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EPA's Global Warming Regulations: A Threat to American Agriculture

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There is little doubt that legislative measures designed to address global warming would greatly burden the agricultural sector. Farming is energy intensive, and cap-and-trade bills—namely the House Waxman–Markey bill, which passed in June, and the Boxer–Kerry bill pending in the Senate—are essentially a massive tax on energy.

Indeed, opposition from farm organizations and agricultural state legislators is one reason that the Senate bill has stalled. However, the Environmental Protection Agency (EPA) is seeking to achieve similar goals through global warming regulations. Such regulations also pose a substantial threat to American agriculture, and bills to rein in the EPA deserve serious consideration.

Cap and Trade: Bad for Farmers. Cap-and-trade measures would drive up fossil energy prices, and the results for agriculture would be severe.

An analysis conducted by The Heritage Foundation found that the Waxman–Markey bill would reduce farm profits by an estimated 28 percent starting in 2012, the first year the bill's provisions take effect, and average 57 percent lower through 2035.¹ A study of a several Missouri farms ranging from 800 to 1,900 acres of corn, soybeans, and wheat estimated annual cost increases of \$4,903 to \$11,649 by 2020, mostly from higher costs of natural-gas-derived fertilizer as well as overall increased energy costs.²

Moreover, provisions in the Senate Boxer–Kerry bill purporting to provide agriculture with profit opportunities—such as earning valuable emissions

credits by planting trees or engaging in emissions-reducing farming practices—are very limited and are unlikely to compensate for the higher costs imposed on farmers.³

EPA Regulations: Even More Problematic for Farmers. Although global warming legislation looks less likely for the foreseeable future (though the President and some Senators are trying to revive it), there is an ongoing attempt to impose this agenda via regulations. The EPA regulations that would apply to stationary sources pose a threat to American agriculture.

Pursuant to a 2007 Supreme Court decision, the EPA has authority to regulate carbon dioxide emissions from motor vehicles under the Clean Air Act. In January, the EPA concluded that carbon dioxide and other greenhouse gases endanger public health and welfare. The first substantive regulations, on car and truck greenhouse gas emissions, were promulgated on April 1.

However, now that carbon dioxide is a regulated pollutant for motor vehicles, all the other provisions of the Clean Air Act—including those targeting stationary sources—will also apply, because they impose non-discretionary requirements for all regulated pol-

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lutants. Any source emitting 250 tons of carbon dioxide (CO₂), an easily met threshold, would be subject to the statute's tough requirements. Overall, a number of onerous permitting and other provisions would apply to a million or more entities that use fossil fuels—small businesses, commercial properties, and agricultural operations.⁴

Of particular concern to the American Farm Bureau is Title V, the Clean Air Act's operating permits program, as well as the pre-construction permitting program known as Prevention of Significant Deterioration (PSD).⁵ According to the U.S. Department of Agriculture, Title V would apply to “dairy facilities with over 25 cows, beef cattle operations of over 50 cattle, swine operations with over 200 hogs, and farms with over 500 acres of corn.”⁶

The compliance burden would be daunting. The EPA puts the first-year cost of each Title V permit at \$46,500 and PSD at \$84,500.⁷ The EPA has tried to avoid the impact on small businesses and farms (at least temporarily) by increasing the threshold for CO₂ emissions from 250 to 25,000 tons, the so-called tailoring rule, which the EPA claims would spare 37,351 farms and ranches from Title V and 299 from PSD.⁸

However, such a regulatory rewrite of the Clean Air Act is on shaky legal ground, and in any event the agency conceded that it would start regulating smaller sources in six years.⁹ Thus, those 37,000-plus farms would come under these costly and burdensome programs in 2016, if not sooner. In addition, the agency holds open the possibility of regulating emissions in other ways, as yet unspecified, that could be applicable to farms.¹⁰

In some respects, EPA regulations would be even worse for farmers than cap and trade. Cap-and-trade legislation would have targeted energy companies and not individual farmers, though the higher energy costs would have been passed on to them. But EPA regulations would be directly imposed on farmers, imposing tremendous paperwork and compliance burdens as well as energy cost increases comparable to those inflicted by cap and trade.

Such unilateral action would also put American agriculture at a competitive disadvantage relative to the rest of the world. No other country has contemplated imposing anything like the EPA's regulatory scheme on its farmers. Thus, the EPA's regulations would make it harder for American farmers to com-

1. David W. 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, p. 3, at <http://www.heritage.org/Research/Reports/2009/08/The-Economic-Consequences-of-Waxman-Markey-An-Analysis-of-the-American-Clean-Energy-and-Security-Act-of-2009>.
2. Food and Agricultural Policy Research Institute, University of Missouri, “The Effect of Higher Energy Prices from H.R. 2454 on Missouri Crop Production Costs,” July 2009, p. 2, at http://www.fapri.missouri.edu/outreach/publications/2009/FAPRI_MU_Report_05_09.pdf (April 1, 2010).
3. Bob Stallman, American Farm Bureau Federation, “Clean Energy Jobs and American Power Act,” testimony before the Committee on Environment and Public Works, U.S. Senate, October 29, 2009, at http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=ca0301d8-cf30-447f-a286-8b51dfa78c79 (April 1, 2010).
4. *Ibid.*
5. Stallman, “Clean Energy Jobs and American Power Act,” pp. 7–8.
6. U.S. Department of Agriculture and other agencies, letter to Susan E. Dudley, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, July 9, 2008, p. 3, at <http://www.uschamber.com/NR/rdonlyres/e3gxws4agxbqudm6qvq3pggkmyg5yyapcun7dwpz5qnp34lximtc4bfnfaplxoqam4ciitysgstzbxu4tpl3kud/CabinetResponsestoEPA.pdf> (April 1, 2010).
7. U.S. Environmental Protection Agency, “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, Proposed Rule,” *Federal Register* Vol. 74, No. 55, (October 27, 2009), pp. 338–39. (These are characterized by the agency as the costs avoided by preventing application of these provision via the tailoring rule.)
8. *Ibid.*
9. Ben Lieberman, “Small Business Impact of the EPA Endangerment Finding,” Heritage Foundation *WebMemo* No. 2766, January 20, 2010, at <http://www.heritage.org/Research/Reports/2010/01/Small-Business-Impact-of-the-EPA-Endangerment-Finding>.
10. EPA, “Proposed Rule.”

pete in international markets because they would face higher operating costs.

Rein in the EPA. A number of bills have been introduced to limit the EPA's authority to impose global warming regulations. Some seek to amend the Clean Air Act to preclude this statute from being used to regulate on the basis of global warming concerns. Others are resolutions of disapproval by which Congress specifically rejects the EPA's endangerment finding. Other bills seek to delay imple-

mentation of EPA regulations until further study has been completed.

American agriculture already faces a number of challenges, and the EPA's anti-agriculture global warming policy would make the future for farming even dicier. For the sake of America's farmers, the EPA's global warming regulations should be stopped.

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