



**THE SELECT COMMITTEE ON  
ENERGY INDEPENDENCE AND GLOBAL WARMING**

**Congressman Edward J. Markey (D-Ma), Chairman  
Select Committee On Energy Independence And Climate Change  
“*Massachusetts V. U.S. EPA Part II: Implications Of The Supreme Court  
Verdict*”  
March 13, 2008**

The Bush Administration’s approach to climate change policy has been to deny the science, delay the regulation, and dismiss its critics. The Administration’s denial of its own authority to regulate carbon dioxide as a pollutant under the Clean Air Act led to the Supreme Court’s decision in *Massachusetts v. EPA* almost a year ago.

The Supreme Court decision made a few things exceedingly clear:

- Greenhouse gases are pollutants that can be regulated under the Clean Air Act.
- EPA’s excuses for its failure to regulate greenhouse gas emissions from motor vehicles, including its excuse that the Department of Transportation sets fuel economy standards, were all inadequate.
- Under the Clean Air Act, EPA must determine whether these emissions cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare, a determination often referred to as an ‘endangerment finding,’ and
- If the EPA *does* make a positive endangerment finding, it must regulate greenhouse gas emissions from motor vehicles.

In May of last year, the President directed EPA, along with other agencies, to prepare a regulatory response to the Supreme Court decision. In June, the Select Committee held a hearing at which EPA Administrator Johnson appeared. He told us he was working on both the ‘endangerment finding’ and the proposed regulations, and numerous statements made by him and other Administration officials during the next 6 months indicated that the EPA was on track to issue a proposed rule by the end of last year, and have final regulations in place by the end of this year.

Well, that didn’t happen. Instead, what we’ve learned from a steady stream of press reports and Congressional hearings is that:

- EPA in fact concluded that greenhouse gas emissions endanger public welfare, and submitted its finding to OMB in December.
- EPA in fact drafted greenhouse gas regulations for motor vehicles and submitted its draft to other agencies in December.
- And then, according to numerous reports, EPA stopped all of its work in this area – except for its work to deny California, Massachusetts, and more than a dozen other States the right to move forward with their own motor vehicle emissions standards.

And instead of cooperating with Congress, EPA has answered Congressional inquiries for information with delays and denials that interfere with the work of this Committee and other Committees of the House.

In stark contrast to EPA’s failure to lead, we have here today two witnesses who have been climate heroes in the State of Kansas. Unlike the EPA Administrator, who still can’t seem to accept the scientific consensus and declare

that greenhouse gas emissions are dangerous, Kansas used its own State authority to deny a permit for a new coal-fired power plant on just those grounds. For its trouble, Governor Sebelius's Administration has been subjected to an ad campaign comparing it to Vladimir Putin, Hugo Chavez and Mahmoud Ahmadinejad. And the sponsor of the coal-fired plant, Sunflower Electric, has engaged in a full court press to change the law to its liking because it could not show that its new coal plant would not endanger public health or welfare.

Today, the Committee seeks answers from Administrator Johnson. We are seeking documents we have been requesting for almost two months. We want an answer to when the last remaining Environmental Ministry head in the developed world will decide whether greenhouse gas emissions are dangerous. We will be looking for an answer to the question of when the federal government will begin to lead climate change policy by example, instead of doing everything possible to thwart States who try to do their part to save the planet.