



Letters

Summer 2018

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Trump's New CAFE Standards Good News



E&E Legal's Steve Milloy authored a piece that examines President Trump's new CAFE standards for automobiles.

The purpose: "to eliminate the pointless and expensive fuel economy standards for cars and light trucks issued by the Obama administration in 2012."

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CA Wildfires Caused by Environmentalists



E&E Legal's Senior Media Fellow Katy Grimes destroys the myth that 'climate change' is the root of devastating fires in California. In fact, it's radical environmentalism that has prevented sound and proven forest management techniques to be employed for decades.

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E&E News Profile on Steve Milloy



E&E News did an in-depth profile on E&E Legal's Senior Policy Fellow and Board Member Steve Milloy. "He's spent his career attacking

the science used by government agencies to protect the public."

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E&E Legal Participates in Energy Conference



E&E Legal's Steve Milloy, Craig Richardson, and Greg Walcher were panelists in August at the Heartland Institute's 2018 America First Energy Conference.

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Who's in charge here? DOI Releases Revolutionary Reorganization Plan

by Greg Walcher, Senior Policy Fellow
As Appearing in *The Daily Sentinel*



Restaurant owners may know that open-faced sandwiches are regulated by the federal Food and Drug Administration (FDA), part of the Department of Health and Human Services. But if a second piece of bread is added on top, it is regulated by the Department of Agriculture (USDA). That's because the USDA has a very specific definition of a sandwich: two slices of bread with the meat in the middle. So, is a hot dog a sandwich? The National Hot Dog and Sausage Council says no, but the State of California says yes. How about a burrito? Massachusetts ruled that a burrito is not a sandwich, but New York says it is. A cheese pizza is regulated by the FDA, but add pepperoni and it becomes a USDA matter. When

you make an omelet, FDA regulates the eggs you crack, but if you pour liquid eggs from a carton, it's USDA.

Regulations can be confusing, sometimes because of vague wording, but often because of overlapping jurisdictions. It's not always obvious who is in charge. Clean water rules are under the jurisdiction of the Environmental Protection Agency, but projects that might affect stream water require permits from the U.S. Army Corps of Engineers. A salmon swimming in the ocean is under the jurisdiction of the National Marine Fisheries Service, part of the National Oceanic and Atmospheric Administration, Department of Commerce. But if the same fish swims upstream into a river, it becomes province of the U.S. Fish and Wildlife Service, part of the Interior Department.

Pundits have made fun of such regulatory silliness for years. Hillary Clinton joked about the sandwich rules when running for the Senate 18 years ago. At least two presidents have cited the weird pizza rules, yet nobody did anything about the regulatory mess.

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Trump Fuel Economy Proposal Puts Brakes on Obama's All-Pain-No-Gain Global Warming Crusade

by Steve Milloy, Senior Policy Fellow
As appearing in cnsnews.com



President Trump wants to get you into a new car of your choice for less money and sooner rather than later. To make that happen, his administration has just proposed to eliminate the pointless and expensive fuel economy standards for cars and light trucks issued by the Obama administration in 2012.

Pursuant to legislation passed during the now-over 1970s energy crisis, the Obama administration issued rules ordering carmakers to improve the average miles per gallon of their car fleets (called the Corporate Average Fuel Economy or “CAFE”) from about 27 miles per gallon (MPG) in 2012 to 50 MPG by the year 2025. The purpose of the new standards was to reduce fuel consumption and carbon dioxide emissions that supposedly contribute to climate change.

The problem, however, is that the carmakers have no magic technology on the drawing boards that would meet such tough standards. The only means for meeting the standards is to sell more low-profit electric vehicles and other small cars as opposed to the far more in-demand and highly profitable SUVs, pick-up trucks and crossover vehicles.

The carmakers acquiesced to the Obama rule in 2012 because they had just been bailed out of the 2008-2009 financial crisis by the Obama administration and, at the time, no one could imagine a future Trump

deregulatory juggernaut. Carmakers also felt that they could always negotiate with the government in the future for time to meet the standards in the event no feasible technology was developed.

The Trump National Highway Safety Traffic Administration (NHTSA) and the Environmental Protection Agency (EPA) are proposing to basically freeze the CAFE standards at what they will be in 2020 (about 37 MPG) for the next 10 years.

The proposal is estimated by the Trump NHTSA/EPA to save consumers about \$2,300 per new car and also to save about 1,000 lives per year, based on consumers being able to afford newer and safer cars sooner and also because higher fuel costs will curb driving.

