

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 CO₂ 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 CO₂ 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.