



The EPA's War on Energy

By Russ Harding

The U.S. Environmental Protection Agency has declared a war on America's primary sources of energy — particularly coal. The foot soldiers in this war are a bevy of proposed EPA regulations that will drive up the cost of the conventional fuel sources that Americans use to power their factories and heat their homes. Worse, these changes will threaten the reliability of the U.S. power grid, which is essential to our modern way of life.

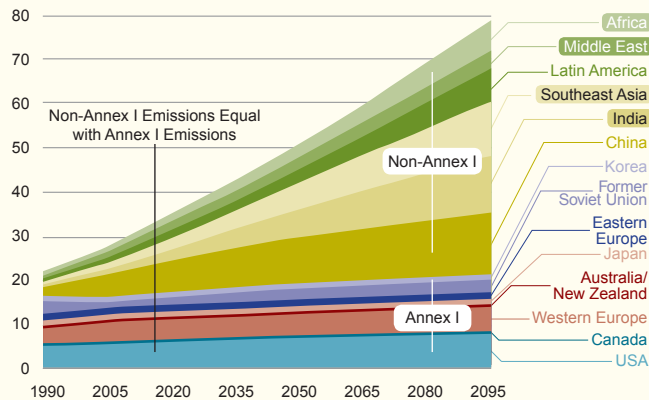
Summary

The Environmental Protection Agency is using rulemaking to arbitrarily attack things such as carbon dioxide, coal fly ash and ozone standards, which could substantially harm America's economy, cost jobs and increase heating bills.

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Cumulative World Carbon Dioxide Emissions

Fossil and Industrial CO2 Emissions, Gigatons of CO2 per Year



Source: Data derived from "Global Energy Technology Strategy, Addressing Climate Change: Phase 2 Findings from an International Public-Private Sponsored Research Program," Battelle Memorial Institute, 2007. "Annex 1" countries are nominally covered by the Kyoto Protocol.

The EPA's proposed rulemaking is no longer an interpretation of existing law, but instead has morphed into lawmaking. The previous Congress declined to pass cap-and-trade legislation that would limit total greenhouse gas emissions, probably because they recognized that a de facto energy tax on American consumers and businesses would seriously damage an already anemic economic recovery. Undeterred, President Barack Obama is making good on his threat to use EPA regulations to limit energy production and use.

EPA's war on energy is a coordinated attack on several fronts:

- *Regulation of CO2 under the Clean Air Act.* The EPA is proposing to regulate carbon dioxide emissions from factories and commercial establishments across the nation. The agency has issued a "tailoring rule" — government-speak for making up the law as you go — that would add CO2 to the list of criteria air pollutants. The rule also sets an arbitrary threshold of 75,000 tons of carbon dioxide equivalent emissions per year, even though the Clean Air Act sets the threshold of 100 to 250 tons per year. The agency wanted to avoid having to monitor hundreds of

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thousands of additional sources, so it made up this new threshold. Still, it is estimated that thousands of new sources will for the first time be required to obtain time consuming and costly Clean Air Act permits.

- *Classifying coal fly ash as a hazardous waste.* Coal fly ash is a byproduct of burning coal to produce electricity. Coal fly ash is regulated by state environmental agencies as a nonhazardous waste and is recycled into many products, including asphalt. Requiring coal fly ash to be treated as a hazardous waste would make many coal-burning utilities uneconomical and result in their closure.
- *New stricter standards for ozone.* The EPA is proposing to lower ozone (smog) standards to levels between 60 and 70 parts per billion — the third time the standard has been lowered during the past 15 years. A standard of 60 parts per billion would be so strict that it would approach background levels in many urban areas and result in much of the country being out of compliance. This would be a costly and gratuitous outcome.
- *New industrial boiler rule.* This rule will subject thousands of industrial, commercial and institutional boilers to much stricter air quality standards. The rule is structured to have the most impact on coal and biomass boilers. Operators will be faced with very expensive pollution control upgrades or, more likely, a switch to natural gas boilers which emit fewer greenhouse gases but are more expensive to operate.

Any one of these proposed EPA rulemakings would have a significant impact on the cost of energy in the United States. Taken together, they represent an all-out assault on energy production and use. A common thread that runs through the proposed EPA rules is to make it prohibitively expensive to use coal to produce electricity and power industry.

Coal still powers much of the electric grid in the country. Wind and solar energy are not reliable enough (the wind does not always blow and the sun does not always shine) to replace coal without seriously jeopardizing electric reliability.

It is critical that the new Congress stop the EPA's attempts to dictate energy policy by administrative fiat. State governors should prepare to rebuff the EPA's abuse of power by instructing state environmental officials not to implement the new regulations if they are promulgated. This "regulation without representation" is an arrogant abuse of power and is a clear attempt by EPA officials to thwart the will of Congress — and of the American people.

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