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SUBJECT:: co2 talking points sent by epa

TO:mformica@uschamber.com @ inet ( mformica@uschamber.com @ inet [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

----- Forwarded by Khary I. Cauthen/CEQ/EOP on 08/28/2003  
03:13 PM -----

Notice of Denial of the Petition for EPA to Regulate  
Greenhouse Gas (GHG) Emissions from Motor Vehicles  
8/28/03

Action: EPA today (August 28, 2003) signed a notice denying a petition to regulate greenhouse gas emissions from motor vehicles. The Agency is denying the petition to regulate greenhouse gas emissions from motor vehicles for three reasons:

- 1) EPA lacks authority under the Clean Air Act to regulate CO2 and other greenhouse gases for climate change purposes;
- 2) The only practical way to reduce motor vehicle emissions of CO2 is to regulate fuel economy, which is a task that Congress has already assigned to DOT; and
- 3) EPA believes that regulating greenhouse gas emissions from motor vehicles would be inappropriate at this time.

(See additional points below related to the reasons.)

In February 2002, President Bush announced an aggressive approach to addressing climate change that encourages substantial voluntary reductions in GHG intensity and pursues fuel economy improvements:

< This approach sets a national goal of reducing the GHG intensity of the U.S. economy by 18 percent over the next ten years. This strategy sets the U.S. on a path to slow the growth of GHG emissions and, as the science justifies, to stop and then reverse that growth.

< In taking prudent environmental action at home and abroad, the U.S. is advancing a realistic and effective long-term approach, rather than adopting costly short-term measures whose benefit is uncertain.

< This policy supports vital climate change research, and lays the groundwork for future action by investing in science, technology, and institutions.

< In addition, the President's policy emphasizes international cooperation and promotes working with other nations to develop an efficient and coordinated response to global climate change.

< EPA is building efficient and effective market-driven programs that address the transportation sector's contribution to climate change. These programs include Climate Leaders, Energy Star, Smartway and Best Workplaces for Commuters.

< In February 2002, EPA launched Climate Leaders, a voluntary industry- government partnership under which companies work with EPA to evaluate their GHG emissions, set aggressive reduction goals, and report their progress toward meeting those goals. To date, more than 40 companies from almost all the most energy-intensive industry sectors have joined.

< EPA's Energy Star is a voluntary labeling program that provides critical information to businesses and consumers about the energy efficiency of the products they purchase. Reductions in GHG emissions from Energy Star purchases were equivalent to removing 10 million cars from the road last year.

< The Smartway transport partnership works with the trucking and railroad industry to achieve cleaner and more efficient vehicles and locomotives by adopting pollution control and energy saving technologies. Smartway partners will develop and deploy fuel-efficient technologies and practices to achieve substantial fuel savings and emission reductions. Idling strategies alone have the potential to save 1 billion gallons of diesel fuel per year, while reducing greenhouse gases by 2.5 MMTCE and NOx by 200,000 tons.

< Best Workplace for Commuters offers innovative solutions to commuting in order to reduce vehicle trips and miles traveled. We expect that 3.7 million employees will be covered by this program in 2005.

< EPA will also play a leadership role in advancing fuel cell vehicle and hydrogen fuel technologies and policies to support the U.S. environmental, energy and national security goals.

Additional talking points relating to (1), (2) and (3) above:

< No CAA provision specifically authorizes climate change regulation. A few sections mention climate change, but these are limited to non-regulatory measures.

< Congress has taken up the issue of climate change numerous times over the past few years, but has not enacted legislation that gives EPA authority to regulate GHG emissions for climate change purposes.

< Regulation of CO2 and other GHGs for climate change purposes would have enormous economic, practical, and societal implications, which certainly were not envisioned when the CAA was enacted and amended.

< Under these circumstances, it would be inappropriate for EPA to search for authority to regulate in an existing statute that was not specifically designed or enacted to deal with the climate change issue.

< [In case questions come up concerning the ACannon Memo@] In determining that the CAA does not authorize regulation to address

climate change, EPA adopted the conclusion reached by its current General Counsel in a legal opinion reviewing relevant legal authorities and withdrawing the opinion and statements of two former EPA General Counsels who served in the prior Administration..