While the proposal is estimated to increase daily fuel consumption by two to three percent, the good news is that it is no longer the 1970s as we are awash in oil. The Energy Information Administration estimated that in 2019, the U.S. will be the world's leading producer of oil, topping its 1970 peak of 9.6 million barrels per day by 2.2 million barrels.

Though more gasoline would be burned, the Trump EPA estimates that it will make precious little difference to climate (for those who fret about that). If implemented, the proposal is estimated to increase atmospheric carbon dioxide levels from 789.11 parts per million (under the Obama standards) to 789.76 parts per million by the year 2100 $\frac{3}{4}$ an 0.08 percent difference. That difference in carbon dioxide level translates into an estimated temperature difference of about 0.003 degrees Celsius $\frac{3}{4}$ a difference that is not even detectable. The proposal will also have no detectable impact on

U.S. air quality.

An important part of the Trump proposal removes California's ability to be the de facto fuel economy standard setter for the nation, a role Congress had intended for the federal government – not any one state.

When the Clean Air Act Amendments of 1970 were enacted, the federal government was empowered to give California waivers to set its own air quality standards because of special conditions that existed in California. In 2012, the Obama administration expanded these waivers to cover carbon dioxide emissions even though those emissions have nothing to do with air quality. Carbon dioxide is a colorless, odorless gas that is at the core heart of the climate controversy.

With the waiver but without congressional approval, California effectively became the fuel economy standard setter for the entire nation. Carmakers don't want to make two lines of cars, one for California and another for other states. And as California is considering a mandate for electric vehicles-only in the not-too-distant future, it's clear that California cannot be allowed to dictate such policy to the nation.

The Obama CAFE standards were also intended to help meet the future U.S. commitment to reduce greenhouse gases under the Paris Climate Agreement. But President Trump announced last year that the U.S. was pulling out of the Paris agreement.

The Trump proposal would replace the Obama standards' all-pain-and-no-gain global warming crusade with greater consumer choice, cost savings, improved safety and constitutional government. Sign me up for a new Trump car.

California Wildfires Caused By Radical Environmentalists, Not Climate Change

by Katy Grimes, Senior Media Fellow
As appearing in *Flash Report*



The United States Forest Service was originally founded to protect forests from the ravages of fire to preserve it for future generations. That thinking was abandoned in favor of the flawed “no-use movement,” or the “rewilding” theory, which blames humans for the “degradation of our planet.” “Rewilding the land can repair damage we’ve caused and reconnect us to the natural world,” National Geographic claims.

For decades, traditional forest management was scientific and successful – that is until ideological, preservationist zealots wormed their way into government and began the 40-year overhaul of sound federal forest management through abuse of the Endangered Species Act and the no-use movement.

Traditional forest management had simple guidelines: thin the forest when it becomes too difficult to walk through; too many trees in the woods will compete with one another, because the best trees will grow at a slower rate.

In my recent interview with Rep. Tom McClintock, he stated:

Our forests are now catastrophically overgrown, often carrying four times the number of trees the land can support. In this stressed and weakened condition, our forests are easy prey for drought, disease, pestilence and fire. The U.S. Forest Service used to be a profitable

federal agency, McClintock said. “Up until the mid-1970’s, we managed our National Forests according to well-established and time-tested forest management practices.”

“But 40 years ago, we replaced these sound management practices with what can only be described as a doctrine of benign neglect,” McClintock said. “Ponderous, Byzantine laws and regulations administered by a growing cadre of ideological zealots in our land management agencies promised to “save the environment.” The advocates of this doctrine have dominated our law, our policies, our courts and our federal agencies ever since.”

Today, only privately managed forests are maintained through the traditional forest management practices: thinning, cutting, clearing, prescribed burns, and the disposal of the resulting woody waste.

McClintock said the forest service used to auction surplus timber harvested from national forests. This served two purposes: clearing, cleaning, and thinning the forest, and providing usable timber for a myriad of industries. The timber the forest service auctioned off more than paid for the entire federal agency, and then some. Local governments even received 25 percent of the proceeds of the lumber auctions, while 75 percent went to the federal government.

“Revenues that our forest management agencies once produced – and that facilitated our forest stewardship – have all but dried up,” McClintock said. This has devastated rural communities that once thrived from the forest economy.

McClintock said there were once 147 timber mills; now, there are only 29 in the country.

McClintock also pointed out that despite the growing population, visitation to national forests has declined significantly as the health of our forests has decayed. “We can no longer manage lands to prevent fire or even salvage dead timber once fire has destroyed it,” he said.

