March 15, 2024

THE SURGE

BY THE COMPETITIVE ENTERPRISE INSTITUTE

Welcome to the latest edition of The Surge!

- Why is China, the world's second largest economy and the largest exporter, still designated as a developing nation in UN treaties and as a result given special advantages over developed countries like the United States?
- The final SEC's climate-disclosure rule is here!
- What's in President Biden's FY 2025 budget request when it comes to energy and environment?
- More state attacks on cars: New Jersey and Minnesota both have plans to restrict gas powered cars and the fuel market.

These are just some of the issues covered below. Please let others know about The Surge and they can subscribe here.

Best,

CEI's Energy and Environment Team

SPECIAL INVITATION

Cloud Thermostat Controls Climate
Featuring 2022 Nobel Laureate Dr. John F. Clauser

In groundbreaking new research, 2022 Nobel Laureate in Physics Dr. John F. Clauser disputes the Intergovernmental Panel on Climate Change (IPCC) report's claim of dangerous warming. Neither the IPCC computer model nor the observational data support the climate crisis assertion, according to Clauser, who employs a model studying the effects of cloud cover on climate.

Join CEI and the CO2 Coalition for a breakfast lecture and discussion with Dr. Clauser on cloud climatology.

When: 10:00 am - 11:00 am
Monday, March 18, 2024

Where: Competitive Enterprise Institute
1310 L St NW, 7th Floor, Washington, DC 20005

RSVP: events@cei.org or 202.331.2764
Space is limited.

TOP OF THE AGENDA

New Study: China's Beneficial Status as Developing Nation in UN Treaties Disadvantages US, Must End

China is now the world's second largest economy and the largest exporter, yet it is designated as a developing nation in United Nations (UN) treaties. This has created unfair and unjustified advantages for China over the United States and other developed nations.

According to a new Competitive Enterprise Institute (CEI) study, China is granted 10 more years than the US and other developed nations to comply with the terms of one UN treaty. Under that same treaty, China could receive millions of dollars in financial assistance from the US and other developed nations to help them comply.

China's status as a developing nation in UN treaties dates back to 1987, with the signing of the Montreal Protocol on Substances That Deplete the Ozone Layer. Known as the Montreal Protocol, the treaty banned a class of refrigerants called chlorofluorocarbons (CFCs, also known as Freon) on the grounds they contributed to the depletion of the earth's ozone layer. Under the treaty, countries designated by the UN as developing nations were given special considerations. China was among the countries designated as developing by the UN at the time. Despite the major changes in China's development, the original UN designation has never been updated, and China has retained the special status of being a developing nation under subsequent UN treaties.

When the Kigali Amendment banning hydrofluorocarbons (HFCs) was passed in 2016, China was extended the same preferences as a developing nation, including the extra 10 years for compliance and access to an assistance fund. In 2022, the US Senate ratified the Kigali Amendment, albeit with a notable and popular amendment. The Sullivan-Lee Amendment, offered by Sens. Dan Sullivan (R-AK) and Mike Lee (R-UT), required the State Department to request the UN change China's classification to that of a developed nation. The amendment passed unanimously, 96-0.

Such legislation is a welcome first step, but merely asking the UN to change China's status is insufficient. Congress also needs to make sure there are concrete consequences under these treaties until a change is made. One good example is the "Ending China's Unfair Advantage Act of 2023" (S. 1035), introduced by Sen. John Barrasso (R-WY), which would withhold the US contribution to the Montreal Protocol's Multilateral Fund and to the UN Framework Convention on Climate Change until China is no longer afforded special status.

"China's status as a developing nation in UN treaties has created an unfair advantage over the US and other developed nations," said study author and CEI senior fellow Ben Lieberman. "Congress should use the power of the purse to stop the US from being disadvantaged compared to China."

Read the full report

IN THE SPOTLIGHT

SEC's Climate Rule Is Finally Here, But for How Long?

The day many observers of financial regulation have long been awaiting (and dreading) has come. The Securities and Exchange Commission (SEC) voted last week to approve its final rule on disclosure of climate-change-related information for public companies. While the final rule was significantly less ambitious than the proposed rule released by the SEC in 2022, it is still flawed and vulnerable to legal challenge.

Is the final version of the rule an improvement? In that having one's leg amputated is superior to dying of sepsis, one could say yes. The agency wisely eliminated the problematic Scope 3 requirement, instead adopting revised language that theoretically allows firms to decide for themselves whether they consider certain emissions-related data to be material or not — the traditional standard for SEC disclosure mandates.

