

HJR

49

SENATE COMMITTEE REPORT

DATE: 3/31/10

FURTHER: Rules

DATE TURNED
IN TO OFFICE: 4/15/10

Resources Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 49(RES)

HJR 49 OPPOSING EPA CLEAN AIR ACT REGULATIONS

Urging the United States Congress to enact S.J. Res. 26, a resolution disapproving the Environmental Protection Agency's imposition of climate regulations that would harm Alaska's economy and the livelihoods of the state's citizens.

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

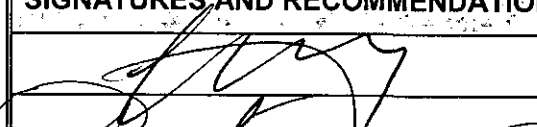



NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
H.RES	3-10-2010			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Huggins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input checked="" type="checkbox"/>	
CO-CHAIR: 	McBune	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR: 	Wielechowski	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



FOR IMMEDIATE RELEASE

No. 10-041

State Challenges EPA Move to Regulate Greenhouse Gases

March 17, 2010, Juneau, Alaska – The State of Alaska filed a motion in court to intervene in a lawsuit over a recent U.S. Environmental Protection Agency decision that triggers expanded federal regulation of greenhouse gas emissions. In challenging the EPA's decision in the U.S. Court of Appeals for the D.C. Circuit, the Parnell administration seeks to join several states and trade groups, and the U.S. Chamber of Commerce.

"Alaska is challenging a decision that, by EPA's own admission, will vastly expand the EPA's regulation of all sectors of the state's economy," said Governor Sean Parnell. "We remain concerned the EPA is extending its authority too aggressively and in a manner that harms the state's interests. We will continue to fight this type of federal overreach."

At issue is the process EPA used in finding that six greenhouse gases contribute to global climate change, endangering human health and welfare and the substantial regulatory implications of that finding. This finding was prompted by the U.S. Supreme Court decision of *Massachusetts v. EPA*, where the court rejected the agency's reasons for denying a petition to regulate greenhouse gases emissions from motor vehicles.

"Since 2003, Alaska has been a party to the litigation over the EPA's authority to regulate greenhouse gas emissions under the Clean Air Act," Attorney General Dan Sullivan said. "Our filing continues Alaska's involvement in this important case. With its endangerment finding, EPA has clearly signaled that its next step is to regulate emissions from 'stationary sources' -- a regulatory burden that would severely hamper economic growth and resource development throughout the state."

The state is not challenging the science on climate change underlying EPA's decision, according to Sullivan. Rather, the state is challenging EPA's position that Congress intended the agency and states to regulate greenhouse gas emissions through the permitting requirements of the Clean Air Act, as well as the process by which the EPA came to this decision.

Regulations triggered by EPA's decision would increase the number of emissions permits that the federal Clean Air Act forces EPA and the state to administer from several thousand to more than a million.

"The Clean Air Act was not designed with regulating greenhouse gases in mind and is not well-suited for that purpose," said Commissioner of Environmental Conservation

Larry Hartig, who chairs the Governor's Executive Sub-Cabinet on Climate Change. "Climate change presents a complex challenge involving critical social and economic issues in addition to important long-term environmental concerns. A Congressional solution with strong input from states and communities is the best way to address the climate change challenge."

A copy of the motion to leave to Intervene is available at:

http://gov.alaska.gov/parnell_media/documents/gov_MotionforLeavetoIntervene.pdf

More information on the EPA's finding and the state's motion to leave to intervene is available at:

http://gov.alaska.gov/parnell_media/documents/gov_StateChallengesEPA.pdf

###

State Challenges EPA Move to Regulate Greenhouse Gases

Background Information

In December 2009, the Environmental Protection Agency (EPA) issued an "endangerment finding" that greenhouse gases cause climate change and put at risk the public health and welfare. This finding would dramatically increase the EPA's regulatory authority over the nation's economy.

Many interested parties have appeals filed or pending in the Circuit Court of Appeals for the D.C. Circuit. Parties challenging the EPA's decision include Texas, Nebraska, Oklahoma, Louisiana, Alabama, Virginia, South Dakota, North Dakota, Indiana, Kentucky, South Carolina, the Chamber of Commerce, Industrial Minerals Association, National Cattlemen's Beef Association and oil refiners. Many of the states challenging the decision generate much of the nation's energy.

Parties defending the EPA decision include environmental groups and a coalition of 16 states and New York City. The states and New York City argue that they have the right to intervene because they have a direct and substantial interest in the outcome of the court's action. The states seeking to intervene in support of EPA are: Arizona, California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington.

The EPA's finding stems from litigation that began in 2003. At that time, the State of Alaska intervened as a party in the case, filing briefs with the D.C. Circuit and the United States Supreme Court arguing that the EPA should not regulate greenhouse gases under the Clean Air Act.