Private forests are still managed properly, but not forests on public lands.

That sound practice grounded to a halt when the most radical environmentalists took over. Now thick, overgrown and diseased forests have become tinder boxes and are burning down in California, leaving a trail of death and destruction.

What Happened?

In 2012, the Obama administration issued a major rewrite of all of the country’s forest rules and guidelines, adding so many rules, regulations and layers of bureaucracy, grounding all forest management to a halt. McClintock said that to even cut one tree down in the national forest, forest managers were forced to apply to the federal government for a study. The other big problem is these burdensome regulatory requirements greatly inflate the cost of forest management, McClintock said. “Between the studies and litigation, the process was endless,” McClintock added.

When forest managers attempted to address public lands ravaged by disease, beetles or fires, they were met with a wall of bureaucracy. “Public lands take years’ worth of environmental review for studies,” McClintock said. “By then, the timber has lost most of its commercial value. Essentially, the public land is abandoned. The laws make it cost prohibitive to salvage.”

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Steve Milloy doesn't like 'climate bedwetters'

by Scott Waldman, E&E News reporter



Climate change. Secondhand smoke. Air pollution.

There's a growing body of science showing that humans are threatened by all three. Policymakers have spent years crafting public health protections based on that research.

Steve Milloy just sees junk to debunk.

The former securities lawyer and Trump EPA transition official has held significant sway over some of the agency's major policy moves under Administrator Scott Pruitt.

There is a mountain of science that says he's wrong. The chemicals, drugs and environmental impacts that Milloy says are demonized by politically motivated scientists and their allies all pose health risks to humans.

Milloy won't have it.

He's spent his career attacking the science used by government agencies to protect the public. As a result, he's among a distrustful minority of critics who refuse to accept mainstream research, or most of it. He's been taking discredited positions for two decades. And he's done it gladly.

Now, he's having his brightest moment in President Trump's America.

"The left has tried to make me radioactive for 25 years now, but I have defied them successfully and I've come out on top, and that is so empowering you can't believe it," Milloy said in an interview. "They've said just about every nasty thing they can say about me, and somehow, by hook or by

crook, I have made it through and I'm winning."

Two years ago, Milloy's claims didn't resonate in broader Washington. His book "Scare Pollution: Why and How to Fix the EPA" was regarded by policymakers as, essentially, the bizarre complaints of a man shouting at the clouds, a crank who opposed any and all regulations. He was a blogger who ran JunkScience.com, with the tagline "All the Junk That's Fit to Debunk."

So for years, Milloy, a veteran of some of the most conservative think tanks in Washington and a former executive at the Murray Energy Corp. coal company, had no real influence at EPA. Instead, the agency served as a useful target of his ire.

Then Trump was elected.

With Pruitt expressing empathy toward industry, Milloy has helped muster some major changes at EPA. He's largely unknown to the public, a symptom, perhaps, of toiling for years in obscurity. A number of Milloy's friends, who are fellow critics of established climate and air pollution science, are members of EPA's Science Advisory Board. Some of them are researchers funded by the fossil fuel industry.

His daily Twitter feed is a mix of attacks on communism, liberals and "climate bedwetters." He also posts frequent exclamations of triumph.

Like these:

Trump rolls back a policy by President Obama that sought to reduce greenhouse gas emissions. "WINNING!!" Milloy writes. A judge lifts a ban on coal exports at a port in Oakland, Calif. "WINNING!!" Pruitt will get "Secret Science" out of EPA. Very "YUGE WINNING!!"

"Thank God for President @realDonaldTrump," Milloy wrote recently.

In the past, Milloy was a hired crusader helping companies and think tanks fight against regulations and public health protections. Members of industry and conservative think

tanks have helped pay Milloy's salary for decades. He wouldn't disclose who his funders are in a recent interview, allowing only that they include "private foundations."

In April, Milloy was in the audience at EPA headquarters when Pruitt proposed a rule that would restrict some types of science that the agency can use to craft regulations. A smile beamed across this face. Major science organizations point out that the rule would exclude some of the most important air pollution studies ever conducted, because they use data that are unavailable to the public.

Milloy celebrated with Marc Morano, who tweets under the moniker @ClimateDepot and works for the conservative Committee for a Constructive Tomorrow. They were in the Rachel Carson Green Room, named after the famed environmentalist, who Milloy said "misrepresented the existing science on bird reproduction and was wrong about DDT causing cancer." The symbolism of the moment was not lost on Milloy.

