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Fact Sheet

CONFRONTING GLOBAL WARMING

Almost 18 Years and Counting:

Senate Inaction Allows Big Polluters Unlimited Increase in Global Warming Pollution

In 1992, the U.S. Senate ratified the United Nations Framework Convention on Climate Change (UNFCCC). The treaty directs countries such as the U.S. to take actions to reduce their emissions of global warming pollutants. Since endorsing the treaty almost eighteen years ago, the Senate has failed to take further action and allowed big polluters to increase their global warming pollution unabated. As a result, U.S. greenhouse gas emissions have increased by over 16% from 1992 to 2007.

During this extended Senate delay to enact comprehensive clean energy and climate legislation, the Environmental Protection Agency (EPA) has cautiously and reasonably moved forward with steps to begin limiting global warming pollution from the biggest polluters. And in 2007, the Supreme Court confirmed that the Clean Air Act is a tool that the Agency can utilize to reduce such pollution.

Unfortunately, Senator Lisa Murkowski (R-AK) may soon seek legislation to limit the use of the Clean Air Act to protect the country's public health and welfare from global warming pollution. The Senator argues Congress has not had adequate time to assess the nation's actions to address climate change. She has called the common sense efforts to comply with a Supreme Court ruling and utilize the Clean Air Act as a "thinly veiled threat" against the Senate to force action on climate legislation "regardless of where we are in what remains an ongoing and incredibly important debate." (See Senate Energy and Natural Resources Committee Press Release from 9/24/09.) Contrary to such assertions, the Senate has had nearly eighteen years to debate and act on this issue and remained silent.

Moreover, CNN's latest poll shows that three in four Americans (75%) believe "The United States should reduce emissions of carbon dioxide and other gases that may contribute to global warming," and 68% believe "global warming is a proven fact." (See http://blogs.nwf.org/files/cnnpoll.pdf) Instead of further delaying action through the new Murkowski "Dirty Air Act," the Senate should reverse years of inaction and focus on completing comprehensive clean energy and climate legislation.

Eighteen Years of Senate Inaction to Limit Global Warming Pollution

October 7, 1992. U.S. Senate unanimously approved the UNFCCC. The treaty was signed by President George H. W. Bush on October 13, 1992, and ratified by the United States Senate on October 15, 1992. Internationally, the treaty came into force on March 21, 1994.

March 11, 1998. At a House Appropriation Committee hearing Congress seeks opinion as to whether the Clean Air Act (CAA) can address the emissions of global warming pollutants from power plants.

April 10, 1998. EPA General Counsel Jonathan Cannon responds to a Congressional request with a legal memo stating that the CAA could be used to tackle global warming pollution.

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October 6, 1999. In testimony before Congress, the Agency reiterates its previous position that the CAA provides legal authority for limiting global warming pollution.

October 20, 1999. The International Center for Technology Assessment (ICTA) files an administrative rulemaking petition with the EPA asking the Agency to use section 202(a) of the CAA to regulate the release of CO_2 and other greenhouse gases from motor vehicles because they are "air pollutants" reasonably anticipated to harm public health and welfare.

January 23, 2001. EPA publishes a Notice and Request for Comments entitled "Control of Emissions from New and In-use Highway Vehicles and Engines" in the Federal Register. 66 Fed. Reg. 7486 (Jan. 23, 2001). The Notice described and summarized the ICTA Petition and requested public comments on using the CAA to tackle vehicle emissions. Almost 50,000 public comments were submitted in support of taking action as requested in the petition.

December 5, 2002. ICTA, Sierra Club, and Greenpeace file a lawsuit against EPA to compel the Agency to answer the ICTA Petition. International Center for Technology Assessment, et al. v. Whitman, Docket No. 02-CV-2376 (D.D.C.).

September 8, 2003. EPA settles the case by publishing its Notice of Denial of the ICTA Petition in the Federal Register. 68 Fed. Reg. 52922 (Sept. 8, 2003). EPA's General Counsel, Robert E. Fabricant, issues a legal memorandum reversing the Agency's previous position and concluding that the CAA does not authorize regulation of global warming pollution.