That appearance of discretion, however, should not be taken too seriously. As Republican commissioner Hester Peirce said in her dissent from the SEC's decision, "While the Commission has decorated the final rule with materiality ribbons, the rule embraces materiality in name only." Any company that tries to get out of expensive compliance paperwork by simply declaring such concerns to be immaterial to their way of doing business would be taking a terrible risk, both from potential SEC enforcement actions and activist-shareholder lawsuits.

Read CEI's Richard Morrison's op-ed in NRO

Biden's Budget: A Continued Attack on Reliable Energy and Freedom

President Joe Biden's FY 2025 budget request of $7.3 trillion is exactly what Americans should have expected: increased spending and taxes.

A budget is more than just numbers, though. It's a reflection of policy priorities and the ideological perspective of an administration. And in this case, Biden's budget reflects a belief in federal top-down policies and a willingness to use the government to reshape how Americans live their lives.

When it comes to energy and environment, the budget includes the same type of harmful polices that we have come to expect. The administration boasts that it is building on the Inflation Reduction Act, a law whose "green" subsidies will likely cost over a $1 trillion, drive up energy prices, and threaten the electricity grid.

The administration would almost double the budget of the EPA's Office of Air and Radiation, the office that will soon finalize some of the most egregious regulations in American history. This includes the agency's vehicle tailpipe rule that is an effort to limit the ability of Americans from buying gas-powered vehicles. It also includes the new power plant rule that would shift electricity production away from reliable sources of electricity to unreliable sources.

The requested massive influx of funds for the air office shows the administration would like to literally double down on this office's efforts.

The budget would also expand the administration's American Climate Corps, which the administration says will "mobilize a new, diverse generation of more than 20,000 clean energy, conservation, and climate resilience workers." This certainly appears to be an advocacy and indoctrination campaign that aligns with the administration's radical climate agenda.

Overall, the energy and environment budget is more of the same. The Biden administration wants to use the whole-of-government to shift away from fossil fuels that this country relies upon to meet 80 percent of its energy needs. This attack on reliable energy will mean driving up prices and lowering our standard of living, including the ability for many Americans to meet even basic needs.

A budget request is often considered a wish list. When it comes to Biden's FY 2025 budget, Congress should ensure that his wishes don't come true.

One Way for Government to Improve Air Quality: Remove Obstacles to Prescribed Fires

The Environmental Protection Agency's (EPA) final rule on particulate matter prematurely makes the primary annual standard for fine particulate matter (PM2.5) much stricter. It does so even though parties likely to be subjected to regulation can do little to reduce overall PM2.5 emissions because they account for a small amount of existing emissions.

Most of the emissions come from non-point sources, including wildland fires, which are generally difficult to address. The EPA admits that wildland fires (wildfires and prescribed fires) are the largest source of PM2.5 emissions (44 percent of emissions).

Ironically, as the federal government imposes major costs on the private sector, hinders infrastructure, and harms economic development through the EPA's new PM2.5 standard, it still maintains obstacles that exacerbate PM2.5 emissions.

Specifically, it maintains a federal environmental review process that prevents prescribed burns (intentionally set controlled fires), which are an important way to manage wildfires. Prescribed burns eliminate fuel in overgrown forests that could ignite or feed a wildfire.

In the final PM2.5 rule, the EPA itself says they view "the strategic use of prescribed fire as an important tool for reducing wildfire risk and the severity of wildfires and wildfire smoke." While prescribed burns are a source of PM2.5 emissions, the EPA has explained, "Although some air pollution is generated by this preventive burning, the net amount is believed to be a relatively smaller quantity then that produced by wildfires."

Further, the EPA has stated, "Prescribed fire is a cost-effective and ecologically sound tool for forest, range, and wetland management. Its use reduces the potential for destructive wildfires and thus maintains long-term air quality."

Prescribed burns should be easier for professional wildland firefighters to get approval for, but the environmental review process prevents and delays prescribed burning far too often.

Policymakers should remove this obstacle. If they did, this would not only help to address wildfires, but also improve air quality.

[40th Anniversary Commemorative: How CEI Killed Credit for Early Action]

Our friends, allies, and opponents may be familiar with CEI's successful campaigns to expose cap-and-trade as a stealth energy tax ("cap-n-tax"), rally free-market groups to oppose the so-called Clean Power Plan, and strengthen President Trump's resolve to withdraw the US from the Paris Climate Accords.

