

# WebMemo



Published by The Heritage Foundation

No. 2665  
October 23, 2009

## Proposed Global Warming Bills and Regulations Will Do More Harm Than Good

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The Environmental Protection Agency (EPA) is moving forward aggressively to regulate fossil fuels in the name of fighting global warming. Recent agency proposals would start with emissions standards for cars and trucks, but these would likely lead to subsequent regulations affecting a million or more businesses and other energy-using entities.

Even the EPA itself admits that regulations will be burdensome, and it has not hidden the Obama Administration's strategy of threatening unworkable regulations to spur Congress to pass legislation instead.<sup>1</sup> The Waxman–Markey and Kerry–Boxer bills, like the proposed regulations, are an expensive and ineffective response to the overstated threat of global warming. Indeed, the best answer is: none of the above.

**EPA v. the U.S. Economy.** In *Massachusetts v. EPA* (2007), the Supreme Court held that the EPA could regulate carbon dioxide from motor vehicles under the Clean Air Act. However, the decision did not require the agency to take this step. The Bush Administration refrained from rushing to do so, opting instead to gather information on the potential economic and environmental consequences of addressing global warming in this manner. This was a wise move: Even putting aside growing doubts about the seriousness of the global warming threat, regulating carbon dioxide under the Clean Air Act is a very poor way of addressing it.<sup>2</sup>

Nonetheless, the Obama Administration has reversed course and accelerated the regulatory process, proposing both a new motor vehicle emissions

rule as well as an overall finding that carbon dioxide endangers public health and welfare.

Although the proposed rules address all greenhouse gases, the main target is carbon dioxide, which is the unavoidable byproduct of fossil fuel combustion—the coal, oil, and natural gas that provides Americans with 85 percent of their energy. The only way to reduce emissions is with costly measures that drive up the price of using this energy. The EPA's proposed new motor vehicle standards would increase the sticker price of new cars and trucks by \$1,300 according to the agency. Others say much more.<sup>3</sup>

**A Regulatory Pandora's Box.** New motor vehicle regulations are bad enough, but the Clean Air Act does not end there. Once something is regulated as a pollutant under one section of the act, it is automatically regulated under several other sections. Fully applying the rest of the Clean Air Act to sources of carbon dioxide emissions would result in severe adverse economic consequences.

For example, the stringent New Source Review permitting program applies to any source that emits 250 tons of any regulated pollutant per year, and in some cases as little as 100 tons per year. Most pol-

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/EnergyandEnvironment/wm2665.cfm](http://www.heritage.org/Research/EnergyandEnvironment/wm2665.cfm)

Produced by the Thomas A. Roe Institute  
for Economic Policy Studies

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
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lutants currently regulated are trace compounds like smog or mercury that are typically measured in parts per billion, so this threshold level sensibly distinguishes between minor contributors and significant ones.

But carbon dioxide is not a trace compound. Background levels of naturally occurring carbon dioxide alone measure 275 parts per million, and even relatively small usage of fossil fuels could reach 250 tons. Thus, even the kitchen in a restaurant, the heating system in an apartment or office building, or the activities associated with running a farm could cause these and other entities to be regulated—potentially more than a million buildings, 200,000 manufacturing operations, and 20,000 farms.<sup>4</sup>

New Source Review permitting imposes an average of \$125,000 in costs and takes 866 hours to complete.<sup>5</sup> These and other onerous programs would now be imposed, for the first time, on a million or more entities beyond the large power plants and factories that have already been regulated in this manner.

EPA admits the unworkability of applying Clean Air Act red tape to nearly everything that uses more than minimal amounts of energy.<sup>6</sup> Indeed, the agency concedes that state and federal permitting authorities would “be paralyzed by enormous numbers of these permit applications.”<sup>7</sup> The agency’s

solution is to try to rewrite the statute, turning the 250-ton threshold into 25,000 tons, thus exempting all but the largest industrial sources.<sup>8</sup> However, past EPA attempts to take liberties with the Clean Air Act language have failed to survive the inevitable court challenges.

