

**Bad Regulations Ahead:
Prepare to Pay an
Unprecedented Toll**

**Biden's 2024
Environmental Agenda
and its *Road to Ruin***



**U.S. SENATE COMMITTEE on
ENVIRONMENT & PUBLIC WORKS**
RANKING MEMBER SHELLEY MOORE CAPITO



Ranking Member Capito's Stand Against Executive Overreach

The Biden administration is racing to finalize a slate of destructive environmental regulations that will impose unprecedented costs on the American people, significantly harm the United States' energy security and electric reliability, and seriously degrade Americans' way of life.

Throughout 2024, Ranking Member Capito and Republicans on the Senate Environment and Public Works (EPW) Committee will continue to combat the Biden administration's radical green agenda.



*“For three years now, with energy regulation after energy regulation and climate mandate after climate mandate, President Biden has clearly and unapologetically put the American people **last**. And unfortunately, the worst of these harmful, unrealistic policies are due up in 2024.”*
- **Ranking Member Shelley Moore Capito (R-W.Va.)**

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The Administration's War on American Energy Through Regulations

EPW Republicans have scrutinized the Biden administration's attacks on American energy. President Biden supported passage of the party-line Inflation Reduction Act (IRA) designed to eradicate future demand for coal and natural gas. His climate czar John Kerry pledged to phase out coal power plants entirely. The administration bowed to TikTok activists in its decision to pause approvals of LNG exports to our allies in Europe and Asia. Meanwhile, the administration continues to roll out damaging regulations highlighted in this report. Throughout 2024, the Biden administration's climate approach will continue to harm the U.S. economy and our energy security, and lead to a world whose energy needs are more reliant on China and Russia than it is today.

EPA's EGU Strategy

Several of the rules examined in this report are part of a coordinated White House-Environmental Protection Agency (EPA) plan dubbed the Power Sector, or Electric Generating Unit (EGU) Strategy. It seeks to rid the U.S. power sector of baseload energy sources by sharply increasing the operating costs for baseload fossil fuel-fired power plants and forcing their premature retirement.

EPA regulations that are part of the EGU Strategy include:

- Clean Power Plan 2.0 (CPP 2.0)
- "Good Neighbor Air" Rule (GNR)
- Particulate Matter (PM2.5) Rule
- Mercury and Air Toxics Standards (MATS) Rule
- Coal Combustion Residuals (CCR) Rule
- Effluent Limitations Guidelines (ELG) rule

EPA's Coercive Intent Behind the EGU Strategy:

*"The industry gets to take a look at this suite of rules all at once and say, 'Is it worth doubling down on investments...or should we look at the cost and say no, it's time to pivot and invest in a clean energy future?' If some of these facilities decide that it's not worth investing in [control technologies] and you get an **expedited retirement**, that's the best tool for reducing greenhouse gas emissions."*

-EPA Administrator Michael Regan

The focus of the EGU Strategy is clear: issue one regulation at a time and never show the damage of all the regulations together. The Strategy is designed to cripple baseload power plants and strong-arm investment in renewables. EPA Administrator Regan clearly explained the agency's plan at a speech in May 2022. Ranking Member Capito has repeatedly spoken out against the administration's EGU Strategy, including in oversight letters to the EPA and the Federal Energy Regulatory Commission (FERC), in public comments on proposed EPA regulations, and in EPW hearings when EPA officials have testified.

The Challenges Operators are Facing:

*"But the reality is a lot of these [electric generating] units aren't just looking at the greenhouse gas rules. They're looking at the ozone transfer rules, they're looking at the carbon residuals. They're looking at the good neighbor and the MATS rules...and seeing the **threats** on all of these units kind of layering up. How do you have this orderly path when you have so many **threats** coming from so many different ways?"*

-Commissioner Fedorchak, North Dakota Public Service Commission



The Cumulative, Destructive Impacts of EPA Rulemakings

EPW Republicans have consistently warned that the EPA's current regulatory agenda threatens Americans' access to reliable, affordable electricity. At the same time the administration seeks to force the closure of power plants, Biden is trying to mandate a recklessly fast transition to electric vehicles that will cause power demand to rise. Recent projections from PJM, the largest regional transmission organization (RTO) in the United States, illustrate the cliff we face to meet our electricity demands due, in part, to the EPA's GNR, CCR, and ELG rules. In 2023, PJM projected that 40 gigawatts of generation capacity could retire by 2030 while demand for electricity may increase by 7 percent annually.

