

The U.S. Chamber of Commerce's Opinion on Climate Change

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Walden Asset Management, August 2010**

The following is a compilation of statements, articles, presentations, etc. from the United States Chamber of Commerce and its key staff summarizing the position that the Chamber takes on Climate Change. Over the years the Chamber's rhetoric has changed (some believe in response to criticism by members and the media) but their general stance has not. The Chamber has created a series of criteria or "principles " by which they evaluate climate change legislation. While on the surface these criteria may sound reasonable, further examination illustrates that they provide a list of virtually insurmountable barriers with the result that all legislation inevitably falls short. Thereby, the Chamber can continuously oppose climate change legislation by simply citing these points.

The final sections of this paper include some links to non-Chamber sources that summarize the Chamber's position and a compilation of key statements from the recent Petition filed by the US Chamber requesting the EPA to reconsider its Endangerment findings. We hope you find this resource helpful.

From Tom Donohue: President and CEO of US Chamber of Commerce

From the Testimony of Thomas J. Donohue before the Committee on Environment and Public Works of the United States Senate

From: June 28, 2007

http://library.uschamber.com/sites/default/files/testimony/070628_global_warming.pdf

“What Congress must continue to recognize, as it crafts this legislation, is that electricity is the “juice” that runs our country. And this country will depend on the sustainability of the “juicers”—coal, natural gas, petroleum, nuclear, and hydropower, to name a few—for the foreseeable future. We simply cannot flip a switch and power our country exclusively on renewable energy sources. (Even if we could—and we cannot—we need energy corridors to move that electricity from rural areas to urban regions, and Congress is taking steps to shut down these corridors as well.) By promoting renewables at the expense of other energy sources, Congress is picking winners and losers—and the losers will be the power plants that generate the electricity to run this great nation.” (2-3)

“The Chamber and its members have already had the internal debate on climate change, and our five core principles are largely the result of that discussion. The Chamber has not

endorsed one specific solution or one specific piece of legislation, but over the years has supported legislation that funds research, development and deployment of technology, and that promotes energy efficiency.” (3)

“Let’s not turn our backs on the energy companies that made America great. Instead, let us work with those companies to develop the technology to make their energy—indeed, all energy—clean, efficient, and affordable. Only then will we be able to solve the global climate challenge.” (3)

“The forecasted increases in electricity prices found by the MIT panel are simply staggering: from 2015 to 2050, Senator Bingaman’s bill will increase prices by 31 to 59 percent with nuclear in the mix, 34-66 percent without; the McCain-Lieberman targets will increase prices by 51 to 59 percent with nuclear, 51 to 75 percent without; and the Sanders-Boxer bill will raise prices by 56 to 59 percent with nuclear, and 60 to 78 percent without.⁶ Faced with such rising energy costs, it would be no surprise to see many heavily energy-dependent industries migrate overseas and take American jobs along with them. The chemical industry has already done so.⁷” (4)

“Domestic emissions constraints, without corresponding long-term cutbacks in greenhouse gas emissions from nations such as China and India, will not only fail to make the required impact on levels of greenhouse gases in the atmosphere, but could also irreparably harm our country’s ability to compete in the global market.” (4)

“Unless developing nations are engaged, domestic emissions controls would penalize domestic businesses that attempt to compete in the world market while non-participating developing nations continue to get a free ride.” (5)

“If the true policy goal is to encourage energy production, there is no legitimate reason why innovative energy technology producers are left standing at the door as they get ready for the marketplace. Congress must be pragmatic about its energy strategy, and any legislation should be technology-neutral so that Congress avoids picking technology winners and losers.” (7)

“Power plants, the industrial lifeblood of our country, must not be unnecessarily constrained by climate change legislation without first being afforded the technology necessary to meet those controls. Just like the American public itself, diversity of domestic energy production is vital to continued economic prosperity. If you ignore this truth, you will be turning out the lights on our country’s economic future—literally.” (8)

Other Articles, Presentations, and Statements from Tom Donahue

http://www.politico.com/arena/bio/thomas_j_donohue.html	Donahue’s contributions to an online political forum discussing the American Clean Energy and Security Act. Donahue plainly states that he is against this act.
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	Key Statement: “For all of the rhetoric, climate change is not a bomb in a suitcase which needs to be addressed quickly, by any means possible, damn the consequences. It is a long-term problem which deserves a serious, sustainable solution which doesn’t cripple our economy – we need to take the time to do this right.”
http://library.uschamber.com/press/releases/2009/september/us-chambers-donohue-comments-climate-change	Statement from Donahue enumerating the US Chamber of Commerce’s position on climate change.
http://www.uschamber.com/press/speeches/2008/managing-changing-climate-challenges-opportunities-buckeye-state-remarks	Speech delivered by Donahue in Ohio concerning energy and climate change