< Congress entrusted regulation of motor vehicle fuel economy to DOT, not EPA. CO2 emission standards set by EPA under the CAA would effectively supplant fuel economy standards set by DOT under the Energy Policy Act, because the only practical way of reducing vehicle CO2 emissions is to increase fuel economy.

< Establishing GHG emission standards for motor vehicles at this time would be premature, because it would require EPA to make scientific and technical judgments without the benefit of the studies being developed to reduce uncertainties and advance technologies.

< Establishing regulations now would result in an inefficient, piecemeal approach to addressing the climate change issue, because motor vehicles are only one of many categories of GHG emission sources.

< Unilateral EPA regulation of motor vehicle GHG emissions could also hamper U.S. efforts to persuade key developing countries to reduce the GHG intensity of their economies.

#### Background of the Petition:

§ The petition was filed by the International Center for Technology Assessment and 18 other technology, citizen and environmental advocacy groups October 20, 1999.

§ The petition asserted that EPA is obligated to regulate greenhouse gas (GHG) emissions from motor vehicles under Section 202(a)(1) of the Clean Air Act.

§ Section 202(a)(1) provides that The Administrator [of EPA] shall by regulation prescribe ... in accordance with the provisions of [section 202], standards applicable to the emission of any air pollutant from any class or classes of new motor vehicle ..., which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.@

§ Petitioners claim that EPA has a mandatory duty to regulate GHG emissions from motor vehicles under Section 202 because EPA has already determined that:

§ CO2 and other GHGs are air pollutants under the Clean Air Act; and

§ GHG emissions from motor vehicles contribute to pollution that may reasonably be anticipated to endanger public health or welfare.

To the contrary, EPA has not made findings that trigger a mandatory duty under the CAA, even assuming the CAA authorized regulation to address climate change.

§ ICTA and two other organizations (Sierra Club and Greenpeace) have filed a lawsuit in the U.S. District Court for DC seeking to compel EPA to respond to the petition. Rather than engage in needless and unproductive litigation, EPA has decided to take final action on the petition at this time.

(See attached file: CO2 petition talking pts 8-28.2.wpd)

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**Notice of Denial of the Petition for EPA to Regulate  
Greenhouse Gas (GHG) Emissions from Motor Vehicles**

8/28/03

**Action:** EPA today (August 28, 2003) signed a notice denying a petition to regulate greenhouse gas emissions from motor vehicles. The Agency is denying the petition to regulate greenhouse gas emissions from motor vehicles for three reasons:

- 1) EPA lacks authority under the Clean Air Act to regulate CO<sub>2</sub> and other greenhouse gases for climate change purposes;
- 2) The only practical way to reduce motor vehicle emissions of CO<sub>2</sub> is to regulate fuel economy, which is a task that Congress has already assigned to DOT; and
- 3) EPA believes that regulating greenhouse gas emissions from motor vehicles would be inappropriate at this time.

(See additional points below related to the reasons.)

**In February 2002, President Bush announced an aggressive approach to addressing climate change that encourages substantial voluntary reductions in GHG intensity and pursues fuel economy improvements:**

- ▶ This approach sets a national goal of reducing the GHG intensity of the U.S. economy by 18 percent over the next ten years. This strategy sets the U.S. on a path to slow the growth of GHG emissions and, as the science justifies, to stop and then reverse that growth.
  - ▶ In taking prudent environmental action at home and abroad, the U.S. is advancing a realistic and effective long-term approach, rather than adopting costly short-term measures whose benefit is uncertain.
  - ▶ This policy supports vital climate change research, and lays the groundwork for future action by investing in science, technology, and institutions.
  - ▶ In addition, the President's policy emphasizes international cooperation and promotes working with other nations to develop an efficient and coordinated response to global climate change.
  - ▶ EPA is building efficient and effective market-driven programs that address the transportation sector's contribution to climate change. These programs include Climate Leaders, Energy Star, Smartway and Best Workplaces for Commuters.
- ▶ In February 2002, EPA launched Climate Leaders, a voluntary industry-



government partnership under which companies work with EPA to evaluate their GHG emissions, set aggressive reduction goals, and report their progress toward meeting those goals. To date, more than 40 companies from almost all the most energy-intensive industry sectors have joined.