In the motion to intervene, the state is asking the court to allow Alaska to continue its involvement in this significant litigation.

Groups challenging the EPA's finding have articulated various reasons for their appeal. For example, many of the parties, including some states, dispute the science underlying the EPA's decision.

Other parties, however, are challenging the EPA's position that Congress in the Clean Air Act intended to authorize EPA to regulate and issue permits for emitters of greenhouse gases, as well as the process by which EPA came to its decision. The State of Alaska's brief will focus on these issues.

The State of Alaska is intervening for three primary reasons.

First, the state is very concerned that the EPA, across a number of areas, is extending its authority too aggressively and in a manner that harms the state's interests. The state believes that the EPA's endangerment finding exceeds the agency's statutory mandate. The Parnell administration's policy is to preserve state autonomy against overreaching federal regulation. Intervening in this case is consistent with this policy.

Second, the consequences of the EPA's finding will have a profound and far-reaching effect on the country and on Alaska. It is clearly in the state's interest to have a seat at the table as this issue moves forward in the courts, especially because Alaska is on the front lines of climate change. If the state is not a party to the litigation, it cannot influence the outcome of the litigation, nor can it participate in any potential settlement discussions.

Third, the EPA's endangerment finding, as the EPA has acknowledged, will result in extensive regulation of greenhouse gases from "stationary sources" such as office buildings, restaurants and churches. This decision could have severe repercussions for Alaska's economy. It could have an adverse impact on the gas pipeline, TAPS, new oil and gas developments, and current oil and gas operations. The state will also be burdened by the tremendous increase in permit applications that it now will have to process.

More specifically, if this decision stands, it will require the EPA and the states to dramatically increase their regulation of the U.S. economy. For example, because of the endangerment finding the EPA estimates that states and the EPA will now have to process over a *million* permits for stationary sources.

This means that in Alaska the EPA will have the authority to regulate and permit everything from fish processors to hospitals to churches. Those permitting requirements would include, among other things, a determination of and the installation of the "best available control technology" for greenhouse gas emissions from the source seeking the permit. Additionally, many stationary sources of greenhouse gas emissions would be required to apply to the EPA for operating permits. State agencies will also be required to be involved in such permitting.

Perhaps more troubling is that under the Clean Air Act private parties have the ability to file lawsuits whenever they believe the EPA has not adequately permitted stationary sources of greenhouse gases. This could almost certainly result in a flood of lawsuits in Alaska, against the very businesses that produce jobs for Alaskans. Indeed, some environmental groups have already used the EPA's endangerment finding as a basis for challenging Shell's air permits, which it recently acquired to explore the Outer Continental Shelf. These lawsuits will chill economic activity because they significantly increase the cost and uncertainty of developing Alaska's natural resources.

At a time when the state is at a critical juncture in working with industry to further develop oil and gas reserves, it is clearly not in the state's interest to sit idly by while the EPA unreasonably expands its authority and empowers environmental groups to stall or shut down development activities.

While some parties are challenging the science underlying the EPA's endangerment finding, Alaska will focus on whether Congress intended for the EPA to have the broad authority to regulate millions of businesses and require them to acquire permits. The state believes the Supreme Court has never squarely addressed this issue.

This is not to say that climate change is not a cause for concern. The Governor's Sub-cabinet on Climate Change is focused on this issue. To address the challenges caused by climate change, the state is also working closely with the federal government. Nonetheless, the state believes that the EPA is ill-equipped to effectively address the problem and that by intervening to regulate GHG emissions, the agency has over-reached.

NFIB

The Voice of Small Business

ALASKA

February 24, 2010

Representative Bill Stoltze
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Joint Resolution 49

Representative Stoltze:

On behalf of the National Federation of Independent Business/Alaska (NFIB/AK), the state's leading small business advocacy organization, I am writing in support of House Joint Resolution 49 supporting U.S. Senator Murkowski's S.J. Res 26 disapproving the Environmental Protection Agency's (EPA) endangerment finding on greenhouse gases (GHGs) and implementation of climate regulations that would harm Alaska's economy.

On December 15, 2009, the EPA announced a final rule regarding the "Endangerment and Cause or Contribute Findings for GHGs under Section 202(a) of the Clean Air Act (CAA)". The rule finds that six greenhouse gases taken in combination endanger the public health and welfare. This effectively allows the EPA to continue to announce new emissions regulations on businesses and individuals under the CAA. NFIB/AK believes that the CAA is an inefficient and ineffective vehicle to address climate protection and that Congress solely should address GHG emissions. The CAA was designed to control air pollution by requiring individual stationary pollutant sources to institute emission control technologies.

Environmental regulations have been and continue to be a challenge for small businesses, as small entities are not major polluters and least able to sustain or even understand new restrictions. This regulation will create new burdens such as federal permitting requirements, restrictions on fuel choices and energy use, and expensive requirements for installation of new energy efficient equipment.

