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EPA Won't Act on Emissions This Year; Instead of New Rules, More Comment Sought

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The Bush administration has decided not to take any new steps to regulate greenhouse gas emissions before the president leaves office, despite pressure from the Supreme Court and broad accord among senior federal officials that new regulation is appropriate now.

The Environmental Protection Agency plans to announce today that it will seek months of further public comment on the threat posed by global warming to human health and welfare -- a matter that federal climate experts and international scientists have repeatedly said should be urgently addressed.

The Supreme Court, in a decision 15 months ago that startled the government, ordered the EPA to decide whether human health and welfare are being harmed by greenhouse gas pollution from cars, power plants and other sources, or to provide a good explanation for not doing so. But the administration has opted to postpone action instead, according to interviews and documents obtained by The Washington Post.

To defer compliance with the Supreme Court's demand, the White House has walked a tortured policy path, editing its officials' congressional testimony, refusing to read documents prepared by career employees and approved by top appointees, requesting changes in computer models to lower estimates of the benefits of curbing carbon

dioxide, and pushing narrowly drafted legislation on fuel-economy standards that officials said was meant to sap public interest in wider regulatory action.

The decision to solicit further comment overrides the EPA's written recommendation from December. Officials said a few senior White House officials were unwilling to allow the EPA to state officially that global warming harms human welfare. Doing so would legally trigger sweeping regulatory requirements under the 45-year-old Clean Air Act, one of the pillars of U.S. environmental protection, and would cost utilities, automakers and others billions of dollars while also bringing economic benefits, EPA's analyses found.

"They argued that this increase in regulation should be on the next president's record," not Bush's, said a participant in the lengthy interagency debate, referring principally to officials in the office of Vice President Cheney, on the White House Council on Environmental Quality, on the National Economic Council and in the Office of Management and Budget (OMB).

Several EPA officials, speaking on the condition of anonymity, said that throughout the process, White House officials instructed the agency to change their calculations with the aim of reducing the "social cost of carbon," a regulatory term that reflects the economic burdens stemming from greenhouse gas emissions.

Career EPA officials argued that the global benefits of reducing carbon are worth at least \$40 per ton, but Bush appointees changed the final document to say the figure is just an example, not an official estimate. They prohibited the agency from submitting a 21-page document titled "Technical Support Document on Benefits of Reducing GHG Emissions" as part of today's announcement.

"The administration didn't want to show a high-dollar value for reducing carbon," said one EPA official, adding that the administration cut dozens of pages from a draft

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that outlined cost-effective ways to reduce greenhouse gases.

Some officials said the administration has also minimized the benefits of tighter fuel-economy standards by assuming that oil will cost \$58 a barrel in the future, compared with its current price of \$141.65. While the EPA calculated in a May 30 draft that stricter standards would save U.S. society \$2 trillion by 2020, officials revised that figure last month -- using the \$58 estimate -- to predict that they would save only between \$340 billion and \$830 billion.

The proposal that the EPA will unveil today, known as an advance notice of proposed rulemaking, stands in stark contrast to the agency's original Dec. 5 finding -- backed up by a lengthy scientific analysis -- that global warming is unequivocal, that there is "compelling and robust" evidence that the emissions endanger public welfare and that the EPA administrator is "required by law" to act to protect Americans from future harm.

That finding appeared in a 37-page document prepared by an EPA task force of 60 to 70 people that was discussed at dozens of interagency meetings led by Susan Dudley, the head of the OMB's regulatory review office. She "understood that some regulation was inevitable," a participant in these meetings said, particularly since Bush promised, a month after the April 2007 Supreme Court ruling, to "take the first steps toward regulations" to curb emissions by the end of last year.

Rep. Edward J. Markey (D-Mass.), chairman of the House Select Committee on Energy Independence and Global Warming, said yesterday, "If this administration spent the same effort fighting global warming as they do editing and censoring global warming documents, the planet might not be in such dire straits."

Markey, whose staff was allowed to review the Dec. 5 EPA document but not to keep a copy, called the White House's reaction to its own experts' opinions "distressing and unjust."

White House spokesman Tony Fratto declined to discuss the administration's decision-making but disputed the assertion that "we are trying to drag our feet." He said regulating is "a long process" and it is wrong to assert that it "could be done quickly and easily" in the aftermath of the Supreme Court decision. "The EPA has worked diligently to try to get this done," he added.

EPA spokesman Jonathan Shradar said: "You don't just wake up one day and say, 'Here's the decision.' It's a long process with lots of thought, lots of analysis and lots of research that gets you to that decision point." When the EPA releases its notice today, he said, "We're going to be more transparent than we've been, laying it all out and saying, 'How should we do this?'"