From William L. Kovacs: senior vice president for the Environment, Technology & Regulatory Affairs Division at the U.S. Chamber of Commerce

Chamber of Commerce’s William L. Kovacs on Obama’s cap and trade plan:

The Obama plan "is now a very expensive tax used to transfer wealth. It has nothing to do with climate change," charges William L. Kovacs, a Chamber vice-president.

http://www.businessweek.com/magazine/content/09_11/b4123022554346.htm

Other Articles and Presentations from William L. Kovacs

http://www.forging.org/fierf/pdf/Bill_Kovacs.pdf	March 24, 2010	Presentation by William L. Kovacs, Titled Energy and Climate Change, A Washington Perspective. Presentation Date: March 24, 2010 (9 days after US Chamber filed a petition with the EPA)
http://library.uschamber.com/press/opeds/2002/chicken-little-lives	June 17, 2002	Statement from William Kovacs dismissing climate change and accusing environmentalists of over-reacting

http://www.heartland.org/policybot/results/18137/Climate Change Solutions Require Technological Revolution.html	December 1, 2005	Kovacs still refuses to support climate change but calls for a dialogue focused on change, while he still refuses to believe in Climate Change he admits that change is a worthwhile pursuit because it could stimulate business
http://www.politico.com/arena/bio/william_1_kovacs.html		Kovacs' contributions to an online political forum discussing the Waxman-Markey Bill

From the US Chamber of Commerce's Website

http://www.uschamber.com/issues/environment	Summary of Chamber's position on Environmental Issues
http://www.uschamber.com/issues/environment/climate-change	Summary of the Chamber's position on climate change including its 5 core principles for climate change legislation
http://www.chamberpost.com/2009/11/climate-change---a-different-approach.html	Op-ed calling for a different approach in the way that congress approaches climate change
http://www.uschamber.com/issues/environment/five-positions-energy-and-environment	Chamber's five positions on energy and the environment
http://www.uschamber.com/issues/priorities/energy-and-environment	Chamber's Energy and Environmental Policy Priorities for 2010

US Chamber's Climate Change Related Ad-Campaigns

http://library.uschamber.com/ads/wake-climate-change-legislation
http://library.uschamber.com/sites/default/files/ads/0708energy_whopays.pdf
http://library.uschamber.com/sites/default/files/ads/0708energy_wallet.pdf
http://library.uschamber.com/sites/default/files/ads/0708energy_home.pdf
http://library.uschamber.com/sites/default/files/ads/0708energy_dogs.pdf
http://library.uschamber.com/sites/default/files/ads/0607energyad2.pdf
http://library.uschamber.com/sites/default/files/ads/Energy%20solutions.p

Other Useful Links Commenting on the Chamber's Position on Climate

<http://www.nytimes.com/2009/11/19/business/energy-environment/19CHAMBER.html?pagewanted=1& r=1>

<http://www.investmentnews.com/article/20100103/REG/301039988>

<http://www.businessgreen.com/business-green/news/2267665/chamber-commerce-fumes-splinter>

<http://www.fixtheuschamber.org/issues/us-chamber-and-bp-0>

<http://www.fixtheuschamber.org/issues/climate-change>

<http://www.fixtheuschamber.org/tracking-the-chamber/protecting-big-oil-week-playbook-us-chamber-commerce>

<http://www.fixtheuschamber.org/what-chamber/us-chamber-vs-facts>

<http://www.fixtheuschamber.org/quotes/environmental-experts>

<http://www.fixtheuschamber.org/news/politico-us-chamber-sparks-federal-land-war>

<http://www.nytimes.com/gwire/2009/05/15/15greenwire-us-chamber-of-commerce-sharpens-critique-of-ho-19116.html?scp=1&sq=chamber%20of%20commerce%20on%20climate%20change&st=cse>

<http://green.blogs.nytimes.com/2009/09/29/chamber-clarifies-stance-on-climate-policy/?scp=4&sq=chamber%20of%20commerce%20on%20climate%20change&st=cse>

<http://www.nytimes.com/cwire/2009/08/25/25climatewire-chamber-threatens-lawsuit-if-epa-rejects-cli-62828.html?scp=5&sq=chamber%20of%20commerce%20on%20climate%20change&st=cse>

<http://green.blogs.nytimes.com/2009/10/08/defiant-chamber-chief-says-bring-em-on/?scp=10&sq=chamber%20of%20commerce%20on%20climate%20change&st=cse>

