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STATES DIVIDE OVER NEW EPA RULES

Shannon L. Goessling

Shannon L. Goessling is executive director and chief legal counsel for Southeastern Legal Foundation, a public interest law firm representing 15 members of Congress and more than a dozen companies and professional associations challenging EPA climate regulations.

While Congress wrestles yet again with climate change legislation promoted as an energy bill, the U.S. Environmental Protection Agency (EPA) is charging forward with draconian regulations designed to punish key sectors of our struggling economy while yielding little or nothing in the way of actual environmental improvement. This week, the EPA published a rule on light-duty vehicle emissions, so the regulations are truly underway.

Neither the EPA nor the Obama administration ever thought it would come to this. The stringent EPA regulations proposed - and now being enacted - were supposed to drive lawmakers to choose a cap-and-trade or tax legislation alternative to preempt the regulations. Legislation has stalled. The EPA regulations have not.

Enter the legal challenges. In addition to Southeastern Legal Foundation's administrative legal challenge and actions with the U.S. Court of Appeals for the District of Columbia, dozens of organizations representing industry, consumers and elected officials have stepped forward to challenge the flawed scientific and legal basis for enacting the regulations.

With millions of jobs at stake in the unprecedented federal regulatory power-grab, 15 states that will bear a huge burden under the new regulations have this year gone to court to stop the EPA. Virginia, Texas, Florida, Alabama and others have argued that carbon dioxide - the greenhouse gas under scrutiny - has not been proven to harm human health or welfare under the Clean Air Act. These states are subjecting the so-called global warming consensus to scrutiny that it cannot withstand. While smearing those who have the temerity to question their edicts, the International Panel on Climate Change (IPCC) and the EPA have been caught red-handed basing their conclusions on "science" that on key issues was shoddy at best and fraudulent at worst. Not even all the king's horses and all the king's men can put Humpty Dumpty back together again.

The issue is carbon dioxide - the gas we breathe out and plant life breathes in, a trace gas comprising only 388 parts out of every million in the atmosphere. While the science becomes more complicated as we measure global systems, this basic knowledge provides the backdrop

for what can only be described as a political struggle with a scientific component, as opposed to what it should be - a scientific debate resulting in sound public policy.

The State of New York has entered the fray as one of 16 states supporting the EPA's regulatory drive. New York now argues it is improper to send a case back to the EPA for reconsideration based on new scientific information that shows flaws in an EPA finding. This is puzzling indeed because in 1983, New York argued that new scientific evidence had come to light after the EPA closed its public comment period in a similar Clean Air Act issue. Evidently, New York was for this before it was against it.

Ironically, the EPA has also done a 180-degree turn, standing stubbornly against solid scientific evidence that the IPCC and NASA "science" on climate change is flawed and full of errors and omissions. In the past, the EPA has been willing in many similar circumstances to address scientific evidence that comes to light after it has begun rulemaking.

Why the change of heart? Why the rush to enact trillion-dollar regulations? Why the determined exclusion of critical evidence demonstrating that the rules are based on flawed science? The full-court press by the Obama administration and the EPA, ostensibly designed to force Congress into legislation that would preempt the EPA in this area, rushes forward apace. States like New York cheer them on and say, yes, the emperor's garments are wondrous to behold.