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“A Glorious Mess”: EPA Notice Would Have Dramatic Impact on U.S. Military

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The Environmental Protection Agency’s (EPA) draft Advanced Notice on Proposal Rulemaking is indeed “a glorious mess,”¹ involving “inherently political decisions that should be made by an elected and accountable Congress,” as noted by the Chairman of the House Energy and Commerce committee in April. The exhaustive notice for public comment comes in response to the Supreme Court case *Massachusetts v. EPA*, which determined that greenhouse gas could be regulated under the Clean Air Act if the EPA found it to be a harmful “air pollutant.” For all practical purposes, the notice is a blueprint for potentially massive new federal regulations, some of which will certainly impact the U.S. military.

EPA officials and Congress should carefully consider the impacts such a regulatory framework would have on the U.S. economy and the U.S. military, including live fire ranges, military testing, realigning forces or the movement of trucks, ships, and planes for training purposes, modernization efforts, and requirements for base realignments and closures.² Congress should carefully review the proposals to determine whether this massive unfunded mandate should be decided by the legislative branch and next administration and to examine the likely negative consequences of the proposed rules to the Department of Defense.

Implications for the U.S. Military. The Clean Air Act, implemented in 1970, aims to regulate air pollutants in the name of public health and welfare. The law recognizes that states should take the lead

in carrying out the legislation. In accordance with the Clean Air Act, each state is required to submit to the EPA a State Implementation Plan outlining compliance procedures. For the military, this can place a serious strain on readiness when training exercises and weapons systems are moved, especially in what are called non-attainment areas, where air pollution standards persistently exceed national air quality standards. Under the Clean Air Act’s conformity requirements, replacing weapons systems or building new facilities within these areas is prohibited without first demonstrating that the future action conforms to the State Implementation Plan.

The potential for chaos under the proposed regulations is real. The EPA could regulate greenhouse gas emissions from numerous types of engines, including those installed in military tanks, trucks, helicopters, ships, and aircraft. This is an expensive proposition given that the U.S. military is already the country’s largest consumer of oil and accounts for over 90 percent of all federal government energy costs.

Not only would the EPA notice have dramatic consequences for training and readiness, but it would also impact nearly every military installation

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in the country and the buildings therein, including residences, commissaries, gyms, movie theaters, and hospitals. According to the Government Accountability Office, the Department of Defense manages and operates about 577,000 structures worldwide (the majority in the continental United States) and over 500 stationary sites such as ranges.

Already Doing Their Part. Thanks in part to the increased price of petroleum, the military has begun to reduce its greenhouse gas output in an effort to decrease its dependency on oil. Such a proactive approach to energy management is hardly surprising; a nominal \$10 increase in the price of a barrel of oil costs the military an additional \$1.3 billion per year in operating costs.

Here are some examples of the military's efforts to "go green":

- As part of the U.S. Army's Future Combat Systems modernization program, the ground-based elements of the network will be run on hybrid electric engines, consuming up to 30 percent less fuel than current military vehicles.
- The U.S. Air Force has set a goal to run all of its aircraft on synthetic fuel by 2011. This type of fuel costs \$30–\$50 less per barrel and burns cleaner without compromising performance.
- The U.S. Navy is outfitting its major combatant ships with integrated nuclear power systems. Congress mandated this initiative by law as part of the FY 2008 defense authorization bill. The Navy is also working hard to generate electricity through the use of geothermal, wind, and solar energy in various locations throughout the country.

While the services are ambitiously in search of reliable alternative energy sources, they can and

should do more. Greater efficiency cannot be achieved overnight, however, and regulating greenhouse gas emissions will not change this reality. Rather, imposing more inflexible regulations upon the military will only hinder training and readiness levels as defense officials become consumed with managing emissions on a state-by-state basis.

National Security Exemptions Are Not Special Treatment. According to defense officials, military readiness activities generate relatively small amounts of emissions—usually less than 0.5 percent of total emissions in air regions. Pentagon officials have repeatedly testified that the Clean Air Act's restrictions limit their flexibility and stand to adversely affect military readiness. According to Raymond DuBois, former Deputy Under Secretary for Installations and Environment, abiding by the requirements of the Clean Air Act "has repeatedly threatened deployment of new weapons systems and base closure/realignment despite the fact that relatively minor levels of emissions were involved."³

Waivers, which are often touted as a comfortable compromise, would not be enough under the proposed regulatory framework. Although the Clean Air Act offers a waiver option to the President, this tool remains of little use and will grow even more inadequate should greenhouse gases be adopted as a pollutant under the Clean Air Act. Too often, waivers have become the new government panacea that allows policymakers to avoid making difficult decisions on national priorities. By law, each waiver must be justified under a paramount interest standard and revisited annually or triennially. This system is entirely too rigid to be compatible with the training and readiness demands of the U.S. armed forces.

Since FY 2003, the military has sought to obtain a three-year grace period to flexibly manage readiness

1. Chairman John D. Dingell, "Strengths and Weaknesses of Regulating Greenhouse Gas Emissions Using Existing Clean Air Act Authorities," statement during the Subcommittee on Energy and Air Quality, Committee on Energy and Commerce, U.S. House of Representatives, April 10, 2008.
2. Ben Lieberman, "EPA Should Not Ignore Congress on Global Warming Restrictions," Heritage Foundation *WebMemo* No. 1987, at <http://www.heritage.org/Research/EnergyandEnvironment/wm1987.cfm>.
3. Raymond DuBois, "Current Environmental Issues Affecting the Readiness of the Department of Defense," testimony before Subcommittee on Energy and Air Quality, Subcommittee on Environment and Hazardous Materials, U.S. House of Representatives, April 21, 2004, at <http://energycommerce.house.gov/reparchives/108/Hearings/04212004hearing1252/DuBois1935.htm> (July 10, 2008).

levels while searching for solutions to offset emissions in a given area. Although Congress has continually rejected this request, were greenhouse gases to be regulated under the Clean Air Act, it would be paramount that Congress grant the three-year request to provide the military the time and space to accommodate the expansive new regulations.

Ramifications Must Be Thoroughly Examined and Debated. The U.S. military needs installations, weapons systems, and realistic training to do its job of securing the nation. In the military, training is not just for show. Realistic, live-fire exercises help soldiers, sailors, airmen and Marines prepare for battle. Without robust training, the risk of casualties to U.S. forces increases. The U.S. military

must be given special considerations and increased flexibility relative to other federal agencies during wartime to implement any new environmental regulations—particularly those on the scale currently proposed by EPA bureaucrats. Congress should carefully examine the impact the regulatory framework laid out in the EPA's Advanced Notice on Proposal Rulemaking would have on the military and should not go forward without serious discussion of these consequences.

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