<http://green.blogs.nytimes.com/2009/10/07/chamber-representative-says-clean-energy-mandates-distort-the-market/?scp=16&sq=chamber%20of%20commerce%20on%20climate%20change&st=cse>

http://www.alaskajournal.com/stories/073010/loc_chd.shtml

<http://capefearbusiness.com/?p=5308>

From the Chamber of Commerce's Petition to the EPA: Petition for Reconsideration and for Stay Pending Reconsideration

Filed March 15, 2010

http://www.epa.gov/climatechange/endangerment/downloads/Petition_for_Reconsideration_US_Chamber_of_Commerce.pdf

“But this preexisting statutory authority was neither designed, nor intended, nor “tailored” to regulate “pollutants” such as greenhouse gases that, because of rapid dispersion, are found in essentially equal concentrations throughout the globe and, to the extent they cause harms, cause them on a global scale. This ill-fit between pollution problem and Clean Air Act solution prompted EPA, in its proposed Tailoring Rule, to invoke the canon of construction directing that statutes be read to avoid absurd results. EPA should be commended for candidly focusing on the potential absurdity of applying all or part of the Act to GHG emissions. This petition identifies a ready escape hatch from the underlying problem, which EPA can and should employ to make a graceful exit from the looming prospect of triggering an absurd regulatory regime.” (3)

“the absurdity of seeking to regulate greenhouse gas emissions from stationary sources under the existing Clean Air Act was formally recognized and emphasized by EPA in the preamble to its Tailoring Rule proposal” (3)

“The controls on greenhouse gas emissions now under consideration by the EPA would, if promulgated, constitute the most expensive regulatory program ever adopted in the United States. Against that backdrop, the recent authoritative acknowledgements from EPA and NHTSA — combined with the reality that new controls on greenhouse gas emissions threaten a still-recovering economy — provide ample grounds for EPA to reconsider its Endangerment Finding and stay that Finding pending completion of its reconsideration process.” (5)

“In other words, the agency should consider all relevant statutory interpretive considerations, including relevant legislative history and any absurdities that result from applying the Act as written to small stationary sources.” (12)

“The Tailoring Rule Preamble Correctly Concludes That A Chevron Step One Analysis Establishes That Regulating Greenhouse Gas Emissions From Statutory Sources Would Produce Absurd Results.” (12)

“administrative agencies (and reviewing courts) must first assess the plain meaning of statutes using traditional tools of construction, including the canon that presumes Congress would not intend for its enactments to be carried to absurd extremes.” (12)

“The Tailoring Rule preamble thus explains that applying PSD and Title V to controls on GHG emissions would produce an absurd situation in which Clean Air Act permitting processes seize up and break down.” (14)

“Self-evidently, a regulatory regime focused on ambient concentrations on the basis of geographically defined increments cannot be applied without absurdity to pollutants having essentially the same global concentration no matter where within our nation’s states or counties a given measurement might be taken.” (16)

“Applying the Act’s PSD requirements to GHG emissions would absurdly jeopardize economic growth.” (17)

“But over-burdening state permitting processes to the point where permitting the machinery seizes up and breaks down will necessarily force proposed new and modified sources to wait months or years for the permits they need before they can proceed with growth-enhancing construction.” (17)

“*See* Tailoring Rule 74 Fed. Reg. at 55,304 (contending that application of the PSD program to GHG emissions would make it “impossible” for permitting authorities to review and dispose of permit applications within 12 months).” (17)

“The resulting impact on economic growth will be especially severe in the short run — that is, in the midst of the most severe economic downturn in recent history— when the new GHG program is in its infancy and administrative bottleneck will be tight.” (17-18)

“EPA is on solid ground in recognizing the “absurdity” of applying the PSD program to GHG emissions. But the Agency is mistaken in pursuing the remedy proposed in the Tailoring Rule preamble; namely, EPA’s erasure of the statutorily prescribed emissions thresholds and the replacement of them with EPA prescribed thresholds.” (18)

“In this instance, having recognized the potential for an absurd application of the Clean Air Act, EPA should have considered resolving the absurdity by giving a permanent, categorical, restrictive interpretation to one or more statutory terms. For example, EPA might have adopted a categorical, narrowing construction of “emissions” or “major emitting facility,” by construing those terms to exclude all GHG emissions or emitting facilities.” (18-19)

“EPA also should have considered a resolution that determines that the Act simply cannot apply at all to GHG emissions without triggering one or more absurdities in its application. But what EPA should not have done is what it did here — overlook this important aspect of the issue and finalize an Endangerment Finding with no mention of the problem.” (19)

“The Chamber advised strongly against regulation under the Clean Air Act’s Title II on grounds that such regulation would “provide an unparalleled set of new tools to NIMBY