The EPA's Prevention of Significant Deterioration (PSD) Program is one such program that will impose major new costs on small business. The PSD permitting process itself is time consuming and expensive. The costs include legal, engineering and consulting fees, as well as permitting and administrative fees. Small entities that would now be subject to PSD program requirements include many restaurants, office and apartment buildings, hotels, malls, retail stores and warehouses, schools, hospitals, nursing facilities, churches, and small manufacturing plants. Unfortunately, hundreds of thousands of previously unregulated small entities would be regulated as a 'major' emitter.

Representative Bill Stoltze

February 24, 2010

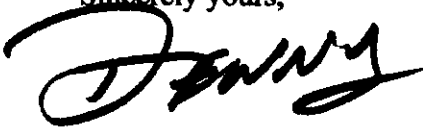
Page 2

In addition to the PSD Program, NFIB/AK expects small businesses to be regulated under the Title V permitting program and the Hazardous Air Pollutant program. Adding more regulatory costs and administrative burdens would be a serious blow to already overburdened small business owners, who according to the January 2010 NFIB Small Business Economic Trends survey, are still suffering from weak sales and profits numbers.

Subjecting over a million new sources to the CAA's complex and expensive permitting process will not materially reduce the nation's greenhouse gases. NFIB/AK strongly supports the independent actions of business to become more energy efficient. According to NFIB's 2006 *National Small Business Poll on Energy Consumption*, over the past three years, over 43 percent of America's small business owners have taken steps to reduce the amount of energy their businesses consume. Small business believes that the free market is best suited to develop new energy efficient technologies and renewable sources of fuel, and our nation's job creators stand ready to do so without the heavy hand of government mandates.

NFIB/AK strongly supports the Murkowski resolution of disapproval. We strongly support HJR 49 that puts the state of Alaska on record opposing this bureaucratic action by the EPA that would cause higher energy prices, higher food prices, lost jobs, and reduced production of domestic oil, natural gas and coal.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
 House Resources Committee

111TH CONGRESS
2D SESSION

H. J. RES. 76

Disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2010

Mr. SKELTON (for himself, Mr. PETERSON, and Mrs. EMERSON) introduced the following joint resolution; which was referred to the Committee on Energy and Commerce

JOINT RESOLUTION

Disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That Congress disapproves the rule submitted by the En-
4 vironmental Protection Agency relating to the
5 endangerment finding and the cause or contribute findings
6 for greenhouse gases under section 202(a) of the Clean

- 1 Air Act (published at 74 Fed. Reg. 66496 (December 15,
- 2 2009)), and such rule shall have no force or effect.

○

111TH CONGRESS
2D SESSION

S. J. RES. 26

Disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2010

Ms. MURKOWSKI (for herself, Mrs. LINCOLN, Mr. BARRASSO, Mr. NELSON of Nebraska, Mr. CHAMBLISS, Ms. LANDRIEU, Mr. THUNE, Mrs. HUTCHISON, Mr. GRAHAM, Mr. COBURN, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, Mr. GRASSLEY, Mr. ALEXANDER, Mr. BOND, Mr. INHOFE, Mr. BUNNING, Mr. CRAPO, Mr. BROWNBACK, Mr. ROBERTS, Mr. MCCONNELL, Mr. ENZI, Mr. MCCAIN, Mr. WICKER, Mr. LUGAR, Mr. CORKER, Mr. COCHRAN, Mr. KYL, Mr. BENNETT, Mr. RISCH, Mr. JOHANNES, Mr. SESSIONS, Mr. VOINOVICH, Mr. BURR, Mr. SHELBY, Mr. GREGG, Mr. HATCH, Mr. LEMIEUX, and Mr. DEMINT) introduced the following joint resolution; which was read twice and referred to the Committee on Environment and Public Works

JOINT RESOLUTION

Disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 That Congress disapproves the rule submitted by the En-
- 4 vironmental Protection Agency relating to the

1 endangerment finding and the cause or contribute findings
2 for greenhouse gases under section 202(a) of the Clean
3 Air Act (published at 74 Fed. Reg. 66496 (December 15,
4 2009)), and such rule shall have no force or effect.

○

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHJR 49(RES)
 (H) Publish Date: 3/10/2010

Identifier (file name): _____ Dept. Affected: _____
 Title OPPOSING EPA CLEAN AIR ACT REGULATIONS RDU _____
 Component _____
 Sponsor Representatives STOLTZE, Chenault, Gatto, Keller... Component Number _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Debra Higgins, Committee Aide Phone 465-3715
 Division: House Resources Committee Date/Time 3/01/10 4:00pm
 Approved by: Representative Craig Johnson, Co-Chair Date 3/1/2010
House Resources Committee