

110TH CONGRESS
2D SESSION

S. RES. 729

Expressing the opposition of the Senate to a proposed regulation by the Environmental Protection Agency, now under review in the Office of Management and Budget, that would undercut air quality protections established by Congress in the Clean Air Act Amendments of 1977 for national parks, national wilderness areas, national monuments, and national seashores.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2008

Mr. ALEXANDER (for himself, Mrs. BOXER, Ms. COLLINS, Mr. CARPER, Mr. WARNER, Mr. BINGAMAN, Ms. SNOWE, Mr. SALAZAR, Mrs. DOLE, and Mr. TESTER) submitted the following resolution; which was referred to the Committee on Environment and Public Works

RESOLUTION

Expressing the opposition of the Senate to a proposed regulation by the Environmental Protection Agency, now under review in the Office of Management and Budget, that would undercut air quality protections established by Congress in the Clean Air Act Amendments of 1977 for national parks, national wilderness areas, national monuments, and national seashores.

Whereas, in 1977, under part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.), the prevention of significant deterioration (PSD) program was established “to preserve, protect, and enhance the air quality in national

parcs, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value”, which areas are known as class I areas;

Whereas Congress sought to protect air quality in class I areas through, among other things, the establishment of strict limits on additional amounts of air pollution, known as increments, allowed in class I areas over baseline conditions;

Whereas Congress required protection of air quality not just from long-term pollution increases, but also from short-term fluctuations and spikes, and Congress therefore created and required both annual and short-term increments;

Whereas, on June 6, 2007, the Environmental Protection Agency (EPA) proposed a rule under the PSD program that would replace the congressionally-established short-term pollution increments with less protective annual average emission rates;

Whereas, according to the National Park Service Comments on EPA’s Proposed Rule Regarding PSD Increment Modeling Procedures Clarification/Modification (ER No.: DEC–06/0006), “the protection of short term PSD increments cannot be assured using annual average emission rates”, and the proposed rule “ignores . . . reality”;

Whereas EPA’s proposed rule would make multiple additional changes to the PSD program that conflict with Congress’s statutory scheme, set forth in section 160 of the Clean Air Act (42 U.S.C. 7470), “to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national

seashores, and other areas of special national or regional natural, recreational, scenic, or historic value”;

Whereas during EPA’s initial review of the PSD proposal in 2007, each of EPA’s 10 regional offices expressed grave concerns that the changes to the PSD program proposed by EPA would undermine protection of air quality in class I areas;

Whereas EPA submitted a proposed PSD rule to the Office of Management and Budget in October 2008 that did not incorporate the concerns expressed by the National Park Service and EPA regional offices;

Whereas half of EPA’s 10 regional administrators formally dissented from the draft final rule now under review in the Office of Management and Budget, and 4 other EPA regional administrators criticized the draft final rule in writing; and

Whereas the National Park Service and all 10 EPA regional offices have uniformly concluded that EPA’s proposed changes to the PSD program would make it easier for large pollution sources to locate closer to national parks, national wilderness areas, national monuments, and national seashores, leading to more harmful air pollution in these areas: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) recognizes that air pollution levels in class

3 I areas can vary significantly over the course of a

4 year, a month, or even a day, and that short-term

5 pollution spikes are capable of endangering visitors,

6 wildlife, and scenic values in national parks, national

1 wilderness areas, national monuments, national sea-
2 shores, and other class I areas;

3 (2) affirms that the PSD program is intended
4 to preserve, protect, and enhance air quality in class
5 I areas not just over the long term, but also over the
6 shorter time periods delineated in the Clean Air Act
7 (42 U.S.C. 7401 et seq.);

8 (3) finds that EPA has proposed multiple
9 changes to the PSD program that would conflict
10 with Congress's statutory scheme to preserve, pro-
11 tect, and enhance the air quality in national parks,
12 national wilderness areas, national monuments, na-
13 tional seashores, and other areas of special natural,
14 recreational, scenic, or historic value; and

15 (4) expresses its opposition to EPA's proposed
16 rule entitled "Prevention of Significant Deterioration
17 New Source Review: Refinement of Increment Mod-
18 eling Procedures" (72 Fed. Reg. 31372 (June 6,
19 2007)), and urges the rule be withdrawn.

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