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POLITICS AND POLICY

Bush Team Clears Carbon Dioxide

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The Bush administration declared that carbon dioxide and other "greenhouse gases" aren't pollutants, rejecting calls by environmentalists to have the Environmental Protection Agency cap emissions of the gases thought to contribute to global warming.

The decision, which comes a day after the EPA issued rules making it easier to upgrade older power plants and factories without costly antipollution controls, represents a big win for industry and a significant setback for environmentalists, who vowed to sue the agency to try to overturn the decision. Under the Clinton administration, the EPA had said it had the legal authority to regulate carbon-dioxide emissions, although it never exercised it.

The Bush administration's decision throws the issue to Congress, where proposals to restrict greenhouse-gas emissions have languished. Conservative lawmakers and business lobbyists have long opposed restrictions on carbon dioxide and other greenhouse gases, citing the likely negative economic effects of new regulation. Automobiles and power plants are the nation's biggest sources of carbon dioxide, which is produced by the burning of fossil fuels.

In a formal response to a petition from environmentalists, the EPA said that any effort to curb greenhouse-gas emissions would exceed its authority unless Congress specifically expanded its powers in new legislation. Significantly reducing U.S. carbon-dioxide output, for instance, would likely require major retooling of factories to consume less fossil fuel.

Cars and trucks would also have to become much more fuel efficient -- a move that could be unpopular with many consumers, who have recently snapped up relatively low mileage sport-utility vehicles and pickup trucks while relegating fuel-efficient cars to niche status.

Some in Congress have proposed measures to curb America's greenhouse-gas emissions, but those moves haven't gone far. The Bush administration has opposed the idea of mandatory emissions cuts, and instead proposed that U.S. industry voluntarily slow the rate at which its greenhouse-gas emissions grow over time.

"There's all sorts of special-interest groups that would like the world to be different," said Jeff Holmstead, the EPA's assistant administrator for the office of air and radiation. "Unless they can muster a majority of Congress to vote in favor of what they want -- and have the president sign

QUESTION OF THE DAY



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Has the Bush administration done enough to address global warming?²

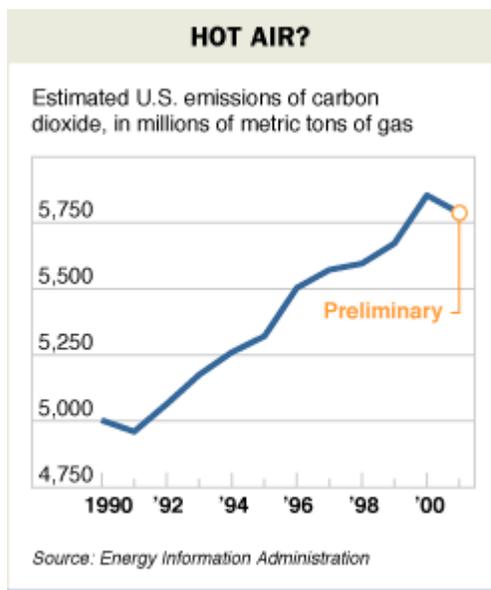
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that -- then they don't get their way."

Mr. Holmstead said the EPA's ruling won't restrict the ability of states to regulate greenhouse-gas emissions from power plants within their borders, as several states along the East Coast are considering doing.

But the ruling could complicate an effort by California to regulate greenhouse-gas emissions from new cars and trucks sold in the state -- regulations that some Northeastern states are expected to copy once they are finalized.



California, the nation's biggest auto market, passed a law last year seeking to curb automotive greenhouse-gas emissions by 2009, and the auto industry has said it plans to sue to block the measure once it is finalized.

California -- a state long known for its smog problems -- has special authority under the Clean Air Act to set tougher clean-air rules than the EPA sets for the rest of the country. What's unclear now is whether the state can regulate automotive greenhouse gases on its own, given the EPA's opinion that federal clean-air law doesn't cover those gases.

The EPA's Mr. Holmstead declined to speculate on that issue. Jerry Martin, a spokesman for the California Air Resources Board, the state's clean-air regulatory agency, said the EPA ruling makes it even clearer that California can regulate automotive greenhouse-gas emissions. EPA

officials "abdicated their authority, so we don't have to ask them for permission," he said.

Auto-industry officials argue the EPA decision is beside the point, saying that California's attempt to regulate greenhouse-gas emissions from automobiles amounts to a back-door effort to regulate fuel economy, a power that's reserved for Washington under the nation's separate fuel-economy law.

Traditionally, the Clean Air Act has restricted emissions largely of substances that cause local problems such as respiratory ailments or smog. After Clinton EPA officials announced that the law gave them authority to regulate carbon-dioxide emissions, an environmental group called the International Center for Technology Assessment petitioned the agency in 1999, arguing that scientific evidence left the EPA no choice but to exercise that authority.

A central point in the group's argument: The Clean Air Act requires EPA to regulate substances that endanger public health or "welfare," and it defines effects on welfare to include such things as effects on weather or climate.

Although the 1999 petition addressed only automotive greenhouse-gas emissions, Thursday's EPA decision has broader implications. Several Northeastern states, along with environmental groups, have recently filed lawsuits seeking to force the EPA to regulate greenhouse-gas emissions from power plants and other sources. The EPA rejects the arguments of those lawsuits as well, Mr. Holmstead said.

Environmentalists vowed to keep fighting. "We have scientists lined up in the wings to testify [that carbon dioxide] is a pollutant," says Kert Davies, research director for the U.S. arm of Greenpeace, the international environmental group. "If carbon dioxide is legally defined as a pollutant, it will change everything." But Glenn Kelly, spokesman for the Alliance for Climate Strategies, a Washington-based group that represents the mining, chemical, utility and other industries, applauded the Bush administration decision. Mr. Kelly pointed to recent efforts by both Republicans and Democrats in Congress to amend the Clean Air Act specifically to allow regulation of greenhouse-gas emissions as evidence that the law as written doesn't now permit such regulation.

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