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# POTENTIAL REGULATION OF GREENHOUSE GASES UNDER CLEAN AIR ACT

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Climate RESOLVE and S.E.E. Change  
Workshop

Business Roundtable

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# Mass. v. EPA

## April 2007

- GHGs are CAA “air pollutants” that must be regulated if EPA finds that they endanger public health or welfare
- EPA has three choices:
  - Make endangerment finding and regulate
  - Make non-endangerment finding and don’t regulate
  - Decide unable to find either way, explaining reasons based in CAA

# BUSH ADMINISTRATION RESPONSE

- Initially indicated would make endangerment finding and regulate motor vehicles emissions by close of Administration
- Changed direction after EISA enacted in Dec. 2007 – also growing concern about ramifications for other sectors, particularly “PSD”
- Issued ANPR in July 2008, with comment deadline on November 28, 2008

# ANPR

- Massive – 550+ pages – thousands of pages of supporting material
- Preface by Administrator saying he thinks CAA regulation not appropriate
- Various agency comments opposing CAA regulation

# KEY ISSUE

- No one doubts EPA will make endangerment finding
- But...can EPA control the timing, stringency and character of regulation ... or will it be forced by CAA statutory requirements to impose rigid, impractical and hugely costly regulation on a myriad of large and small sources?

# PARTICULAR CONCERNS

- PSD – 1.2 million previously unregulated buildings and facilities may become subject to potentially onerous air permitting requirements simply because they are heated with gas or oil
- NAAQS – Whole country in nonattainment, with draconian attainment requirements triggered
- Likely inability to use market-based and innovative approaches
- Economic and energy concerns

→Is industry engaging in fear-mongering?

# EPA ADMINISTRATOR JOHNSON

“I believe the ANPR demonstrates that the Clean Air Act, an outdated law originally enacted to control regional pollutants that cause direct health effects, is ill-suited for the task of regulating greenhouse gases. Based on the analysis to date, pursuing this course of action would inevitably result in a very complicated, time-consuming and, likely, convoluted set of regulations. These rules would largely pre-empt or overlay existing programs that help control greenhouse gas emissions and would be relatively ineffective at reducing greenhouse gas concentrations given the potentially damaging effect on jobs and the U.S. economy.”

# LIKELY ACTIONS IN OBAMA ADMINISTRATION

- Early action on endangerment finding
- Regulation of powerplants and motor vehicles

# DESERET DECISION

- Environmental organizations claim great victory
- So does industry
- Who's right?

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