

## ***RSC Policy Brief: The E.P.A – A Bureaucratic Bully Pulpit***

***March 9, 2011***

From the Clean Air Act, the Clean Water Act, to the National Environmental Policy Act, the Obama Administration will stop at NOTHING to utilize the Environmental Protection Agency (EPA) to impose carbon taxes on every sector of the economy. Congress has the obligation to decisively curtail the power and influence of the EPA and make use of every tool possible to counter the actions of the EPA under the direction of Czar Browner and Administrator Jackson. In 2009, House Democrats passed a national energy tax on the American people despite heavy opposition from the public. Since they failed to accomplish this through Constitutional means, the Administration has enacted dozens of regulations to artificially drive up the price of energy. The attached document highlights a few of these regulations that place the priorities of polar bears over the American people.

### ***Key Take Away Points***

***Government Planning Scheme:*** By having the Obama Administration pick winners and losers in the energy sector, they are engaging in a central economic planning scheme in which the government decides which industries and companies deserve more or fewer credits and what business factors and economic outputs are “necessary.” Lowering greenhouse gas emission standards - especially in the short term - means government-directed decreases in economic activity through these EPA regulations.

***Driving Up the Cost of Gas, the Obama Administration Energy Policy:*** Artificially increases the cost of traditional forms of energy, driving up its’ price in order to make “green” alternatives cost-competitive to consumers. America has had abundant, affordable sources of energy which have been an integral part of our comparative advantage over other nations. Politicians should not be driving up the cost of energy for artificial reasons.

***Denying Drilling:*** For five years, the EPA has denied permits to conduct exploratory drilling on the Alaskan Outer Continental Shelf based on the Clean Air Act. Even the President’s own Oil Spill Commission [found](#) that a moratorium on development in the Arctic is not justified.

The Alaskan Shelf potentially holds the largest undiscovered oil and natural gas reserves in the United States. According to the [University of Alaska](#), there may lie approximately 27 billion barrels of oil and 132 trillion cubic feet of natural gas.

***Ignorance is Bliss:*** At a recent subcommittee hearing on greenhouse gas regulations, Rep. Barton (R-TX) asked the EPA official in charge of implementing greenhouse gas regulations, Assistant Administrator Gina McCarthy, if she knew how much carbon dioxide was in the atmosphere.

McCarthy did not know the answer and might be surprised to learn, it is pretty insignificant. The Administration is set on formulating policies to remove what amounts to a very small amount of carbon dioxide contained in our atmosphere, shown in this [chart](#). In fact, carbon dioxide only encompasses 0.035% of the global average concentration in Earth's atmosphere.

Greenhouse gasses make up less than 2% of the atmosphere, and of that percentage, carbon dioxide makes up around 3.5% of all greenhouses gasses. And very little of that amount is man made, since natural carbon combustion occurs frequently. The 2005 Hayman fire in Colorado produced more carbon dioxide that year than its entire population.

## *Taxing Solutions*

- ◆ ***CO2 Regulations (Water Vapor, ect):*** The EPA recently started the process of regulating [CO2 emissions](#) by requiring facilities that emit more than 25,000 tons of CO2-equivalent per year to report their emissions to the EPA, and requiring newly constructed or modified facilities that emit more than 75,000 tons per year to obtain greenhouse gas permits. These rules mostly affect larger energy-intensive companies first (over 10,000 entities), including fossil fuel power plants and petroleum refineries, but eventually will impact millions of [smaller entities](#). The EPA itself estimates these regulations will cost the private sector [\\$115 million](#) in the first year. A [Heritage study](#) of the expected impact of all EPA regulations of CO2 found a total cost of nearly \$7 trillion in lost GDP by 2029 and annual job losses of 800,000 for several years. The EPA contends that it has the authority to regulate CO2 emissions as air pollution after an endangerment finding under the Clean Air Act.
  
- ◆ ***Coal Combustion Residuals (CCR):*** These materials, commonly referred to as coal ash, are produced when coal is burned to produce electricity. Approximately 55% of these materials are disposed of in landfills and the other 43% of them are [recycled](#) for savings of \$5-10 billion. The EPA has moved to grant itself broad statutory authority to take action against any CCR disposal facility by claiming it poses an imminent threat to human health and the environment. [The CCR regulations](#) - despite being the subject of EPA rulings on four prior occasions (once during the Clinton Administration) – would cost millions of consumers that rely on coal powered plants to heat their homes, [billions](#) in increased costs and threaten the nations grid capacity. The EPA contends that it has the authority to regulate Coal Combustion Residuals as waste under the Resource Conservation and Recovery Act.
  
- ◆ ***Farm Dust Rule:*** The EPA currently regulates [Coarse Particulate Matter](#) (airborne particles) under the Clean Air Act. These regulations were originally targeted at soot, but a recent [Draft Policy Assessment](#) has proposed revising the size of particulate regulated, ending a decades-long exemption for agricultural dust. Dust is a necessary byproduct of agricultural activity and farmers have developed best-practices to combat it because of their obvious incentive to conserve their land and protect their families' wellbeing. According to a [letter](#) from 21 Senators on the issue, “excessive dust control measures could be imposed which could slow economic development and impose significant costs to farmers and businesses.” The EPA contends that it has the authority to regulate farm dust as part of the National Ambient Air Quality Standards established in the Clean Air Act.

