

Regulating Global Warming: Expanding the Authority of the Environmental Protection Agency

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by Amanda Berg

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In May 2007, the U.S. Supreme Court decided that greenhouse gases meet the definition of an air pollutant in the Clean Air Act. The Environmental Protection Agency (EPA) responded in 2008 by issuing an Advance Notice of Proposed Rulemaking (ANPR) that explains how the Clean Air Act applies to regulating emissions of greenhouse gases thought to contribute to global warming.



Dallas Headquarters:
12770 Coit Road, Suite 800
Dallas, TX 75251
972.386.6272
Fax: 972.386.0924
www.ncpa.org

Washington Office:
601 Pennsylvania Avenue NW,
Suite 900, South Building
Washington, DC 20004
202.220.3082
Fax: 202.220.3096



The notice will likely be followed by regulations to reduce emissions. Unfortunately, such regulations would significantly increase energy prices, but would not affect the global level of greenhouse gases.

State Demands Led to Action. In 2006, Massachusetts and several other states petitioned the EPA to regulate greenhouse gas emissions from new motor vehicles. Greenhouse gases include carbon dioxide (CO₂) — most of which is emitted by nature. A small fraction of CO₂ emissions are caused by human activities, principally the burning of fossil fuels for transportation and energy production [see Figure I]. Massachusetts argued that the Clean Air Act required the EPA to regulate emissions of any air pollutant that could endanger public health or welfare.

The EPA denied the petition, claiming that CO₂ was not a pollutant under the Clean Air Act and, thus, the Agency was not authorized to regulate it. Massachusetts went to the U.S. Court of Appeals for the District of Columbia and a divided panel ruled in favor of the EPA.

In May 2007, however, the U.S. Supreme Court reversed the appeals court decision by a 5-4 vote. Justice John Paul Stevens wrote in the majority opinion that Massachusetts had standing to sue the EPA over potential

damage caused by global warming. Furthermore, the ruling in *Massachusetts v. EPA* found that CO₂ and other greenhouse gases fall under the definition of air pollutant in the Clean Air Act, and that the EPA has the authority to regulate new motor vehicle emissions if they endanger public health or the environment.

When it issued the ANPR, the EPA did not base its finding that global warming endangers human health and the environment on any proof of actual, present harm. Instead, the EPA relied on projected trends in the fourth assessment report of the United Nations' Intergovernmental Panel on Climate Change (IPCC), the international body created in 1988 to study the effect of human activities on global temperatures. Based on theory and computer modeling, rather than empirical findings, the IPCC links human emissions of greenhouse gases to global temperatures and such harms as spreading tropical diseases and rising sea levels. Thus, the EPA's proposal to regulate greenhouse gases is based upon the IPCC's speculation about future risks and on the opinion of the EPA Administrator.

Effects of Regulations on Energy Costs. As with other pollutants, if the EPA finalizes these findings, the agency could go beyond regulating CO₂ emissions from automobiles to regulating greenhouse gas emissions from stationary sources as well. The EPA would likely implement an emissions permit program covering stationary sources emitting 250 tons per year of any regulated pollutant. This would subject thousands of new sources to EPA regulations — including small businesses, hospitals and even large single-family homes. It would require

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costly new technology or retrofits to meet stringent emissions criteria.

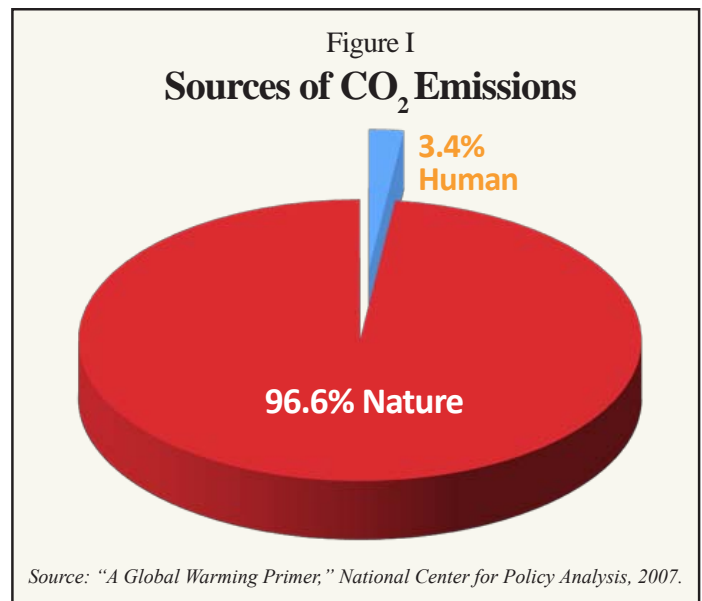
Furthermore, the proposed EPA rule would cause a shift from coal — currently used to generate half of the domestic electricity supply — to natural gas. Due to the limited domestic supply of natural gas and the moratorium on production from reserves on the Outer Continental Shelf, more natural gas would be imported, reducing U.S. energy security. According to a study by Science Applications International Corporation, an increase in demand for natural gas would cause its price to skyrocket, raising electricity prices:

- Natural gas prices could increase by as much as 146 percent.
- Electricity prices could increase 129 percent.
- A two-thirds reduction in coal-fired electric power generation would lower gross domestic product (GDP) by \$371 billion annually, say Pennsylvania State University researchers.

Effects on Emissions in Developing Countries. Any emissions reductions in the United States will be offset by increased emissions in other countries, as production shifts to less-regulated developing countries.

Comments on the proposed EPA rule from the U.S. Departments of Energy and Commerce support the conclusion that efforts to reduce U.S. emissions will produce no net benefit.

The EPA proposes various methods to combat a shift in emissions to other countries. For instance, the United States could impose tariffs based on the carbon content of imported products, or it could subsidize the export of low-carbon U.S. goods, or it could require importers to purchase carbon offsets or emission credits to reduce the impact of emissions. These measures would significantly damage American competitiveness abroad and undermine existing U.S. trade policies. In addition, the affected countries would likely mount successful challenges under World Trade Organization rules that prohibit discrimination against other countries' products.



Furthermore, human activities are only responsible for about one-quarter of one percent of the total greenhouse effect, which is the moderation of the Earth's temperature due to the absorption of the sun's radiation by atmospheric gases.

- Human activities contribute 0.28 percent to the greenhouse effect.
- Natural greenhouse gas emissions — including ocean biologic activity and decaying plants — contribute 4.72 percent.
- Water vapor accounts for 95 percent of the greenhouse effect [see Figure II].

Attempting to reduce such a small fraction of the factors that contribute to the overall greenhouse effect will be extremely costly and ineffective.

Conclusion. The proposed EPA rule would result in an unprecedented expansion of the EPA's power, giving them the authority to regulate nearly every sector of the economy and personal decisions about housing and transportation. These sweeping regulations would cause energy prices to rise, but would be futile because of their negligible impact on the overall concentration of greenhouse gases.

Amanda Berg is a legislative assistant at the National Center for Policy Analysis.

