

FOR EDUCATIONAL USE ONLY

6/23/09 US Fed. News (Pg. Unavail. Online)
2009 WLNLR 11979213

US Federal News

Copyright 2009 US Fed News (HT Syndication)

June 23, 2009

SENS. INHOFE, BARRASSO SHOW GREEN GROUP WANTS TO REGULATE SCHOOLS,
FARMS, HOSPITALS, NURSING HOMES, OTHER SMALL SOURCES

WASHINGTON, May 8 -- Senate Environment & Public Works Committee Republicans issued the following news release:

U.S. Senator James Inhofe (R-Okla.), Ranking Member of the Senate Environment and Public Works Committee, and Senator John Barrasso (R-Wyo.), a member of the EPW Committee, responded today to statements made by the [Center for Biological Diversity](#) concerning the group's intent to force the EPA to regulate greenhouse gas emissions from schools, hospitals, nursing homes, farms, and thousands of other small sources.

As reported recently by the Dow Jones newswire, Kassie Siegel, director of CBD's Climate Law Institute, said that, "her group is prepared to sue for regulation of smaller emitters if the EPA stops at simply large emitters." However, the following day, Siegel retracted her statement in Greenwire: ""The **Center for Biological Diversity** is not going to sue the EPA to regulate small sources of carbon dioxide, nor is anyone else. Characterizing it that way is an incredibly cynical ploy by Barrasso and [Sen. James] Inhofe to block solutions to the climate crisis and create a distraction from the real issues."

But Greenwire also reported that the group wants EPA to regulate "big hospitals." "In order to stave off the effects of climate change," Greenwire reported, "EPA may eventually have to regulate sources like big hospitals that emit large amounts of carbon dioxide, said William Snape, senior counsel with the center..." This raises several questions: Does the CBD also want to regulate big schools, big nursing homes, and big farms? How do they define 'big'?

"The **Center for Biological Diversity** seems to be confused about its position," Sen. Inhofe said. "But one thing is clear: this group likes to file lawsuits, and lots of them, and they've made clear that the only way to avert global warming is to regulate every school, hospital, farm, nursing home, and any other source that emits more than a specified amount of carbon dioxide." "I appreciate the CBD's original honesty," Sen. Barrasso said, "But this is just more Washington doubletalk. In Wyoming we take people at their word. If the CBD says they will sue, I assume they mean it. The CBD has stated on the record that they intend to sue small emitters such as schools and hospitals. The real losers here will be small business owners, farmers, patients, and students."

On November 28, 2008, the CBD filed comments on EPA's Advanced Notice of Proposed Rulemaking on regulating greenhouse gases under the Clean Air Act. The following excerpts show clearly that CBD believes small sources such as schools and hospitals should be regulated under the Clean Air Act, and that EPA cannot exercise legal flexibility to exempt them. As the CBD makes clear, EPA cannot circumvent the 100-250 ton threshold of the Clean Air Act's Prevention of Significant Deterioration program:

* "The EPA should comply with its statutory mandate to enact the regulations that are necessary in order to avert climate disaster."

* "The EPA estimates that the number of permits issued each year would increase from 200-300 per year to 2,000-3,000 per year.¹⁰⁶ The EPA asserts, without any support, that regulating smaller sources through the NSR will be inefficient and would create a problematic administrative burden. Then the EPA proposes a number of creative yet legally unsupportable proposals to 'solve' the asserted problems. As a threshold matter, the asserted belief of EPA officials that the statutory requirements are burdensome or not 'efficient' as they should be simply does not excuse the agency from following the law. The EPA has no authority to weaken the requirements of the statute simply because its political appointees don't like the law's requirements."

* Several of the suggestions that the EPA has advanced are outside the scope of its authority. The EPA has no authority to set higher GHG major source cutoffs and significance levels. The EPA may not "calculate the costs and benefits of a PSD program for that universe of affected sources, and select a cutoff that optimizes the benefit cost ratio."

* This is not the statutory standard, and such a system is subject to manipulation and abuse, as demonstrated by the CAFE system, in which NHTSA manipulates inputs into a cost-benefit model in order to keep "optimal" fuel economy levels suppressed. The EPA has no authority to implement a "scaling approach," nor to designate a "de minimis" level of GHG emissions that is higher than the 250 ton per year threshold.¹⁰⁸ And the EPA's proposal to increase the 250 ton limit by a factor of 3.6 by using a carbon equivalent measure instead of CO₂ is certainly creative, but highly legally questionable. The PSD threshold requirements do not present one of "those rare cases in which congressional intent differs" from the plain meaning of the statutory language. And there is no legal support for EPA's proposal to interpret "major emitting facility" in a way that is "more narrow" than the plain statutory language."

* "Such administrative issues are not legally cognizable reasons to ignore the statute's requirements, and should not be allowed to stand in the way of achieving the emissions reductions necessary to avert climate catastrophe. The reality of the climate crisis is that we must ultimately reduce emissions from all pollution sources. The strength of the CAA is that it provides an existing regulatory structure with a proven track record of success to do just that. The EPA should comply with its statutory mandate to enact the

regulations that are necessary in order to avert climate disaster."

Also, the ANPR, on page 479, contains discussion of the possibility that small sources could face regulation: "Currently, EPA estimates that EPA, state, and local permitting authorities issue approximately 200-300 PSD permits nationally each year for construction of new major sources and major modifications at existing major sources. Under existing major source thresholds, we estimate that if CO2 becomes a regulated NSR pollutant (either as an individual GHG or as a group of GHGs), the number of PSD permits required to be issued each year would increase by more than a factor of 10 (i.e. more than 2000-3000 permits per year), unless action were taken to limit the scope of the PSD program under one or more of the legal theories described below. The additional permits would generally be issued to smaller industrial sources, as well as large office and residential buildings, hotels, large retail establishments, and similar facilities. These facilities consist primarily of equipment that combusts fuels of various kinds and release their exhaust gases through a stack or vent."For more information please contact: Sarabjit Jagirdar, Email: - htsyndication@hindustantimes.com.

---- INDEX REFERENCES ----

COMPANY: CAA AG; CAA

NEWS SUBJECT: (Legal (1LE33); Economics & Trade (1EC26); Weather & Climate (1WE93); Government (1GO80); Environmental Law (1EN88))

INDUSTRY: (Meteorology (1ME62); Environmental Problems (1EN46); Science (1SC89); Science & Engineering (1SC33); Press Releases (1PR19); Climate Change (1CL10); Earth Science (1EA85); Environmental Solutions (1EN90); Environmental Regulatory (1EN91); Pollution (1PO10))

Language: EN

OTHER INDEXING: (ANPR; BIOLOGICAL DIVERSITY; CAA; CAFE; CBD; **CENTER FOR BIOLOGICAL DIVERSITY**; CLEAN AIR ACT; CLIMATE LAW INSTITUTE; EPA; EPW COMMITTEE; GHG; INHOFE; NHTSA; NSR; PSD; PUBLIC WORKS COMMITTEE; SCHOOLS; SENATE ENVIRONMENT; SENATE ENVIRONMENT PUBLIC WORKS COMMITTEE; SENS) (Barrasso; Characterizing; Inhofe; James Inhofe; James] Inhofe; John Barrasso; Kassie Siegel; Sarabjit Jagirdar; Siegel; William Snape)

Word Count: 1356
6/23/09 USFEDNEWS (No Page)
END OF DOCUMENT
