

Public Comment

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**From: Alexandra Liddy Bourne,
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RE: Advanced Notice of Proposed Rulemaking for Greenhouse Gases Under the Clean Air Act, EPA-HQ-OAR-2008-0318-0117 [ANPR]

The Heartland Institute provides the following comments about the U.S. Environmental Protection Agency's proposed regulation of six greenhouse gases under the Clean Air Act, 42 U.S.C. §7401 *et seq.*, as detailed in the ANPR.

I. About The Heartland Institute

The Heartland Institute is a national nonprofit research and education organization dedicated to discovering, developing, and promoting free market solutions to current social and economic issues. Heartland has a cadre of nearly 200 free-market policy experts—managing editors, senior fellows, policy advisors, and contributing editors—able to provide testimony, articulate issue positions through the media, and help educate in other ways policymakers at all levels of government in the fifty states and Washington, DC.

Our publications are distributed to over 8,300 state and national elected officials and approximately 8,400 local government officials. Heartland also communicates these ideas to the media, civic and business leaders, educators, other groups, and the general public.

Donations from individuals and foundations comprise 84 percent of Heartland's budget. Of the remaining 16 percent, no single corporation provides more than 5 percent of our funding.

Heartland has a long history of conveying sound scientific information regarding climate change to the public. It has published and disseminated numerous books and studies, including Heartland's monthly newspaper *Environment and Climate News*; James M. Taylor, J.D., *What Climate Scientists Think about Global Warming* (Heartland Institute, 2007); S. Fred Singer and Dennis T. Avery, *Unstoppable Global Warming: Every 1,500 Years* (Rowman & Littlefield Publishers, Inc. 2007); Joseph L. Bast, James M. Taylor, and Jay Lehr, *State Greenhouse Gas Programs: An Economic and Scientific Analysis* (Heartland Institute, 2003); Joseph L. Bast, *New Source Review: An Evaluation of EPA's Reform Recommendations* (Heartland Institute, 2002). This year, Heartland published S. Fred Singer, ed., *Nature, Not Human Activity, Rules the Climate*, a summary report for policymakers from the Nongovernmental International Panel on Climate Change ("NIPCC Summary Report"), attached as Exhibit A.

Heartland also sponsored the 2008 International Conference on Climate Change on March 2-4, 2008, in New York City. This was the first major international conference focusing on the widespread dissent in the scientific community on the alleged "consensus" that modern warming is primarily man-made and is a crisis warranting drastic measures. More than 500 people attended, and 100 expert speakers delivered keynote addresses or participated in panel discussions. The 2009 International Conference on Climate Change will be held on March 8-10, 2009, in New York City.

Further information about Heartland's work on climate change is available at <http://www.globalwarmingheartland.org/>

II. Introduction

For the reasons discussed below, the ANPR and its supporting documentation violate the Information Quality Act, 44 USCS § 3516, *et seq.*; the Office of Management and Budget's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (February 22, 2002) ("OMB Guidelines"); and the Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency "EPA Guidelines", (updated as of 2005).

Much of the scientific evidence put forth by the staff of the EPA in the proposed ANPR and its supporting Endangerment Technical Support Document, (Technical Support Document for Endangerment Analysis for Greenhouse Gas Emissions under the Clean Air Act, Sixth Order Draft (June 4, 2008) ("EPA Endangerment TSD"), has taken the melodramatic form of climate alarmism without the balance of scientific and economic rationale that should have equal weight in determining any environmental policy undertaken by the Environmental Protection Administration or the U.S. government with such a dramatic impact on U.S. economic and energy security. There appears to be a significant omission of climate science data published after 2006 as well as a coherent review of the opposing views in the scientific literature. This is in violation of the Information Quality Act requirements as stipulated in the next section of this comment.

III. Information Quality Act Requirements

Section 515 of the Information Quality Act directs federal agencies to maximize “the quality, objectivity, utility, and integrity” of information they prepare and disseminate and it requires agencies to adopt and follow implementing guidelines.

The OMB guidelines note the Act applies to the “creation, collection, maintenance, and dissemination of information.” The basic standard of care is that information must be “accurate, clear, complete, and unbiased.” Stricter and even more rigorous quality standards apply when the information is “influential,” meaning it will “have a clear and substantial impact on important public policies ... ” 67 Fed. Reg. at 6460.

