

CLEAN AIR ACT

The Environmental Protection Agency (EPA) has exponentially expanded regulation under the Clean Air Act (CAA) at great expense to Americans. States also have been robbed of their statutory role in environmental protection. Therefore, Congress must employ legislation, the budget process, and its oversight powers to constrain the EPA's regulatory abuses.

MAJOR POINTS

- The EPA claims authority under the CAA to impose an economically damaging and environmentally counterproductive regulatory regime designed to eliminate fossil fuel as a domestic energy source—a policy repeatedly rejected by Congress. The agency's energy policy is jeopardizing thousands of jobs, U.S. competitiveness, the affordability and reliability of the nation's electric power, and national security.
- Without any statutory authority, the EPA has extended its regulatory reach into other federal agencies' actions—including the Departments of Energy, Transportation, and State, and the Federal Energy Regulatory Commission.
- The technical risk assessment and regulatory impact analyses with which the EPA justifies many of its rules are fraught with implausible assumptions and extrapolation based on absurd use of the precautionary principle. As noted by Dr. Thomas Burke, who chairs the National Academy of Sciences' Committee on Improving Risk Analysis, the EPA's science is "on the rocks,"² meaning that the agency's regulations often lack a sound scientific basis.
- To restore rationality and accountability to environmental protection, Congress must limit the EPA's abuse of regulatory power and re-establish lawmakers' authority to set environmental and energy policy.

APPROPRIATIONS

Congress should prohibit the EPA from expending any funds for:

- Development, implementation, and enforcement of greenhouse gas regulations, including the proposed Carbon Pollution Standards for New and Existing Electric Generating Units, also known as the Clean Power Plan rules.
- Development, implementation, and enforcement of 2014 National Ambient Air Quality Standards (NAAQS) for ozone.
- Regulation under the CAA of any pollutant not expressly included in the language of the CAA.
- Regulation of source categories under Section 111(d) of the CAA if those source categories have been regulated under Section 112.
- Development, implementation, and enforcement of regulatory standards that do not comply with Section 111(a)(1) of the CAA. That is, the regulatory standard based on or derived from “best system of emission reduction” cannot exceed emission limits achievable with available technology that is commercially and economically demonstrated at scale.

LEGISLATION

To achieve the necessary statutory reforms of the EPA, Congress must:

- Restate and clarify in law that the Clean Air Act was never intended to regulate greenhouse gases as air pollutants, and declare in statute that greenhouse gases are not pollutants subject to regulation under the CAA.
 - Rescind the EPA’s Endangerment Finding that greenhouse gases and climate change pose a serious threat to public health and safety.
- Overturn the waiver issued by the EPA that allows the California Air Resources Board to set fuel economy standards.
- Prohibit the EPA from setting low-carbon-emissions standards or fuel economy standards for on-road vehicles.
- Restate and clarify in law that the EPA is prohibited from regulating source categories under Section 111(d) of the CAA if those source categories have previously been regulated under Section 112.

- Restate and clarify in law that the EPA is prohibited from developing, implementing, or enforcing regulatory standards that do not comply with Section 111(a)(1) of the CAA. That is, the regulatory standard derived from “best system of emission reduction” cannot exceed emission limits achievable through available technology that is commercially and economically demonstrated at scale.
- Restate and clarify in law that the EPA’s regulatory reach extends no further than the “source” of emissions originating from specific facilities rather than entire sites or regions in which emission sources are located. Also clarify that a “source” of emissions applies to individual stationary industrial units, and not to an entire industrial sector or state.
- Restate and clarify in law the parameters of federal and state authorities under the CAA. The prevention and control of air pollution is the primary responsibility of state government. The federal government sets NAAQS and New Source Performance Standards (NSPS); the states determine how the standards will be attained and/or applied.
- Require by law that the EPA must issue final assessments of states’ emission reduction obligations.
- Make the Information Quality Act (IQA) enforceable, and shift the burden of proof to the EPA for demonstrating that the agency’s risk assessments meet the IQA standards.
- Require that the NAAQS, NSPS, and Existing Source Performance Standards cannot be implemented until enacted by law.
- Repeal the Renewable Fuel Standard and all related programs.

OVERSIGHT SUBJECTS

Congress should examine the following:

- The legality of the carbon rules for new and existing power plants.
- The near-term impacts of the Clean Power Plan rule on electric power reliability and power plant closures.
- The EPA’s plans to control CO₂ within other sectors, including surveying, drilling, extracting, and processing oil and gas.
- The rigor and plausibility of the EPA’s risk assessment for ozone NAAQS and other regulations.

- The potential regulatory inconsistencies among various EPA regions that would arise if the agency undertakes its planned rule change.
- The reform of the State Implementation Process per the National Research Council's recommendations from 2004.³
- The reform of the EPA's methodology for risk assessments, especially its application of a "No Safe Threshold" (NST) linear regression analysis.
- The reform of the EPA's methodology for benefit-cost analyses, especially for the monetization of impacts and the use of particulate matter ($PM_{2.5}$) co-benefits.