A closer look at the devastating reliability impacts of the EPA's actions

The EPA has not done its homework before proposing new regulations. The West Virginia and Delaware Public Service Commissions criticized the Agency's Clean Power Plan 2.0 proposal for not adequately examining reliability impacts. Ranking Member Capito and Ranking Member Barrasso of the Senate Energy and Natural Resources (ENR) Committee requested that the FERC hold a technical conference to examine concerns. At the conference, FERC Commissioner Mark Christie asked EPA Air Office lead Joe Goffman if the Agency had studied how the rule could hurt grid reliability if covered power plants are unable to receive financing to maintain compliance with the rule. **As Commissioner Christie disappointingly observed after the conference, "It was obvious from my questioning of Mr. Goffman at the conference that EPA has not performed any serious and credible analysis of the essential question of how electric generating units (EGUs)...will be affected by Rule 2.0...."**

*"The United States is heading for a **reliability crisis**. I do not use the term 'crisis' for melodrama, but because it is an accurate description of what we are facing...dispatchable resources are retiring far too quickly and in quantities that threaten our ability to keep the lights on."*

-FERC Commissioner Mark Christie

*"Without firm proof of the commercial and operational viability of these technologies, proceeding with these requirements could place the reliability of the electric grid in jeopardy. **In short, hope is not an acceptable strategy.**"*

- Independent System Operators (ISO)-RTOs joint comments in response to EPA's proposed Clean Power Plan 2.0

In its 2023 Long-Term Reliability Assessment, the North American Electric Reliability Corporation (NERC) recently cited EPA rules in warning that "environmental regulations and energy policies that are overly rigid and lack provisions for electric grid reliability have the potential to influence generators to seek deactivation despite a projected resource adequacy or operating reliability risk." Because EPA's Good Neighbor Rule and other EGU Strategy rules pose serious reliability and resource adequacy strains, Ranking Member Capito, ENR Ranking Member Barrasso, and their colleagues have asked the FERC to hold another technical conference in follow-up to the November 2023 technical conference on the Clean Power Plan 2.0.



The Enormous Financial Toll of Biden's Environmental Regulations

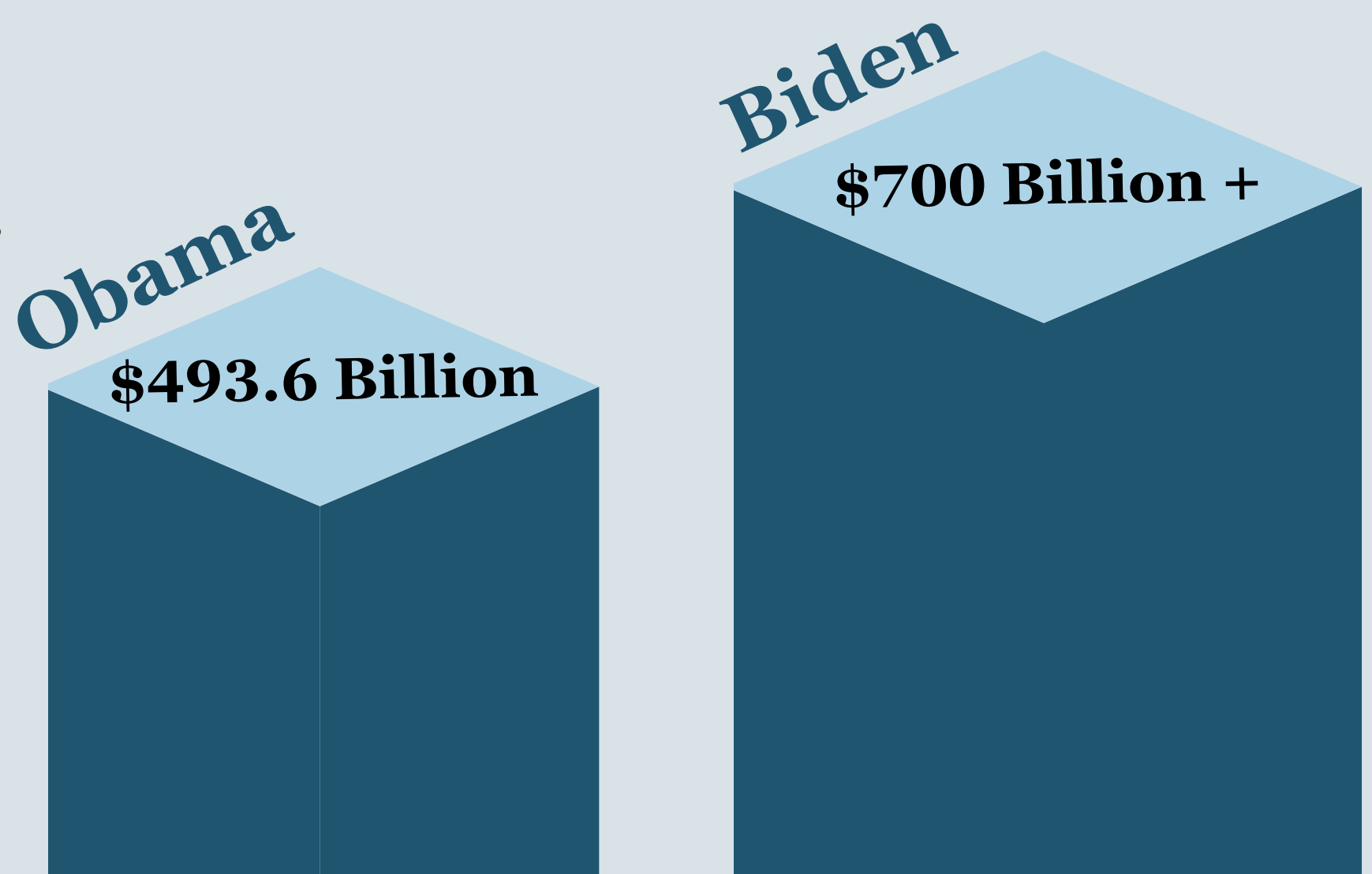
Even using the Biden administration's and California's own analyses, the cost of the EPA's environmental rulemakings will be **devastating** for American consumers and businesses alike. If just the following six sets of regulations are implemented, the Biden administration would impose **hundreds of billions** in costs over the coming decades.