- ◆ ***Boiler Pollution:*** The EPA has proposed rules to reduce pollution from industrial boilers used at oil refineries, chemical plants, paper mills and other factories. The [proposed rules](#) would require costly new pollution controls on large boilers, and new periodic tune-ups for smaller boilers. These new rules have an [EPA estimated](#) cost of \$2.1 billion to the private sector each year, which will have an immediate impact on companies' bottom line and ability to retain workers during this period of sustained unemployment. The EPA contends that it has the authority to regulate boiler emissions as part of the National Emission Standards established in the Clean Air Act.
- ◆ ***Milk [Fat EPA Regulation:](#)*** The EPA has finalized a [rule](#) forcing large-capacity dairy farmers to create "emergency management" plans to deal with spilt milk. The EPA has expanded its authority to include "milk spills" by including milk in an EPA program established in 1970 that regulates oil discharges in navigable waters because milk contains animal fat (a type of "non-petroleum oil"). This will [increase production costs](#) for farmers, and ultimately hurt the consumer by driving up prices. Milk regulation will potentially affect other industries as well, as milk is an input to innumerable food products. Even more troubling, the \$3 million dedicated to funding this expansion will mostly be absorbed by the administrative costs of hiring inspectors and regulators. The restrictions are not as stringent as the EPA would prefer, but the FDA, the USDA and a variety of other state agencies already regulate the issue. This regulation is not only ridiculous in nature (and duplicative of FDA, USDA, and state regulations), but harmful to consumers and wasteful of taxpayer dollars. The EPA contends that it has the authority to regulate milk fat under the Spill Prevention, Control, and Countermeasure rule established in the Clean Water Act.
- ◆ ***Portland Cement Regulations:*** Portland cement is a type of cement, created by grinding base materials and heating them in kilns to a high temperature. Although the cement industry is already one of the most regulated industries in the country, the EPA has proposed seven [new rules](#) on kiln emissions which would severely impact the industry. These rules, which limit emissions to levels nearly unachievable using the best known technology, would force the industry to shut down 18 plants (11% of production) and cost [\\$3.4 billion](#) over 3 years (half the industry's annual revenues), destroying countless jobs and the ability of American cement producers to compete with their global competitors. The EPA contends that it has the authority to regulate cement kiln emissions as part of the National Emission Standards established in the Clean Air Act.
- ◆ ***Ethanol Blend Regulations:*** The EPA has been [finalizing a waiver](#) to allow fuel manufacturers to blend 15% ethanol into gasoline – known as E15 – for model year 2001 and newer vehicles. There are serious concerns that these cars, some produced over 10 years ago, are not designed to run on ethanol and that the new waiver will lead to damaged vehicles - and lawnmowers, boats, and generators inadvertently fueled with E15. This fuel is also less efficient than the E10 blend consumers are often forced to use today, adding a hidden cost of [\\$.055](#) to every gallon of E15 bought by consumers. The Big Three, Ford, Chrysler, and GM, in conjunction with numerous other groups, have [filed suit](#) in federal court to stop the EPA's reckless plan. The EPA contends that it has the authority to grant a waiver for E15 under the provisions of the Clean Air Act.
- ◆ ***Florida Water Regulations:*** The EPA has set specific limits on nutrient pollution levels allowed in lakes, rivers, streams and springs in Florida, the [only state](#) in the nation to be subject to these federal standards. The EPA estimates nearly 2,000 miles of Florida's

rivers and streams, as well as numerous lakes and estuaries, are affected. Florida has filed suit to stop the EPA, and the Attorney General cited [four studies](#) that all project an impact on Florida's economy in the billions. The EPA contends that it has the authority to regulate Florida's waterways under a Clean Water Act determination.

- ◆ ***Coal Mining Permitting Regulations:*** The EPA has recently promulgated new guidance on its permitting requirements for coal mines, impacting many underground and all mountaintop mining operations. These [unprecedented new requirements](#) have been implemented without mandatory public comment periods, created a near-moratorium on new permits, usurped the states' authority to maintain their own environmental standards, and unjustifiably transferred authority over the permitting process from the Army Corp of Engineers to the EPA. The EPA went so far as to revoke the permit for the [largest mountain mining operation](#) in Appalachia, an entirely [unprecedented action](#) that prompted a wave of protest from several unrelated industries who fear that the EPA will begin to revoke their own approved permits. These new requirements will, according to EPA Administrator Lisa Jackson, allow for "no or very few" valley fill permits, which are essential to mountaintop mining. The EPA's clear goal is to kill the mountaintop mining industry, which employs thousands of workers and is responsible for [over 10%](#) of the nation's coal production. The EPA contends that it has the authority to amend permitting requirements under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order.

***RSC Staff Contact:*** Bruce F. Miller, [Bruce.Miller@mail.house.gov](mailto:Bruce.Miller@mail.house.gov)  
Cyrus Artz, [Cyrus.Artz@mail.house.gov](mailto:Cyrus.Artz@mail.house.gov)