History of the Issue

October 1999: Environmental groups petitioned the EPA to begin regulating carbon dioxide under the Clean Air Act.

September 2003: The EPA ruled that it did not have the authority to regulate greenhouse gases under the CAA because the Act does not give it the authority to issue mandatory regulations to address global warming, 2) it would be unwise to do so because a causal link has not been established between greenhouse gases and global warming. It is important to note that the CAA only allows regulation when "public health or welfare" is endangered, thus the lack of a causal link is important.

July 2005: The environmental groups appealed and the DC Circuit Court ruled that the EPA had acted correctly. The case then moved to the nation's highest court for a final ruling.

April 2007: The Supreme Court ruled that the EPA has the obligation to "ground its reasons for action or inaction in the statute," as opposed to simply saying the statute does not cover greenhouse gases. This ruling by the Supreme Court has opened the door for the now-proposed regulations.

July 2008: The EPA released a startling blueprint in an ANPR outlining the many ways its career staff would like to strangle the U.S. economy by distorting the CAA to include greenhouse gases.

AFP's Position

EPA's proposal would cripple the American economy.

The ANPR would extend the authority of the CAA into nearly every aspect of American life. The proposal would affect over 30 regulatory programs and would empower the EPA to regulate: planes, trains, ships, boats, tractors, farm and mining equipment, lawn mowers, garden equipment, portable power generators, fork lifts, construction machines, and logging equipment. The EPA's own conservative estimate suggests that more than 500,000 new permits will be required. This onerous and undoubtedly expensive process will add another level of bureaucracy for average citizens and small businesses.

Imposing burdensome regulations on the American economy would export economic activity and emissions to less-regulated countries and might not generate any reduction in global CO2 emissions.

The EPA is a rogue agency engaged in a power grab.

The most disturbing implication of the proposed rule is that it will be adopted without a vote of Congress. The people's representatives have a duty to their constituents to play a role in such a massive reordering of the U.S. economy. The Supreme Court and unelected bureaucrats must have their power checked before a misguided regulation permanently destroys the voice of the people in federal lawmaking.

The Architect of the Clean Air Act Speaks Out.

The architect of the CAA never intended it to be used as micromanagement tool. Rep. John Dingell (MI-15) still serves in the U.S. House and opposes shoehorning greenhouse gases into the CAA.

“We are looking at the possibility of a glorious mess being visited upon this country ... This is not what was intended by the Congress and by those of us who wrote the [Clean Air Act] legislation.

“We are beginning to look at a wonderfully complex world, which has the potential for shutting down or slowing down virtually all industry and all economic activity and growth.

Suffocation by Permit Regulation

The massive amount of new permits that will be required to license the continued existence of the American economy will overwhelm the EPA. The dramatic expansion of EPA jurisdiction will require a massive influx of tax dollars to accommodate the additional administrative costs. While the EPA is busy trying to reinvent itself by shoehorning CO2 regulation into the Clean Air Act, the agency's legitimate tasks will inevitably be compromised. However well intentioned it may be, this proposed rule will actually hurt the environment.

EPA's Solution to Global Warming¹

Grass Mileage Standards: “...each application could require a different unit of measure tied to the machine's mission or output – such as grams per kilogram of cuttings from a ‘standard’ lawn for lawnmowers.

Controlling the Speed of the U.S. Trucking Fleet: “Speed limiters are generally available on new trucks or as a low-cost retro-fit...”

Permits Required for Economic Activity: “Currently ... 200-300 PSD permits [are issued] nationally each year for construction of new major sources ... [that number] would increase by more than a factor of 10 (i.e., more than 2000-3000 permits per year) ... The additional permits would generally be issues to ... large office and residential buildings, hotels, retail establishments and similar facilities.”

Single Family Homes Become Polluters: “... we believe that small commercial establishments ... and indeed, a large single-family residence could exceed this [CO2 pollution] threshold.”

“... Short compliance timetables -- 3-4 years for existing sources -- appear to preclude setting longer compliance timeframes to allow for emerging greenhouse gas technologies to be further developed or commercialized.”

¹ All items quoted directly from Environmental Protection Agency's Advanced Notice of Proposed Rulemaking “Regulating Greenhouse Gas Emissions under the Clean Air Act”