EPA has adopted the same provisions in its guidelines, adding that “influential” data must involve “the best available science and supporting studies conducted in accordance with sound and objective scientific practices.” EPA Guidelines at §§5.1, 6.1-6.2, 6.4.

IV. The ANPR Data Violates the Information Quality Act and Its Guidelines.

Much of the scientific evidence promulgated by EPA in the ANPR and its supporting documents has taken the climate alarmist view about the supposed effects of climate change. (EPA Endangerment TSD).

Furthermore, the ANPR lacks the balance of scientific and economic rationale that should have equal weight in determining any environmental policy undertaken by EPA or the U.S. government, particularly with such a dramatic impact on U.S economic and energy security.

There is almost nothing in the EPA Endangerment TSD in the way of science supporting – and none establishing – that the climate is warming. And the data included is inaccurate and biased. The scientific data in the ANPR and supporting documents thus violates the Information Quality Act. EPA must under this Act withdraw the ANPR.

A. EPA Cannot Rely on Incomplete Draft Documents to Propose Regulating Greenhouse Gas Emissions.

As noted above, the EPA Endangerment TSD is a draft, not a final document. And that draft is heavily based on the draft of another document, the National and Atmospheric Administration (NOAA) Synthesis Report. This Synthesis Report was published for comment on July 17, 2008, with only 8 of the 21 underlying and supporting Synthesis and Assessment Products finalized. NOAA withdrew its Synthesis Report after complaints about the lack of the SAPs and other deficits under the Information Quality Act. No further SAPs have ever been published. So what the ANPR includes in the way of scientific documents is a draft based on a draft.

EPA is proposing to regulate greenhouse gas emissions from virtually every facet of commercial, industrial, and residential activity in the United States. Obviously, this is an important public policy. Thus the data upon which this policy is based must meet the most stringent and rigorous quality criteria. The ANPR data fails this test.

B. Scientific Basis for the EPA ANPR Must Reflect Competing Assessments

There are two primary scientific reports that should be considered by EPA. They have opposing views of the scientific data and research undertaken to date. The first, a series of reports by the International Panel on Climate Change of the United Nations (IPCC) suggest that there is an anthropogenic cause for global warming. The second report is the *Nature, Not Human Activity, Rules the Climate: Summary for Policy Makers of the Nongovernmental International Panel on Climate Change* (NIPCC), which indicates that the primary causes of global warming are more fundamentally natural and that any greenhouse gas reducing policies currently discussed would produce “feeble results” in reducing global temperatures.¹

The technical support documents reflect some of the findings of the International Panel on Climate Change, but does not include the findings of the Non-Governmental International Panel on Climate Change (NIPCC), a more recent and unbiased assessment of the available science

I have attached an executive summary of that report to this comment for your review. (See Attachment A.) There is no scientific consensus about the cause of global warming. In fact, this scientific field is in its infancy and substantive new data and science undermine both the U.N. IPCC 2007 (science cutoff: May 2006) and the U.S. CCSP report (SAP 1.1 released in April 2006). It must be considered as part of the ANPR.

C. The Technical Support Document to the ANPR is Incomplete

EPA must consider additional scientific studies if the goal of the ANPR is climate temperature control of atmospheric activity under the Clean Air Act. For example, there are no studies of the dynamic effects of ice flows in relation to global temperatures. We only have core temperature readings that establish possible temperatures in certain periods of time. *There are no studies of the relationship between shifting ice sheets and atmospheric temperatures. The IPCC report ignores the significance of solar activity upon global temperatures and there is no discussion of the dynamic role that water vapor plays in the atmosphere or its influence on global temperature.* These factors must be taken into consideration when determining if any increase in global temperatures is anthropogenic and certainly when designing a policy such as the ANPR to establish climate control.

¹ Singer, S. Fred, et al. *Nature, Not Human Activity Rules the Climate. Summary for Policymakers Nongovernmental International Panel on Climate Change.* Science and Environmental Policy Project. Chicago, IL. The Heartland Institute, March 2008. Page 27.

