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THE SURGE

BY THE COMPETITIVE ENTERPRISE INSTITUTE

Welcome to the latest edition of The Surge!

- The latest insight and answers on EPA's electric vehicle rule.
- SEC halts its climate disclosure rule.
- Why are some European farmers being asked to cull herds and sell their farms to meet environmental regulations?
- The EPA is handing out billions of dollars to nonprofits for their own slush funds.
- California is banning most new gas-powered lawn and garden equipment.

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

TOP OF THE AGENDA

Questions About EPA's Electric Vehicle Rule—Some Answered, Some Not

CEI Senior Fellow Marlo Lewis provides a Q&A examining the Environmental Protection Agency's (EPA) electric vehicle rule. Here's just one excerpt:

Q: How will the increase in estimated vehicle technology costs affect consumers?

In any line of work, sales prices must eventually rise to cover production costs or the firm goes bust. Since vehicle technology costs in the final rule are $480 billion higher than in the proposed rule, we might expect a significant increase in new car prices.

Not the EPA! The proposed rule projects an increase of $1,164 in average vehicle cost by 2032 compared to the no action scenario (Table 7). The final rule estimates an increase of $1,203 in average vehicle cost by 2032 (Table 9)—only $39 or 3.3 percent more than the proposed rule's estimate.

That is difficult to understand. If $280 billion in manufacturer costs increases average vehicle purchase price by $1,164, how does an additional $480 billion in manufacturer costs increase average vehicle price by only $39? Another question not directly addressed in the final rule or final RIA.

SEC Stays Climate Disclosure Rule Amid Legal Challenges

On Thursday April 4th, the Securities and Exchange Commission (SEC) decided to halt implementation of its finalized climate disclosure rule. This determination was in response to the Judicial District on Multidistrict Litigation consolidating multiple lawsuits challenging the legality of the agency's rule to the Eighth Circuit. The consolidation transferred several cases that were originally before the Fifth Circuit, among other cases. The SEC's rule had already been stayed by the Fifth Circuit, just nine days after its initial approval on Wednesday March 6th.

The SEC's self-imposed stay represents a notable development, as the agency faces mounting legal challenges to its climate rule. It shows that the SEC is beginning to take this opposition seriously and considers the prospect of its rule being struck down in court prior to implementation. Twenty-five states are already challenging the rule. The SEC is also facing legal challenges from left-leaning environmental groups like the Sierra Club and the National Resources Defense Council.

IN THE SPOTLIGHT

The Inflation Reduction Act's EPA Slush Fund Gets Going: Now It Needs to be Stopped

Last week, the Environmental Protection Agency (EPA) announced eight nonprofit organizations will be able to hand out $20 billion of taxpayer dollars to recipients of their choosing. This is all part of the Greenhouse Gas

Reduction Fund (the Fund), which was created in the Inflation Reduction Act (IRA). The program gives the EPA wide discretion in how it spends the money. The nonprofits receiving money from the EPA also have wide discretion.

It's basically an EPA slush fund to create slush funds.

To its credit, the House recently passed legislation (H.R. 1023) that would eliminate the Greenhouse Gas Reduction Fund. The Senate needs to follow suit. Of course, even if it did, President Joe Biden would veto the legislation.

The EPA's implementation of the Fund will likely constitute a rule subject to the Congressional Review Act (CRA). Legislators should also pursue a CRA resolution of disapproval because it can get around a Senate filibuster. Granted, a resolution would also be vetoed. However, there is still value in such actions, including setting the precedent for the next Congress.

Congress needs to dismantle the "green" programs in the IRA. The Greenhouse Gas Reduction Fund should be a prime target.

The Biden Administration Once Again Puts Its Climate Agenda Above Home Affordability

The Biden administration talks a good game about making housing more affordable, but in truth it is actively boosting costs through expensive climate change measures that get passed on to homebuyers. The latest example is the Department of Energy's (DOE) Decarbonizing the US Economy by 2050: A National Blueprint for the Buildings Sector (Blueprint), which includes a host of recommendations for homebuilders likely to put the dream of home ownership further out of reach for many families.

Technically, the Blueprint only makes recommendations, but there are many ways the federal government can coerce compliance. For example, the grant money to state and local governments from the Inflation Reduction Act and other statutes can – and probably will – be made contingent on them changing their building codes to reflect the Blueprint. And homebuilders not willing to go along may find their homes ineligible for Federal Housing Administration loans. The climate crowd plays hardball.

Saddest of all are the effects on lower-income Americans that aspire to own a home. Predictably, the Blueprint contains plenty of compassionate rhetoric – the word "equity" is included 35 times and "environmental justice" another eight. But the reality is that the Blueprint's prioritization of the climate agenda over affordability will make home ownership much more difficult for everyone, and disproportionately so for those struggling to buy their first home.

Green Rules, Red Tape: What American Farmers Can Learn from EU Protests

The European Union (EU) has been implementing various measures to fundamentally transform the agricultural sector, notably through initiatives such as the European Green Deal that aims to make Europe the first climate-neutral continent by 2050. Part of the European Green Deal is the EU's Farm to Fork Strategy.

The EU describes their Farm to Fork Strategy as being, "at the heart of the Green Deal…a new comprehensive approach to how Europeans value food sustainability." These policies have faced challenges and criticisms, particularly from farmers.

One of the contentious effects of these agricultural policies is asking farmers to cull herds and sell their farms to meet environmental regulations. For example, the European Commission in 2023 approved two Dutch plans worth a combined 1.47 billion euros ($1.61 billion) to buy out livestock farmers in order to reduce nitrogen pollution.

This policy and other "green" initiatives have led to significant pushback from European farmers, who have engaged in protests against the European Union.