October 23, 2003. ICTA and twelve other environmental organizations file a petition for review of the Fabricant memorandum and the EPA's denial of the ICTA Petition. International Center for Technology Assessment, et al. v. EPA, Docket No. 03-1363, 03-1367. Fourteen states and territories led by Massachusetts, New York, and California, also file a petition for review of the EPA decision. Also joining this effort are the municipalities of New York City and Baltimore. Commonwealth of Massachusetts, et al. v EPA, Docket Nos. 03-1361, 03-1365; State of California v. EPA, Docket Nos. 03-1362, 03-1366; Mayor of Baltimore City, et al. v. EPA, Docket Nos. 03-1364, 03-1368.

October 29, 2003. The D.C. Circuit consolidates all the petitions for review filed on Oct. 23, 2003, under one case, now known as Massachusetts, et al. v EPA, Docket Nos. 03-1361, 03-1365.

April 8, 2005. Oral argument is heard in the U.S. Court of Appeals for the District of Columbia Circuit before Circuit Judges David B. Sentelle, A. Raymond Randolph and David S. Tatel.

July 15, 2005. The U.S. Court of Appeals for the D.C. Circuit issues a split decision in which Judges Randolph and Sentelle join together for purposes of a judgment denying Petitioners' Petition for Review. Judge Tatel issues a 38-page dissent. Massachusetts, et al.v. EPA, 415 F.3d 50 (D.C.Cir. 2005).

December 2, 2005. U.S. Court of Appeals denies Petition for Rehearing En Banc in a 4-3 decision. Judges Tatel and Rogers issue dissent stating, "[I]f global warming is not a matter of exceptional importance, then those words have no meaning." Massachusetts v. EPA, 433 F.3d 66 (D.C.Cir. 2005).

June 26, 2006. U.S. Supreme Court grants certiorari to hear Massachusetts v. EPA.

November 29, 2006. U.S. Supreme Court hears oral argument in the case.

April 2, 2007. U.S. Supreme Court issues decision finding that greenhouse gases were air pollutants for purposes of the CAA and further held that the EPA Administrator must determine whether or not emissions from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision.

July 30, 2008. In response to the Supreme Court's decision, the EPA releases an Advanced Notice of Proposed Rulemaking, "Regulating Greenhouse Gas Emissions Under the Clean Air Act," 73 Fed. Reg. 44354 (July 30, 2008). The notice seeks public comments on ways in which the CAA can be used to tackle the emissions of global warming pollutants.

April 24, 2009. Complying with the Supreme Court decision, EPA issues "Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 Fed. Reg. 18885 (Apr. 24, 2009). After a thorough examination of scientific evidence, the Agency proposes finding current and projected levels of greenhouse gases in the atmosphere threaten the public health and welfare of current and future generations. The agency receives 380,000 public comments in support of making the scientific finding.

June 26, 2009. House of Representatives passes the American Clean Energy and Security Act (H.R. 2454) updating the CAA and providing for comprehensive clean energy and climate legislation.

September 28, 2009. EPA and Department of Transportation issue proposed rule "Proposed Rulemaking To Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards," 74 Fed. Reg. 49454 (Sept. 28, 2009). The proposal is a second stage of response to Supreme Court ruling.

October 27, 2009. EPA issues proposed rule "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" 74 Fed. Reg. 55291 (Oct. 27, 2009). The rule proposes a step-by-step approach to future action under the CAA by exempting small carbon emitters and focusing global warming pollution reduction rules on only the nation's biggest polluters. The agency receives over 415,000 public comments in support of its proposal.

November 5, 2009. Senate Environment and Public Works Committee reports out Clean Energy Jobs and American Power Act (S.1733). The bill includes amendments to the CAA to address comprehensively clean energy deployment and reductions in global warming pollution.

December 15, 2009. "Endangerment Finding" is finalized. 74 Fed. Reg. 66494 (Dec. 15, 2009).

December 20, 2009. The United States, China, India and other major emitting nations agree to the Copenhagen Accord. The Accord cites that "deep cuts in global emissions are required according to science" and developed countries agree to seek such reductions by 2020.