Government by Regulations Instead of Laws and Treaties

by Phyllis Schlafly December 3, 2010

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Republicans are assuming that Cap-and-trade (a.k.a. Cap-and-tax) is dead because Senator Majority Leader Harry Reid lacks the votes to bring up the House-passed bill and because this issue proved a loser in the 2010 House races. Like the famous Mark Twain saying, its death may be exaggerated.

The Senate's environmentalism expert, Jim Inhofe (R-OK), warns us that the Obama Administration is trying to implement Cap-and-trade anyway by bureaucratic regulations. Directives issued by the Environmental Protection Agency (EPA) are coming down the pike to increase energy costs and kill jobs.

Last May, the EPA issued what it called a tailoring rule to govern new power plants, oil refineries and factories that yearly emit 100,000 tons or more of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride. Inhofe reports that this tailoring rule will further reduce our manufacturing base and especially hurt the poor and elderly.

Inhofe predicts that the EPA standards planned for commercial and industrial boilers will cost 798,000 jobs. He also warns about the harmful effects on jobs caused by new rules on ozone emissions.

Since Obama moved into the White House, the EPA has proposed or finalized 29 major regulations and 172 major policy rules. The EPA is, for the first time, simultaneously toughening the regulations on all six major traditional pollutants such as ozone and sulfur dioxide.

Before Climategate exposed the politics behind the "science" of global warming, a 5-4 Supreme Court ordered the EPA to consider regulating emissions based on that unsubstantiated and now largely discredited theory.

Despite a long record of supporting Obama stimulus and spending legislation, the expected chair of the House Energy and Commerce Committee, Rep. Fred Upton (R-MI), says "we are not going to allow this administration to regulate what they have been unable to legislate."

Opposition to EPA's new rules is remarkably bipartisan. Seventeen Democrats signed a letter to EPA Director Lisa Jackson opposing the new rules.

Senator Joe Manchin (D-WV) was elected after running a TV ad showing himself firing a rifle to put a bullet through a copy of the cap-and-trade bill, and he promised to fight EPA attempts to curb greenhouse gas emissions from coal-fired power plants. He may have a difficult task because EPA Director Jackson is plotting to force mass retirements of the coal plants that provide half of U.S. electricity.

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EPA's aggressive overregulation is forcing the electric industry to choose between continuing to operate while taking on major capital costs of complying with heavy new burdens, or closing down and building new plants that use more expensive sources such as natural gas. The public will surely end up paying higher electric rates (a.k.a. a big tax increase).

The ObamaCare law was deviously designed to take decision-making away from our elected representatives and give it to 15 "expert" members of the Obama-

appointed Independent Payment Advisory Board. Many provisions of this law prohibit Congress from repealing or changing decisions of the "experts."

The Obama Administration is using administrative regulations to implement what is known as Card Check, which even the Democratic Congress refuses to legislate. Obama's recess appointee to the National Labor Relations Board, Craig Becker, has lined up a 3-to-2 Board majority to repeal the rule that requires secret ballots in unionization elections.

Currently, a secret ballot of workers is mandated in order to unionize a company. Becker's new regulation will eliminate that workers' right and make them subject to coercion and bullying to induce them to vote Yes on a card visible to union bosses.

The Obama Administration is also toying with a plan to substitute administrative regulations for treaties. Several years ago, the Council on Foreign Relations fingered the treaty provision of the U.S. Constitution as its most objectionable section, and now an ex-Clinton Administration State Department bureaucrat, James P. Rubin, has floated a New York Times op-ed suggesting that treaties are not "worth the trouble anymore" and we should substitute domestic regulations.

The globalists find it inconvenient that our Constitution requires a two-thirds Senate vote for treaty ratification. Horrors! That, they say, causes "international frustration" with America.

This frustration broke into print because there are not enough Senate votes to ratify the New START Treaty that Obama signed with Russia. Rubin's solution is to ditch the ratification process and substitute executive agreements and pronouncements.

Rubin reminds us that after it became clear the Senate was not going to ratify a climate-change treaty, Obama just used EPA regulations, and so we can do

likewise with arms-control treaties. Let's just ignore the Constitution and let Obama bureaucrats make all important decisions.