are legal ones. During its final weeks, the previous administration took a number of controversial actions. In its rush to lock in those actions before it left office, the previous administration failed to give adequate consideration to various legal requirements. As a result, several of those actions have been overturned by the courts.

Secretary Salazar has inherited this legacy and is doing his best to address these problems. But he needs a Solicitor. More than 4 months into the new administration, the Department of the Interior should not still be without its top legal officer. And Ms. Tompkins should not still be the victim of anonymous holds.

DEATH OF ANASTASIOS ''TASS'' HATJIKIRIAKOS

Mr. BINGAMAN. Mr. President, I was deeply sorry to learn this morning of the death of a long-time Senate employee and friend, ''Mr. Tass.'' An integral part of the Senate Resataurants staff for many years, he was a great friend to me and to my office.

He died on Sunday from injuries received when he was hit by a car in Silver Spring. All of us who knew him and appreciated his service to the Senate join his family and friends in mourning his loss. He—and they—are in our thoughts and prayers.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REGINA McCARTHY

Mr. BARRASSO. Mr. President, I rise today to offer my concerns regarding the nomination of Regina McCarthy to be the Administrator for the Office of Air and Radiation in the Environmental Protection Agency.

For the past few weeks, I have been seeking responses from the nominee and the administration on their efforts to use the Clean Air Act to regulate climate change.

I have put a hold on her because I have serious concerns about the EPA using the Clean Air Act to regulate climate change.

I want to know the plan that the nominee will implement. I want to know how she will protect businesses, farms, hospitals, and nursing homes from the effects of the EPA's endangerment finding.

As you know, the endangerment finding designates CO_2 as a harmful pollutant to public health under the Clean Air Act.

The finding's effects on the Clean Air Act will require EPA to regulate any building, structure, facility or installation that emits more than 250 tons of a CO_2 in a year.

The result would be thousands of lost jobs, with no environmental benefit to show for it.

Hospitals, schools, farms, commercial building and nursing homes will be required to obtain preconstruction permits for their activities. EPA says this will not occur, that they will use discretion and good judgment.

According to legal scholars, the statutory language in the Clean Air Act is mandatory and does not leave any room for EPA to exercise discretion or create exceptions.

The only jobs that will be created are in law firms as the litigation bonanza begins. EPA will be sued by environmental groups wanting to eliminate exempted sectors. The EPA will also be sued by industries not exempted.

It will, as Democrat Congressman JOHN DINGELL stated, be a glorious mess.

I have nothing personal against Mrs. McCarthy. I simply wanted an answer to a question, the same question Americans all across our country want answered: How are you going to protect them?

I still do not have a credible answer to this question. I am tired of the stonewalling.

Mrs. McCarthy believes that she can not answer the question until she is confirmed by the Senate. That answer, I believe, is not good enough.

She has also stated that she wanted to be informed of any potential lawsuit. She stated she wanted to discuss the issue with the litigants in the hopes of convincing them not to sue.

Government officials can't go around the country trying to convince every litigant, whether it be a national environmental group or a local group, not to sue.

I have also posed this same question to the EPA Administrator in the hopes that she could provide EPA's plan on behalf of Ms. McCarthy.

EPA Administrator Lisa Jackson says that she can target what she regulates. She claims she will only target cars and trucks.

That is setting the precedent of picking winners and losers. We do not know what standards will be applied to make those decisions. We do not know what role politics will play in these decisions.

Administrator Jackson's statement also ignores the regulatory cascade that the endangerment finding and the motor vehicle emission standards will certainly trigger.

Litigators and courts will drive much of this job-killing regulation.

We have a nominee to head up the EPA's Air Office, Ms. Regina McCarthy. We have an Administrator of the EPA and we have a climate and energy czar who is supposed to coordinate climate change policy for the administration.

Carol Browner, the climate and energy czar has not been confirmed by Congress. We do not know who is developing a roadmap for how to use the Clean Air Act to regulate climate change.

What jobs in what industries will be kept? Which industries will be penalized? Who will be held accountable for making these decisions?