He tweeted: "Climate skeptic barbarians @junkscience and @climatedepot. Not just at the EPA's gate, but inside the administrator's office eating the greens' lunch."

One policy expert who opposes Milloy's positions said it was stunning to see him shaking the hand of the EPA administrator. He described Milloy as having a Cheshire cat grin and expressed personal repugnance that he was celebrated at EPA headquarters. The expert, who didn't want to go on the record in a story that could be interpreted as praising Milloy's ascendance, expressed grudging admiration for Milloy's persistence. He took unpopular, contrarian views for decades before finally finding a moment of influence.

"Game respect game," the policy expert said.

Milloy's policy goals are indeed a long game, and they stretch back to his time fighting science on

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Milloy Profile (Cont.)

behalf of tobacco companies. After the scientific body of evidence showing the health risks of smoking became overwhelming, the industry shifted to attacking the way studies could be used. Milloy headed the Advancement of Sound Science Coalition, a group funded by Philip Morris International Inc. and other cigarette companies that attacked scientific studies on the health risks of secondhand smoke.

The presence of people like Milloy shuts out the voices of qualified scientists in the public policy arena, said Augusta Wilson, an attorney with the Climate Science Legal Defense Fund.

"What it means is that the policies that get developed are ultimately going to reflect the interests of industry, the tobacco industry, the oil and gas industry and others, rather than a real, fundamental focus on human health and the environment, which is what should be happening and which is the agency's core mission," she said.

In the Washington policy world, you're up or you're down depending on who's in the White House. But Milloy said he has never seen himself as being on the outs, just traveling a learning curve that has led to now. He said this is the time for people like him, who viewed the George W. Bush administrations as a failure because it didn't go after environmental issues

aggressively enough, letting bureaucrats settle policy goals.

Milloy, who has a master's degree in biostatistics from Johns Hopkins University and a law degree from the University of Baltimore, has a resume rich with affiliations at conservative think tanks that oppose environmental regulations. They include the Cato Institute, Energy and Environment Legal Institute, Heartland Institute and Competitive Enterprise Institute. Many of those groups hold sway at Pruitt's EPA, making it seem as if Milloy's career has been building to this moment.

Milloy said it won't be easy to strip his imprint from EPA, even if the next administration goes after Pruitt's so-called science transparency plan. Democrats are going to have to fight the "politics of backsliding on these issues," he said.

"These are years they're not getting back," Milloy said.

Others question whether Milloy has any real sway at EPA and whether anything he has influenced has any durability. All of Milloy's attempts to subvert science are legally vulnerable because they're so far outside of established research, said John Walke, a former EPA air attorney and director of clean air, climate and energy at the Natural Resources Defense Council.

"It's really hard to overstate

how much of an outlier and irrelevant he's been in environmental and public health policy debates over the past three decades," Walke said. "He has always been on the losing side of the public health debates, promoting the interests of the tobacco companies and oil companies and dirty freight truck companies. There's this subculture of industry and untrained scientists who try to pick apart consensus science to fend off regulation for as long as possible, well past its expiration date."

When asked to provide the names of some allies, Milloy hesitated. He said he thrives on the explosions of emotion he is capable of producing in his critics and doesn't need external validation.

"I don't even know that I'm representative of anything, because I'm the only person I know that has been doing whatever is I've been doing for the last 25 years," Milloy said. "For me, it's been this tremendous educational experience. When I die, I'm not going to sit there and wonder what that was all about. I have been fortunate that I have been able to do this continuing education on scholarship in a way. The fact that my ideas have now gained traction in government and are going to be part of public policy, well, that's awesome.

Who in Washington could ask for more?" □

E&E Legal Participates in Heartland's Energy Conference

E&E Legal Senior Policy Fellows Steve Milloy and Greg Walcher, along with President Craig Richardson were three of the presenters at the Heartland Institute's 2018 America First Energy Conference. The two-day event, held at the Hilton New Orleans Riverside, "outlined the advances for Energy Freedom we've seen come about under President Trump, and looked forward to the advances we'll see in the years to come."

Milloy, a President Trump

EPA Transition Team member, joined fellow transition team members, Amy Oliver Cooke, an Independence Institute executive and E&E Legal Senior Fellow, and CEI's Myron Ebell. The panel reviewed "[EPA] reform victories so far and [a] look ahead at what else needs to be done to reverse the overreach of the Obama administration."