Less well known is CEI's pivotal role during 1999-2005 in foiling a strategy to mobilize corporate lobbying for the Kyoto Protocol and other cap-and-trade programs. The strategy went by various names—credit for early action, credit for voluntary reductions, and transferable credits. Early action crediting was the brainchild of Sen. Joe Lieberman (D-CT), the Environmental Defense Fund, and the Pew Center on Global Climate Change. The Clinton-Gore administration promoted it too.

The scheme works as follows. Companies "volunteering" to reduce their greenhouse gas (GHG) emissions before Congress enacts a mandatory program receive regulatory credits they can later apply to meet their obligations under a future cap-and-trade program. Sounds innocent enough, but it would create a powerful incentive for companies to lobby for a cap in order to monetize their otherwise worthless early action credits.

CEI helped kill early action crediting three times during 1999-2005. However, as useful as that may have been in its time, winning that policy battle obviously did not win the larger policy war between free-market energy and compulsory decarbonization. As CEI Founder and Chairman Emeritus Fred L. Smith taught us, "political gains are always ephemeral, to be won anew each generation."

President Trump withdrew America from the Paris Climate Accords in November 2020. President Biden rejoined in February 2021. The Supreme Court vacated the Clean Power Plan in June 2022. The EPA today proceeds as if West Virginia v. EPA never happened, proposing in 2023, without clear congressional authorization, to rapidly phase out both fossil-fuel powerplants and gasoline-powered cars.

The next election may bring yet another reversal of political fortunes for US climate and energy policy. Fred Smith counseled us to do the research, policy development, and public education needed to advance the freedom agenda so that we are ready when and as new threats or opportunities arise.

IN THE STATES

Beyond Biden's War on Cars: Analyzing New Jersey's Electric Vehicles Mandate

New Jersey recently joined the band of states following California's lead to ban the sale of new diesel and gas-powered vehicles. The state's "Advanced Clean Cars II" rule (ACCII), which was adopted by the New Jersey Department of Environmental Protection (DEP), requires that any new cars and light-duty trucks sold be electric vehicles by 2035.

Making matters worse, New Jersey has also signed onto the Accelerating to Zero Coalition's Declaration, which is a global agreement launched at the 26th United Nations Climate Change Conference of the Parties. Just like the Biden administration's rule seeking to limit the availability of gas-powered cars and California's gas-powered car ban, the New Jersey DEP seeks to restrict consumer freedom by centrally planning the car market. Legislatures should intervene when agencies like the California Air and Resources Board or New Jersey DEP attempt to take the extreme action of banning the cars that Americans rely upon and want to drive.

Fueling Discontent: Minnesota's Costly Push for a Low Carbon Fuel Standard

Lawmakers in Minnesota are considering a Clean Transportation Standard (CTS) that would impose increasingly stringent carbon-intensity reduction targets on all motor fuels used in the state. Carbon intensity is measured in grams of carbon dioxide-equivalent greenhouse gas emissions per unit of energy for each finished motor fuel, including gasoline, ethanol, and grid-based electricity. The carbon intensity standards would be phased in during 2026-2050. Supporters promise substantial consumer benefits. However, technology mandates indisputably increase producer costs, which tend to raise consumer prices.

The Minnesota legislature in May 2023 passed a bill that required four state agencies to convene a CTS Work Group. The group was tasked to study and address information gaps and opportunities for reducing the aggregate carbon intensity of Minnesota transportation fuels "to at least 25 percent below 2018 levels by 2030, 75 percent by 2040, and 100 percent by 2050." The Work Group submitted their report to the legislature in February. It recommends drastic reductions in motor fuel carbon intensity.

The Work Group touts "economic development" as a CTS "co-benefit." And if the Minnesota government picks fuel market winners and losers, the winners will likely hail the program as a big success. Unless, of course, their ventures go bust for lack of consumer demand. So-called sustainable development is not always financially self-sustaining. Ford Motor Company last year lost $4.7 billion on electric vehicles (EVs) last year, equivalent to "about $67,731 for every EV it sold," energy analyst Robert Bryce reports.

But even if some regulatory beneficiaries get rich, that would only be the "seen" part of Minnesota legislators' economic interventionism. The unseen includes all the businesses, profits, jobs, and innovation that were not created because politicians substituted their preferences for consumer and investor preferences in the transportation marketplace.

FEATURING OUR FRIENDS

Some PA Democrats Are Pushing Back Against Eco-Fundamentalism, Victoria Coates and Jennifer Stefano, the Commonwealth Foundation

The Link Between Wildfires and Forest Health, Madison Yablonski and Sarah Jensen, PERC

Biden's FY 2025 Budget Would Supercharge Controversial Climate Corps Program, Gabriella Hoffman, Independent Women's Forum

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