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CONSERVATIVES LOBBY WHITE HOUSE FOR ANPR TO DELAY EPA CLIMATE FINDING

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Conservative groups are circulating a memo in the Senate that urges lawmakers to lobby the White House to block a final EPA finding on climate change risks and instead issue an advance notice of proposed rulemaking (ANPR), which would allow the agency to build a record on the costs and burdens of carbon regulation.

The memo offers a glimpse into the strategy that industry and anti-regulatory groups have adopted to encourage lawmakers to weigh in directly on the issue. The possible finding that greenhouse gases represent "endangerment" to the public has prompted concerns by industry and others that it could spark a series of regulatory requirements on both stationary and mobile sources to reduce greenhouse gas emissions. The memo is available on InsideEPA.com.

The memo is part of a broader campaign by conservatives and industry groups to head off the EPA finding, which has been a widely anticipated component of the Bush administration's response to the Supreme Court's ruling in 2007 in *Massachusetts v. EPA*, which concluded that the Clean Air Act allows regulation of carbon dioxide (CO₂) as a pollutant.

Roger Martella, EPA's outgoing general counsel, told an American Bar Association meeting in Keystone, CO, March 14 that the agency is still planning to issue the finding. Martella said the new energy law does not relieve EPA of its obligation to respond to the high court's ruling and noted that the agency's response to the court ruling was delayed but not halted by the law's passage last December.

The undated memo to the Senate, which sources say was circulated by the Heritage Foundation in early March, is written as a draft note from Senate staff to their bosses, and provides talking points and phone numbers for senators to call White House staff directly and oppose the EPA risk finding.

The memo says senators should propose as an alternative that EPA issue an ANPR - - an approach that would effectively delay release of the risk assessment until the next administration. "The administration appears to be leaning toward making an endangerment finding . . . in response to *Massachusetts v. EPA*," the memo states. "Since not taking action is not an option, the best possible outcome is that the Administration issue an advanced notice of proposed rulemaking."

In addition, the memo also provides talking points on how lawmakers can claim the move would benefit the Bush administration. Specifically, it "shows them as taking unprecedented action on CO₂; allows those hurt by new carbon regulations to weigh in on potential cost and burden; forces advocates of new carbon regulations to justify their positions; and prevents the administration from setting in motion extremely expensive and expansive set of regulatory requirements."

However, an e-mail accompanying the memo suggests the lobbying effort against the finding is not necessarily being embraced by the White House. Specifically, the email notes that a coalition of groups and individuals has been meeting regularly with key administration officials, "but they have now been shut out of meetings and phone calls are not being returned. At this point the most effective communication on the issue will be from members themselves," the e-mail says. -- Doug Obey