Walcher participated on a panel that looked at climate lawsuits against energy companies and the government. Specifically, he provided an

update on the status of the "Children's Climate Lawsuit," a suit brought by the usual climate change suspects who are using kids as a news hook.

Finally, Richardson participated on a panel, *Fiduciary Malpractice: The 'Sustainable' Investment Movement*. He covered the phenomenon of "virtue signaling," and how this once attempt at morally superiority to push a leftist agenda is now being taken-up to an increasing degree by major corporations who tended to shy away from controversy in the past. □

DOI's Reorganization Plan (Cont.)

That is the impetus behind a new Trump Administration government reorganization proposal, which could have a dramatic effect on management of Interior, Commerce, USDA, and HHS, among others. In some areas, jurisdictional lines would become much clearer. For instance, all agencies that regulate food safety would be consolidated under the USDA, covering virtually all the foods we eat.

The "civil works" programs at the U.S. Army Corps of Engineers would be moved to the Transportation and Interior Departments, which would better align those missions and eliminate much duplication. The Corps of Engineers is an unusual creature, a military agency headed by a general, which reports to a civilian at the Pentagon (Assistant Secretary of the Army for Civil Works), and regulates economic activity that has nothing to do with the Army. The Corps owns and operates dams and water infrastructure, exactly like Interior's Bureau of Reclamation does. In Colora-

do, the Corps has Chatfield and Cherry Creek reservoirs, but Reclamation has Blue Mesa, Granby, McPhee, Ridgway, Rifle Gap, and a couple dozen others.

The Corps has always filled a vital military mission, from building fortifications at Bunker Hill, to pontoon bridges for Eisenhower to cross the Rhine. Over the decades, though, Congress also assigned numerous non-military projects like the Panama Canal and Washington Monument, simply because the Corps had engineering expertise. Congress never expected the unfathomable growth of government that resulted in duplicated expertise and conflicting standards across numerous agencies.

The jurisdictional lines are perhaps most inexcusable in enforcement of the Endangered Species Act. Assigning virtually identical duties to the Fish and Wildlife Service (Interior) and the Marine Fisheries Service (Commerce) never made sense. The theory was that ocean species would be under one agency, land species another. But in practice, it isn't

nearly that clear. Interior has jurisdiction over endangered marine mammals such as manatees and sea otters, and for all sea birds. Commerce has jurisdiction over seals and sea lions, even when they go on land. But a sea turtle on land is under Interior until it jumps into the water, when it becomes a Commerce Department turtle.

Don't bother trying to make sense of something that makes no sense. This is why such a reorganization is long overdue. There are other aspects of the proposal that might complicate the debate, and it is not at all certain that Congress will agree to any changes. The Obama Administration also tried, unsuccessfully, to consolidate at least the wildlife agencies.

Any change in D.C. always faces resistance. One report said, "The Washington inertia machine swung into inaction immediately following the release of the report." Opposition is predictable, but wouldn't it be nice, in at least some of these situations, to know who is in charge? □

The Catastrophic Canard of Climate Change (Cont.)

Gov. Jerry Brown has spent a great deal of time jetting around the world spouting climate change propaganda, and now he calls these year-round wildfires California's "new normal."

Rep. McClintock pointed out the obvious: the same climate change impacts private lands as public lands, but private forests are not burning down because they are properly managed. Or if a fire does break out on privately managed forest land, it is often extinguished more quickly and easily because the trees aren't so close together, and the underbrush has been cleared away.

We are now living with the result of radical environmentalism ideology – that we should abandon our public lands to overpopulation, overgrowth, and in essence, benign neglect, McClintock said. "Forest fires, fueled

by decades of pent up overgrowth are now increasing in their frequency and intensity and destruction."

He added, "excess timber WILL come out of the forest in one of only two ways. It is either carried out or it burns out." McClintock was able to pass legislation last year, which streamlined the environmental reviews for the Tahoe Basin. "The Forest Service regional manager told me it will take their review from 800 pages to 40 pages, and allow them to begin to get the forest there back to a sustainable level."

But meanwhile, California burns, while Jerry Brown claims these catastrophic infernos are "the new normal", blames climate change, declares a national emergency and collects billions of dollars from the American taxpayer in federal aid. No amount of money will ever fix California until

they undo decades of dangerous climate change regulations and remove 129 million dead trees. □

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**Energy & Environment Legal Institute
(E&E Legal)**
1155 15th St., N.W.
Suite 900
Washington, D.C. 20006
(202)-758-8301
Info@eelegal.org
www.eelegal.org