- ▶ EPA's Energy Star is a voluntary labeling program that provides critical information to businesses and consumers about the energy efficiency of the products they purchase. Reductions in GHG emissions from Energy Star purchases were equivalent to removing 10 million cars from the road last year.
- ▶ The Smartway transport partnership works with the trucking and railroad industry to achieve cleaner and more efficient vehicles and locomotives by adopting pollution control and energy saving technologies. Smartway partners will develop and deploy fuel-efficient technologies and practices to achieve substantial fuel savings and emission reductions. Idling strategies alone have the potential to save 1 billion gallons of diesel fuel per year, while reducing greenhouse gases by 2.5 MMTCE and NOx by 200,000 tons.
- ▶ Best Workplace for Commuters offers innovative solutions to commuting in order to reduce vehicle trips and miles traveled. We expect that 3.7 million employees will be covered by this program in 2005.
- ▶ EPA will also play a leadership role in advancing fuel cell vehicle and hydrogen fuel technologies and policies to support the U.S. environmental, energy and national security goals.

**Additional talking points relating to (1), (2) and (3) above:**

- ▶ No CAA provision specifically authorizes climate change regulation. A few sections mention climate change, but these are limited to non-regulatory measures.
- ▶ Congress has taken up the issue of climate change numerous times over the past few years, but has not enacted legislation that gives EPA authority to regulate GHG emissions for climate change purposes.
- ▶ Regulation of CO<sub>2</sub> and other GHGs for climate change purposes would have enormous economic, practical, and societal implications, which certainly were not envisioned when the CAA was enacted and amended.
- ▶ Under these circumstances, it would be inappropriate for EPA to search for authority to regulate in an existing statute that was not specifically designed or enacted to deal with the climate change issue.

- ▶ **[In case questions come up concerning the "Cannon Memo"]** In determining that the CAA does not authorize regulation to address climate change, EPA adopted the conclusion reached by its current General Counsel in a legal opinion reviewing relevant legal authorities and withdrawing the opinion and statements of two former EPA General Counsels who served in the prior Administration..
- ▶ Congress entrusted regulation of motor vehicle fuel economy to DOT, not EPA. CO2 emission standards set by EPA under the CAA would effectively supplant fuel economy standards set by DOT under the Energy Policy Act, because the only practical way of reducing vehicle CO2 emissions is to increase fuel economy.
- ▶ Establishing GHG emission standards for motor vehicles at this time would be premature, because it would require EPA to make scientific and technical judgments without the benefit of the studies being developed to reduce uncertainties and advance technologies.
- ▶ Establishing regulations now would result in an inefficient, piecemeal approach to addressing the climate change issue, because motor vehicles are only one of many categories of GHG emission sources.
- ▶ Unilateral EPA regulation of motor vehicle GHG emissions could also hamper U.S. efforts to persuade key developing countries to reduce the GHG intensity of their economies.

### **Background of the Petition:**

- The petition was filed by the International Center for Technology Assessment and 18 other technology, citizen and environmental advocacy groups October 20, 1999.
- The petition asserted that EPA is obligated to regulate greenhouse gas (GHG) emissions from motor vehicles under Section 202(a)(1) of the Clean Air Act.
- Section 202(a)(1) provides that "the Administrator [of EPA] shall by regulation prescribe ... in accordance with the provisions of [section 202], standards applicable to the emission of any air pollutant from any class or classes of new motor vehicle ..., which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."
- Petitioners claim that EPA has a mandatory duty to regulate GHG emissions from motor vehicles under Section 202 because EPA has already determined that:
  - CO2 and other GHGs are air pollutants under the Clean Air Act; and
  - GHG emissions from motor vehicles contribute to pollution that may

reasonably be anticipated to endanger public health or welfare.

To the contrary, EPA has not made findings that trigger a mandatory duty under the CAA, even assuming the CAA authorized regulation to address climate change.

- ICTA and two other organizations (Sierra Club and Greenpeace) have filed a lawsuit in the U.S. District Court for DC seeking to compel EPA to respond to the petition. Rather than engage in needless and unproductive litigation, EPA has decided to take final action on the petition at this time.