Two Cheers for the Gas Stove Protections in FY 2024 Spending Bill

There is a provision in the recently-passed appropriations bill prohibiting any federal funds from being used by the Consumer Product Safety Commission (CPSC) to "ban gas stoves as a class of products." While a helpful step, much more will be needed to preserve consumer choice in stoves against federal interference.

Keep in mind that CPSC isn't the half of it. Gas stoves have gotten swept up in the Biden administration's "whole of government" climate change agenda. The idea that Americans must transition to electric stoves in order to help save the planet, however nutty, is team Biden's working assumption right now, and every corner of the federal bureaucracy with a role is contributing towards that end.

For example, last year the Department of Energy (DOE) proposed an efficiency standard for stoves that was a thinly-veiled assault on gas versions in favor of electric ones. And while the agency has backtracked and is now considering a less stringent proposal, continued vigilance is still needed. Indeed, H.R. 1640, the "Save Our Gas Stoves Act," would block any DOE gas stove restriction rule and remains a good idea.

The federal government is also supporting local restrictions on natural gas hookups and providing federal funding from the 2022 Inflation Reduction Act for subsidized housing that foregoes natural gas. Needless to say, you can't use a gas stove if you don't have gas available in your home or apartment, and the administration is fully pursuing this avenue of attack.

The appropriations language reflects public sentiment and is a good contribution, but the fight to save the blue flame is far from over.

Shocking: A Federal Agency's New Rule Could Harm Electrical Grid Reliability

Last July the Federal Energy Regulatory Commission (FERC) finalized FERC Order No. 2023, which makes significant changes to the procedures for adding new transmission to the grid. After the issuance of the Order, the commission went through a rehearing process. On March 21st, the FERC affirmed the Order, including one of its more controversial elements: stricter timelines for interconnection paired with financial penalties for transmission providers who don't meet them.

There are problems already playing out. Sources waiting to come online aren't high capacity factor sources (i.e. those with consistently reliable output). The vast majority of capacity awaiting interconnection as of 2022 was wind, solar, and battery storage. In fact, more than 95% of projects awaiting connection were of these types. Battery storage is still not sufficient to offset the intermittency of wind and solar on the grid. So, taken together, wind, solar, and battery storage are far more likely to worsen reliability than improve it.

Focusing on wind and solar, these projects are often located much further from population centers than other types of power plants like nuclear and natural gas. As a result, they are both more expensive and difficult for transmission providers to connect to the grid.

Therefore, interconnection of these sources poses unique challenges for the grid. Penalizing transmission providers for being slow in connecting these high difficulty, but low reliability sources is not the best path toward a more resilient grid.

This Order is expected to increase the burden on transmission providers while not meaningfully improving grid reliability because the sources being prioritized, paradoxically, aren't reliable.

IN THE STATES

Another Ban from California: Say Goodbye to Most New Gas-Powered Lawn and Garden Equipment

California is not just banning gas-powered vehicles and trying to ban diesel locomotives. The state is also banning the sale of new gas-powered small off-road engines (SOREs), such as gas-powered lawnmowers and other landscaping equipment, in an attempt to reduce carbon emissions. This bill will have no measurable effect on global temperatures, but the results will be reduced freedom, fewer choices, and higher costs. It's another example of how authoritative regulations can hurt businesses and inconvenience Americans for little or no benefit.

Legislators in states such as Minnesota and Washington are trying to pass similar measures to California. Hopefully, the problems this California SORE ban causes will make them wary of making the same mistake.

Minnesota's Burdensome Clean Transportation Standards Drive Up Costs

Minnesota legislators may try to phase out traditional motor fuels and the vehicles that run on them. The state is already imposing strict tailpipe standards and an electric vehicle sales mandate that go into effect for model year 2025 cars. Next, lawmakers are considering another step towards a California-style ban on sales of new gasoline-powered vehicles: a Clean Transportation Standard (CTS) that is a more aggressive version of California's low carbon fuel standard program. It's a terrible idea with dire consequences for Minnesota families.

As often happens in climate change policy, consumers' interests are ignored. Reliability, affordability, and practicality should be the driving principles behind transportation and energy policy.

Lasting Reforms Needed to Break Pennsylvania's Environmental Permitting Backlog

Pennsylvania has a long history of reforming its permitting practices to improve efficiency, but despite periods of progress and some improvements in average review times, experience shows the state still often falls short of its permit deadlines. A new CEI study, Breaking the Backlog: Lesson's from

Pennsylvania's environmental permitting reforms, finds the continuous cycle of reforms indicates challenges finding lasting solutions.

FEATURING OUR FRIENDS

Rejecting Calls for Carbon Taxes Is Common Sense, Carla Sands, RealClear Energy
The U.S. Needs a Nuclear Energy Makeover, David Stevenson and Robert Bauman, The Wall Street Journal
Don't Let Electricity Become the New Front in the Culture Wars, Travis Fisher, Cato Institute
New Book: Climate and Energy: The Case for Realism, E. Calvin Beisner and David R. Legates (editors)

REGULATORY TRACKER

EPA: Nonregulatory Public Docket: Reducing Greenhouse Gas Emissions from Existing Gas Turbines at Power Plant

The EPA's new power plant rule, to be released soon, is expected to exclude greenhouse gas emission requirements for existing natural gas-fired power plants. This doesn't mean that the agency doesn't have existing natural gas-fired power plants in its sights. In fact, the EPA has opened up a non-regulatory docket to get feedback on greenhouse gas emission regulations for these plants.

Even though this isn't a proposed rule, it's very important to provide comments because they could help to shape the proposal. **Comments are due by May 28, 2024.**

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