The full story of how the finding of public endangerment and Bush's promised greenhouse regulations got sidetracked is still not known. Participants have not disclosed, for example, which White House official ordered an EPA deputy associate administrator to withdraw the finding last December after it was transmitted by e-mail to Dudley's office. An official said the person involved was "more senior than the head of OMB," but declined to be more precise.

The idea of instituting complex new controls on emissions by cars, ships, aircraft, power plants, factories and office buildings was never greeted warmly by any senior Bush appointees, but officials said that after the Supreme Court's slap they divided into roughly two groups: those who felt that regulating under the Clean Air Act was unavoidable, reasonable and best done under Bush; and those who wished to sidestep the law and press for its eventual modification after delay and public debate.

In the former camp, at least initially, was EPA Administrator Stephen L. Johnson, a career official who previously oversaw pesticide regulations, and much of the agency's senior ranks. After the court ruling, in Massachusetts et al. v. Environmental Protection Agency et al., "people were bouncing back and forth into each other's offices, saying, 'Can you believe this? Look at this decision; look at the language; this is so strong,'" recalled one agency official, who like the others asked not to be identified for fear of retribution. "People thought, 'We are going to move forward and do the right thing.'"

Within a week, Johnson met with roughly 20 officials in the EPA's fifth-floor conference room and said they would undertake a major effort to meet the court's demand. Despite what one participant described as resistance from Cheney's office and other opponents of regulation, Bush signed an executive order on May 14, 2007, directing the EPA to work with the Transportation, Energy and Agriculture departments to "take the first steps toward regulations" to reduce the nation's gas usage by 20 percent over the next decade.

The agency subsequently spent \$5.3 million on contractors and solicited 500 comments from government experts on the technical underpinning for a formal finding that man-made global warming caused dangers; the question was, to what? Officials said some advocated saying that it endangered both human welfare and health, instead of just welfare; while others -- reflecting broad utility and coal industry concerns -- argued that invoking health would lead more quickly to costly regulation of carbon dioxide emissions by power plants as well as cars.

In a late October briefing, Johnson's staff warned him against leaving out health risks, noting in a PowerPoint presentation that doing so "creates potential for confu-

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sion, criticism, suspicion -- e.g., is EPA downplaying public health risks and/or ignoring the science of climate change, in order to avoid doing more?"

But Johnson, seconded by top deputies such as then-Deputy Associate Administrator Jason Burnett, decided he could sidestep the health issue. "The idea was to cabin it off to 'welfare,'" a former EPA official said. "There was a general feeling that you wanted to limit the findings as much as you could."

Even within the EPA, the details of how much auto emissions should be limited provoked fierce arguments. Some officials began carrying around copies of Bush's executive order, waving it while arguing with senior political appointees.

But broader concerns over the regulatory "domino effect" that would be caused by any endangerment finding were expressed by members of the National Economic Council, the Council on Environmental Quality, and officials such as OMB general counsel Jeffrey A. Rosen and Cheney energy adviser F. Chase Hutto III, several meeting participants said.

One said that Rosen asked at one meeting if carbon dioxide emissions from a tailpipe could be treated differently than those from a power plant, wondering if the molecules are different. The answer was that they are not.

Hutto, a former Cato Institute intern and Bush campaign volunteer during the Florida vote recount in 2000, whose grandfather patented at least seven piston inventions for the Ford Motor Company, has "an anti-regulatory philosophy and concern about what regulation means for the American way of life. He would talk, for example, about not wanting greenhouse gas controls to do away with the large American automobile," said the meeting participant.

A spokeswoman for Cheney's office said Hutto had expressed opinions at the interagency meetings, but she declined to discuss what they were.

By late November, Johnson had held a meeting with his staff at which he advocated finding a danger to public welfare and praised the agency's technical supporting document as "excellent." But when Burnett sent the proposal to the White House, the OMB staff refused to open it, and it sat in limbo for months.

Instead, the Bush administration supported legislation to tighten fuel-economy standards, but by less than the EPA had been considering.

Then, on March 27, Johnson returned to the EPA's fifth-floor conference room to inform his staff that he would abandon the idea of drafting a formal rule and would instead call for the "advanced notice," which only

invited comment on possible regulation. This would avoid "any unintended consequences" that could stem from a broad rule curbing carbon dioxide, he said.

"I know some people are going to say we're kicking the can down the road," Johnson said as he faced a group of angry career officials. But he said that was not the case.

Staff researchers Julie Tate and Madonna Lebling contributed to this report.

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