The economic consequences of the ticking timebomb will be devastating.

By the EPA's own estimate, the typical preconstruction permit in 2007 cost each applicant $125,000 and 866 hours to obtain.

Ranchers or private nursing homes have no background in this area. They will need to hire lawyers. They will need to hire experts. They will be taking time out of their day to figure out all this redtape.

This will create such a fog of uncertainty with investors and small businesses. This makes small businesses even riskier to lend money to; nobody will know how much this will cost their business.

With lending having already ground to a halt, this is hardly the right move to help our economy.

According to the U.S. Chamber of Commerce, there are 1.2 million schools, hospitals, nursing homes, farms, small businesses, and other commercial entities that would be vulnerable to new controls, monitoring, paperwork, and litigation.

If even 1 percent of the 1.2 million have to get preconstruction permits, that would mean 12,000 new preconstruction permits a year.

By the EPA's own analysis, if permitting is increased by just two to three thousand, this would impose ''significant new costs and an administrative burden on permitting authorities.''

According to the EPA, this ''could overwhelm permitting authorities.''

The net result of all of this will be thousands of jobs lost.

As I have stated previously on the floor, if the administration can not tell us by what legal authority they can pick winners and losers, if the administration can not provide economic certainty to lenders and businesses, if the administration does not know how they will deal with all the thousands of new preconstruction permits, they should take this job killing option off the table.

There appears to be such a frenzy of political pressure from special interests to pass something on climate change.

The pressure has reached the point where enacting any climate change policy before Copenhagen is more important than addressing its aftermath.

The thinking is, just get something done on climate change. We will deal with the impacts later.

That's not how you make good policy.

But that is exactly what is going on here.

The President's own attorneys, from a host of Federal agencies, have expressed concerns with this approach.

Their concerns were contained in a memo.

This memo is a well thought out, scientific and legal critique of using the Clean Air Act to regulate climate change by the Obama administration.

It confirms the fears of every small business owner, every farmer, school and hospital administrator, both large and small, that the Obama administration knows that using the Clean Air Act to regulate climate change is bad for America.

They know it, but for political reasons, they have ignored the science, the consequences to our economy and the impact to the American people.

The memo states, ''Making the decision to regulate CO_2 under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities. Should EPA later extend this finding to stationary sources, small businesses and institutions would be subject to costly regulatory programs.''

The document also highlights that EPA undertook no ''systemic risk analysis or cost-benefit analysis'' in making their endangerment finding.

The White House legal brief questions the link between the EPA's scientific technical endangerment proposal and the EPA's political summary.

EPA Administrator Jackson said in the endangerment summary that ''scientific findings in totality point to compelling evidence of human-induced climate change, and that serious risks and potential impacts to public health and welfare have been clearly identified . . .''

But the Obama administration's memo states that this is not accurate.

The memo actually questions the science behind designating CO_2 as a health threat stating the scientific data on which the agency relies are ''almost exclusively from non-EPA sources.''

The memo goes on to say the essential behaviors of greenhouse gases are ''not well determined'' and ''not well understood.''

This memo confirms that the administration has so far ignored its own advice.

What is somewhat surprising is that those who express these concerns are ridiculed or, even worse, attacked by administration officials.

In one instance, attempts were made by administration personnel to smear the reputation of a career employee at the Small Business Administration.

This was a person who offered a reasonable and thoughtful critique of the impact the endangerment finding has on small business.

This is unacceptable behavior by the administration.

Strangely enough, not just the authors of the Obama administration legal brief, but also environmental groups, disagree with EPA Administrator Jackson's position that a targeted approach under the Clean Air Act is legal and appropriate.

The Sierra Club's chief climate counsel stated last year that ''the Clean Air Act has language in there that is kind of all or nothing if CO_2 gets regulated and it could be unbelievably complicated and administratively nightmarish.''