**The Threat of Regulation to Spur Legislation.** EPA administrator Lisa Jackson has candidly admitted that one of the goals of the highly problematic regulatory proposal is to spur on legislation: “Legislation is so important because it will combine the most efficient, most economy-wide, least costly, least disruptive way to deal with carbon dioxide pollution,” she recently stated, adding that “we get further faster without top-down regulation.”<sup>9</sup>

While the regulations would be disruptive to the economy, the legislation currently in Congress would be very damaging as well. The Heritage Foundation’s analysis of the economic impacts of Waxman–Markey found \$393 billion in lost gross domestic product each year, nearly \$3,000 in annual energy costs for a household of four, and over a million net job losses.<sup>10</sup> The Kerry–Boxer Senate bill was introduced with many details missing, but it appears to be at least as costly.

Both the regulatory and the legislative approaches unilaterally target American emissions and leave the rest of the world off the hook; thus, it would accom-

1. BusinessGreen.com, “EPA Signals Carbon Regulations Could Be Introduced Within Months,” September 3, 2009, at <http://www.businessgreen.com/business-green/news/2248808/epa-signals-carbon-regulations> (October 22, 2009).
2. Ben Lieberman and Nick Loris, “Five Reasons the EPA Should Not Attempt to Deal with Global Warming,” Heritage Foundation *WebMemo* No. 2407, April 23, 2009, at <http://www.heritage.org/Research/EnergyandEnvironment/wm2407.cfm>
3. Steve Siler and Mike Dushane, “Obama’s CAFE Fuel Economy Standards to Create Fleet of Tiny, Expensive Vehicles,” *Car and Driver*, May 2009, at [http://www.caranddriver.com/news/car/09q2/obama\\_s\\_cafe\\_fuel\\_economy\\_standards\\_to\\_create\\_fleet\\_of\\_tiny\\_expensive\\_vehicles-car\\_news](http://www.caranddriver.com/news/car/09q2/obama_s_cafe_fuel_economy_standards_to_create_fleet_of_tiny_expensive_vehicles-car_news) (October 23, 2009).
4. Portia M. E. Mills and Mark P. Mills, “A Regulatory Burden: The Compliance Dimension of Regulation of Carbon Dioxide as a Pollutant,” U.S. Chamber of Commerce, September 2008, p. 3.
5. Carrie Wheeler, “Information Request for Prevention of Significant Deterioration and Nonattainment New Source Review,” U.S. Environmental Protection Agency. These amounts would likely be less for smaller entities, but the overall burden would be substantial given the limited resources and in-house expertise to deal with them.
6. Environmental Protection Agency, “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule,” pp. 15, 19, September 30, 2009, at <http://www.epa.gov/nsr/documents/GHGTailoringProposal.pdf> (October 22, 2009).
7. *Ibid.*, pp. 15, 19.
8. *Ibid.*, pp. 2.
9. James Murray, “EPA Signals Carbon Regulations Could Be Introduced within Months,” BusinessGreen.com, September 3, 2009, at <http://www.businessgreen.com/business-green/news/2248808/epa-signals-carbon-regulations> (October 22, 2009).

plish little. Climate scientist Chip Knappenberger estimates that, even assuming continued man-made global warming, the Waxman–Markey bill would reduce the earth’s future temperature by no more than 0.2 degrees Celsius by 2100<sup>11</sup>—an amount probably too small to verify and certainly too small to matter. The proposed regulations would be just as ineffective.

Rather than settle for the least bad of two undesirable options, there is a better approach to the issue: Do not pursue any problematic policy, regulatory or legislative. H.R. 391, sponsored by Marsha Blackburn (R–TN), would eliminate any EPA authority to regulate carbon dioxide and other greenhouse gases

under the Clean Air Act. It is currently the subject of a discharge petition, which would allow it to come to a vote before the full House.

**Remove the Threat.** Rather than respond to the threat of problematic regulation by enacting problematic legislation, Congress should remove the regulatory threat and then debate various global warming legislative proposals on their merits. The merits of costly cap-and-trade proposals are highly dubious, but they are not made any better by the specter of EPA regulation.

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10. David Kreutzer *et al.*, “The Economic Consequences of Waxman–Markey: An Analysis of the American Clean Energy and Security Act of 2009,” Heritage Foundation *Center for Data Analysis Report* No. 09-04, August 6, 2009, at <http://www.heritage.org/Research/EnergyandEnvironment/cda0904.cfm>.
  11. Chip Knappenberger, “Why Waxman-Markey Is Not a Climate Bill,” June 29, 2009, at <http://masterresource.org/?p=3507#more-3507> (October 22, 2009).