



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
AIR AND RADIATION

The Honorable F. James Sensenbrenner, Jr.
U.S. House of Representatives
Washington, D.C. 20515-4905

Dear Congressman Sensenbrenner:

Thank you for your letter of January 15, 2009, concerning news reports that the U.S. Environmental Protection Agency (EPA) is considering regulation or "taxation" of greenhouse gas emissions from livestock. I appreciate the opportunity to address your concerns on this important issue.

I want to make one thing initially clear: EPA has not proposed a tax on dairy cows or any other farm animals. Furthermore, the Agency is not working on regulations which would have this effect. Unfortunately, many press reports have inaccurately represented what is contained in the Agency's Advance Notice of Proposed Rulemaking (ANPR) regarding greenhouse gas emissions.

As you may know, this notice was promulgated in response to the Supreme Court's decision in *Massachusetts v. EPA*. Among other matters respecting a petition that EPA received to regulate greenhouse gas emissions from new motor vehicles under section 202 of the Clean Air Act (CAA), the *Massachusetts* decision indicated that greenhouse gases meet the CAA's definition of "air pollutant." This holding has potentially broad sweep. In response, the ANPR examines various legal questions stemming from the court's opinion, including the interconnections among various CAA provisions. As a whole, the document provides a comprehensive, in-depth exploration of various provisions contained in the CAA concerning the regulation of stationary and mobile sources and outlines various factors and issues that pertain to the application of CAA authorities to greenhouse gas emissions. The ANPR does not propose or recommend the use of any particular CAA authority, make judgments about a preferred pathway under the CAA, or commit to specific next steps to address greenhouse gases from any category of emission sources.

On the general subject of taxes or fees, EPA stated in the ANPR, in the context of discussing market-oriented approaches, that "The CAA does not include a broad grant of authority for EPA to impose taxes, fees or other monetary charges specifically for greenhouse gases and, therefore, additional legislative authority may be required if EPA were to administer such charges (which we will refer to collectively as fees). EPA may promulgate regulations that impose fees only if the specific statutory provision at issue authorizes such fees, whether directly or through a grant of regulatory authority that is written broadly enough to encompass them . . ."

With regard to the specific matters referenced in your letter, discussion in the greenhouse gas ANPR regarding the applicability of CAA permit requirements to various sources does not propose a "cow tax" or "cow fees." To the contrary, the ANPR includes discussion of the significant difficulties associated with applying current permit requirements to sources that emit greenhouse gases, including the Title V permit fee requirements.

A main purpose in publishing the greenhouse gas ANPR was to solicit public input and initiate a public dialogue about CAA issues. In this regard, the Agency has received thousands of comments to date and welcomes the opportunity to address the concerns of your constituents and others who have contacted the Agency on this matter. Although the public comment period for the greenhouse gas ANPR closed on November 28, 2008, EPA has further indicated that it will post comments received after that date and may use the entire docket as a resource, including late filed comments.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl MacKay, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2023.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Craig". The signature is written in black ink and is positioned above the typed name and title.

Elizabeth Craig
Acting Assistant Administrator