D. If Global Warming Is Not Anthropogenic, Regulation of Greenhouse Gases by EPA Is Pointless.

The omission of data cited (in the previous paragraph) in the ANPR record establishing that global warming is anthropogenic is fatal to the ANPR under the Information Quality Act.

This omission is glaring because regulation of manmade greenhouse gas emissions is irrelevant if climate change is not caused by such emissions in the first place. If such data were not included, any regulation by EPA would be legally impermissible.

E. EPA Cannot Rely on Inaccurate and Outdated Computer Modeling to Propose Regulating Greenhouse Gas Emissions.

The ANPR data is further deficient because it relies on the Intergovernmental Panel on Climate Change documents. These documents are compromised because they link man-made greenhouse gas emissions to climate change based on now-discredited computer modeling.

Even the IPCC admits this:

In climate research and modeling, we should recognise [sic] that we are dealing with a coupled non-linear chaotic system, and therefore that the long-term prediction of future climate states is not possible.²

The computer based models used as evidence of global warming or “climate sensitivity” in the Technical Support Document have very serious calibration problems within their methodology, giving rise to concern about the validity of these models. For example, published models have different values of climate sensitivity (CS) and can range between 1.5 and 4.5 degrees Celsius. Depending upon the parameter values used in running the models, climate sensitivity can swing between 1.5 and 11.5 degrees Celsius.³ These parameter values can include greenhouse gas forcing, ozone forcing, aerosol forcing, and natural forcing. *None of these have accurately reproduced the past or current temperature trends as recorded and documented in observations.*

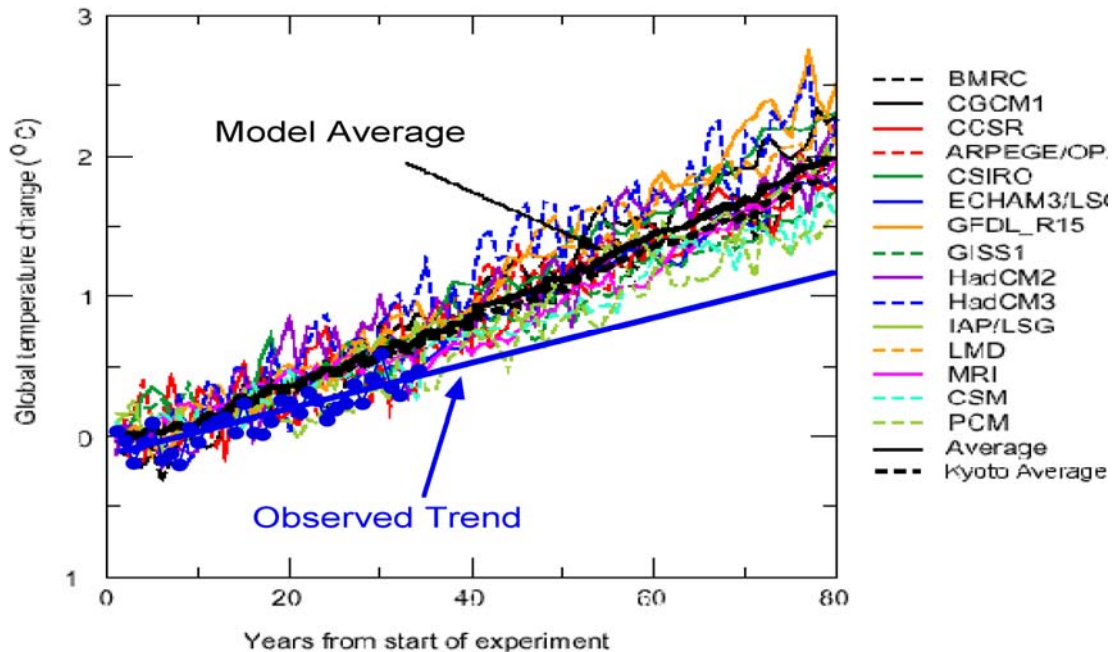
The MAGICC model used in the staff draft EPA ANPR Technical Support Document is not valid or reliable because it uses the same climate sensitivities that were used in the IPCC and has not been verified by observed temperature data.