(Not In My Back Yard) activists bent on stopping construction and development.” (19-20)

“EPA has actually described the Tailoring Rule as a *deregulatory* measure — one that seeks to scale back absurd and unavoidable regulatory implications that flow as unintended consequences from EPA’s independent decision to regulate GHG emissions from automobiles.” (21)

“If EPA affirmatively wishes to pursue an Endangerment Finding to lay the necessary groundwork to regulate GHG emissions from stationary sources, or other emissions sources, then the Agency must clearly say so and explain how such regulation can occur without absurdity. What the Agency may *not* do is maintain its current stance — where it assures the public that it has *no choice* but to risk the imposition of absurd stationary source regulations, based on a presumed need for motor vehicle regulations that could be accomplished through NHTSA regulations alone.” (21-22)

“Here, the grounds counseling reconsideration fall squarely within EPA’s statutory authority and either call into question the core rationale EPA has offered for the Endangerment Finding (in the case of the new NHTSA letter), or establish that EPA has failed to consider an important aspect of the problem before the Agency (in the case of EPA’s Tailoring Rule absurdity conclusion).” (22)

“To be sure, some type of an Endangerment Finding might potentially remain a prerequisite to EPA regulation, if any were needed, of GHG emissions from certain types of emission sources. But up to this point EPA has not viewed the Endangerment Finding as an end in itself, EPA has instead justified it as a means to the end of new motor vehicle regulation.” (22)

“EPA’s and NHTSA’s own conclusions establish that, while the Endangerment Finding might well be unnecessary to achieving any significant public health or welfare advantages, it also might lead directly to absurd consequences. With the Endangerment Finding poised to set in motion a cascade of costly regulatory impositions on thousands of businesses across the nation — and on the people they employ — EPA simply cannot ignore these legal questions. EPA should use this petition, as it must, as a vehicle to confront these issues and resolve them by reconsidering its Endangerment Finding” (23)

“Why does the final Endangerment Finding not acknowledge that it may well produce absurd results? Why does the Endangerment Finding not conclude that this looming absurdity constitutes evidence that Congress did not intend for the Clean Air Act to be used to regulate GHG emissions? Moreover, if NHTSA’s legal conclusion is correct, why does EPA’s participation in a joint automobile rulemaking remain necessary? What precisely are the incremental public health or welfare benefits that will flow from that participation? Are those benefits worth the price of the absurdities that the finding will or may entail by triggering regulation elsewhere under the Clean Air Act? In order to answer these questions, and meet the demands of fairness and justice, a stay of the Endangerment Finding is in order.” (25-26)

“On the merits, and as discussed above, EPA has simply failed to square its Endangerment Finding with its Tailoring Rule preamble and NHTSA’s legal authority letter. EPA’s Endangerment Finding remains at present entirely divorced from (1) EPA’s conclusion in the proposed Tailoring Rule that application of the PSD program could lead to absurd results; (2) EPA’s conclusion that those absurd results are necessarily triggered by its decision to issue a Section 202(a) Endangerment Finding; and (3) the NHTSA letter’s conclusion that an Endangerment Finding is not necessary for regulating GHG emissions from automobiles.” (27)

“This vast number of newly-regulated entities will have to wait six to twelve months, and will spend, on average, \$125,120 and 866 hours on paperwork for PSD permits so that new construction or modifications to their buildings can begin.” (28-29)

“Even if only 40,000 of the 1.2 million affected building owners choose to make modifications or seek permits for new construction, PSD compliance alone would cost over \$5 billion and would require diverting untold employee hours toward drafting, submitting, and otherwise obtaining permits. Moreover, the state and local agencies responsible for processing those 40,000 permits would be on the receiving end of this paperwork avalanche and be forced to spend an estimated \$931.2 million additional dollars. This near-\$1 billion in administrative costs would, by itself, overwhelm the federal government’s current appropriations to aid States in implementing the Clean Air Act.” (29)

“In response to these and similar projections, EPA has often contended that its Tailoring Rule will help ameliorate the dire economic consequences its actions would otherwise entail. But even assuming the Tailoring Rule provides some relief, this contention rests on assumptions that EPA has not adequately substantiated or explained, including that the Tailoring Rule can and will withstand judicial scrutiny in its current form; and that the Tailoring Rule is broad enough to protect businesses from misguided litigation brought by activist groups during the unavoidable, years-long interim periods in which the legal regime is being tested and sorted out. The Endangerment Finding will have multiple consequences — only some of which, at best, will be mitigated by the Tailoring Rule. Given the fundamental fact that, very few (if any) of the costs incurred by businesses because of assertions of unmeritorious environmental law claims are recoverable, the likelihood of irreparable harm is clear.” (30)