I have warned the administration that groups such as these will sue the EPA if the EPA does not capture both large and small emitters. She has dismissed such threats. This is despite the Wall Street Journal report last month that a representative of the Center of Biological Diversity stated her group is prepared to sue for regulation of smaller emitters, such as farms, schools, hospitals, and nursing homes, if the EPA stops at simply the large emitters.

I have asked for a plan from the administration on how she will address losing court cases if the agency is sued for picking winners and losers. Her response in a committee hearing 3 weeks ago is she could not share with me any such plans in that forum.

I have posed the question to the administration: If you can't share information with the elected representatives of the 50 States, then in what forum, if not a Senate hearing, can you share the information?

I am confident the majority believes they have a strong chance at passing something along the lines of the Waxman-Markey bill this Congress regarding climate change. They are hopeful they can get something to the President for him to sign. If hope alone could pass legislation, we could all adjourn early. But hope is not certainty. The negative effects of the endangerment finding on the American economy is certain.

The bottom line is that the nominee, as well as Lisa Jackson and the administration, appears to have no credible plan to use the Clean Air Act in a way to regulate climate change.

There is only one responsible choice for us to make. Let us take this regulatory ticking timebomb off the table. This is why I plan to introduce a bill very soon that will take the Clean Air Act out of the business of regulating climate change.

I wish to give every Member an opportunity to join me in giving the Senate and the American people the time we need to forge a sound energy and climate strategy, a strategy that makes energy as clean as we can—and I am talking about American energy—as clean as we can, as fast as we can, without raising energy prices for American families.

Let's develop all of our energy resources—our wind, our solar, our geothermal, hydro, clean coal, nuclear, and natural gas. We need an ''all of the above'' strategy to address our Nation's needs. As Lisa Jackson, the EPA Director, stated on a recent trip to my home State of Wyoming, ''As a home of wind, coal, and natural gas, Wyoming is at the heart of America's energy future.'' That is because Wyoming has it all—coal, wind, natural gas, oil, and uranium for nuclear power. We have it all, and we need it all. I look forward to working with my colleagues, as well as Ms. Jackson, to make that happen.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

EPA POLICIES

Mr. GRASSLEY. Mr. President, I wish to speak about Regina McCarthy's nomination but not about the nominee or her qualifications. Rather, I will highlight a few concerns I have with the EPA and the burdens being placed on those in rural areas and agriculture because of EPA actions.

A few weeks ago, I had the pleasure of joining President Obama for lunch. While the purpose of the lunch was to discuss health care reform, I took the opportunity to bring up a few concerns I have with EPA and agriculture. In particular, I raised four issues where EPA policies are causing tremendous concern and are burdening family farmers. The issues I raised to the President are indirect land use attributed to biofuels; second, fugitive dust; three, greenhouse gases and livestock producers; and, four, point source pollution permits.

Since that meeting with the President, I have had follow-on meetings with Nancy Sutley, chair of the Council on Environmental Quality and also the President's legislative staff. They heard me out. They seemed sympathetic to the concerns I raised. However, I am not sure the message is being relayed to the EPA bureaucrats.

The first issue pertains to a component of the new Renewable Fuels Standard that requires various biofuels to meet specified lifecycle greenhouse gas emission reductions. The law specifies that lifecycle greenhouse gas emissions are to include direct emissions and significant indirect emissions from indirect land use.

In the proposed rule changes released by EPA last week, they rely on incomplete science and inaccurate assumptions to penalize U.S. biofuels for so-called indirect land-use changes. The fact is, measuring indirect emissions of greenhouse gases is far from a perfect science. There is a great deal of complexity and uncertainty surrounding this issue. Because of this uncertainty, the EPA has committed to an open and transparent review by the public.

The EPA compiled a system of models to analyze land-use impacts of U.S. biofuels policies. They have indicated that these models have been peer reviewed and that they stand up to scientific scrutiny. That is true for the models independently, but—and a big but—it is not true for the way the EPA has overlaid and integrated their models. In addition, the models are not publicly accessible. There is inadequate data in how the models and data have integrated.

As it stands, stakeholders are unable to replicate the EPA's results. So this process is neither open nor is it transparent.