The graph below depicts the climate models and the actual observed temperatures. Although both trend upward, the observed temperatures are significantly lower than the temperatures predicted by the climate models. (See chart 1.)

² Intergovernmental Panel on Climate Change -TAR 2001. Page 774.

³ Stainforth, D.A et al., Uncertainty in Predictions of the Climate Response to Rising Levels of Greenhouse Gases. Nature 433 2005. pp. 403-406

Chart 1.⁴



F. The Climate Temperatures are Cooling, Not Warming

The NIPCC Report states:

[I]t is often stated that the climate has warmed in the twentieth century – but without mentioning that the warming up to 1940, compared to the cool LIA [Little Ice Age], was almost certainly of natural origin and that there was cooling from 1940 to 1975 (Figure 4a) when atmospheric CO₂ levels were rapidly increasing. Even the late twentieth-century warming trend may not be real. The global trend, derived since 1979 from satellite data, depends very much on the choice of ending date. Figure 13 shows the complete satellite data record. One can legitimately conclude there was no warming trend prior to 1997, then a small but sudden jump in 1998, followed by another interval of almost no warming since 2001.⁵

The ANPR data is flawed because it only examines recent temperature data. A much longer time frame must be examined for reliable conclusions to be drawn about warming trends and their causes.

⁴ Michaels, Patrick., Global Warming, Some Convenient Facts. Presentation to Heartland Institute Energy Summit, Newport, Rhode Island. August 2007.

⁵ S. Fred Singer, ed., Nature, Not Human Activity, Rules the Climate: Summary for Policymakers of the Report of the Nongovernmental International Panel on Climate Change, Chicago, IL: The Heartland Institute, 2008. p. 10

Steven Goddard wrote about the current scientific debate over global temperatures.⁶ He argues that there is a large discrepancy between two authorities, which have provided credible temperature data for years. *First, the United Kingdom Meteorological Office Hadley Center for Climate Studies demonstrates global temperatures declining since 1998. Hadley indicates that the earth is not much warmer now than it was in 1878 or 1941. The U.S. National Atmosphere and Space Agency (NASA) has data that shows warming at a record pace and a full degree warmer than 1880. (See attachment B.)*

More importantly, Goddard points out that there is significant discrepancy in current temperature trends between the data obtained by the UAH (University of Alabama at Huntsville) and RSS (Remote Sensing Systems) satellites and the climate modeling used at NASA. In citing the work of Canadian statistician Steve McIntyre, Goddard makes the case that NASA is revising temperature data.

The fact that these reports come to opposing conclusions is not surprising, climate science, in particular, and environmental science, in general, in comparison to other physical and chemical sciences, is in its infancy. The knowledge base is just beginning and policymakers should be very cautious about drawing conclusions and taking drastic political actions this early in the development of this relatively new scientific body of research. EPA must not use flawed IPCC or CCSP models for any Endangerment finding under the Clean Air Act.

More importantly, environmental scientists, who can provide great contributions to our working knowledge of ecology should steer clear of any appearance of political impropriety or agenda setting, they risk losing all credibility amongst their peers and in the world of public opinion. Any climate change policy must allow for continued research and have the flexibility to change or end should the science determine that the policy established by the governing agency is ineffective.

The EPA staff draft ANPR is a regulation looking for a scientific basis.

It provides broad sweeping powers across political and legal jurisdictions without a full hearing of the scientific, economic, and legal consequences of its implementation. The EPA should not proceed with this regulation without the full consent of Congress and a scientifically measurable guideline for success or failure of its outcomes. EPA must not use flawed IPCC or CCSP models for any Endangerment finding.

Attachment A: http://www.heartland.org/custom/semod_policybot/pdf/22835.pdf

⁶ Goddard, S., A Tale of Two Thermometers. The Register, May 2, 2008.
http://www.theregister.co.uk/2008/05/02/a_tale_of_two_thermometers/.



Attachment B:

By Steven Goddard

The Register, May 2, 2008

http://www.theregister.co.uk/2008/05/02/a_tale_of_two_thermometers/

A tale of two thermometers

<http://www.heartland.org/article.html?articleId=24208>