- ✗ **EV Mandate Rule for Model Years 2027 to 2032*: More than half a trillion dollars** in total costs from 2027-2055.
 - Phases down gas-powered cars; sharply increases electric demand.
- ✗ **Waiver for California's 100% EV/Hydrogen Fuel Cell Vehicle Sales Mandate by Model Year 2035: \$210 billion** in total costs from 2026 and 2040.
 - Imposes California's radical emission standards; prohibitively expensive.
- ✗ **Truck EV Mandate Rule for Model Years 2027 to 2032*: \$24 billion** in total vehicle-related technology costs from 2027-2055.
 - Mandates zero-emission trucks; imposes severe costs on businesses.
- ✗ **Clean Power Plan 2.0 Rule*: \$14 billion** in national compliance costs from 2024-2042.
 - Eliminates coal power generation; impairs grid reliability.
- ✗ **PM 2.5 Rule*: \$7 billion** in national compliance costs from 2032-2051.
 - Limits economic development; threatens energy and manufacturing projects.
- ✗ **Natural Gas Tax Rule*: \$390 million** in total social costs from 2024-2035.
 - Increases energy costs for consumers; deters investment in climate solutions.

*These estimates are in present value dollars taken from each rule's respective regulatory impact analysis.

Biden's vs. Obama's First Term: Regulatory Costs

The Biden administration is on track to surpass the Obama administration's total regulatory costs imposed during its first term. **The American Action Forum (AAF) projected that the Biden administration's total imposed regulatory costs could soon amount to more than \$700 billion.** As of March 18, 2024, the AAF estimated that Biden's cumulative final rule costs have already totaled more than \$478 billion.





Republican Reality Check: Calling out the Administration's False Claims

EPW Republicans have repeatedly exposed the administration for misleading Americans about its high-cost regulatory agenda. Although the EPA and other federal agencies continue to argue their approach is workable, the agencies are ignoring reality. **Below are just a few of these misleading and flawed assumptions by the Biden administration.**

False Claim: New National Environmental Policy Act (NEPA) rules are improving the federal environmental review process for major projects.

✗ The Biden administration's approach to environmental review will slow down, not speed up, projects.

Lieutenant General Scott Spellmon, Commanding General of the U.S. Army Corps of Engineers, addressed Ranking Member Capito's concerns in an EPW hearing this year. When asked if the Corps was compliant with the legislative directives to expedite the environmental review process for water resources studies under NEPA, Lieutenant General Spellmon pointed to the administration's regulations concerning treatment of "greenhouse gas emissions" and the "social cost of carbon" calculations. EPW Republicans have highlighted the ways the CEQ's latest regulatory proposal runs contrary to Congress's intent in the 2023 amendments to NEPA to streamline environmental reviews.

False Claim: Low-GHG hydrogen and CCUS are "adequately demonstrated."

✗ These technologies are not ready for widespread deployment and may not be any time soon, in part because of the administration's policies.

The EPA seeks to justify its unworkable Clean Power Plan 2.0 on near-term, widespread deployment of low-GHG hydrogen and carbon capture utilization and sequestration (CCUS). Neither of these technologies are "adequately demonstrated" as required under Section 111 of the Clean Air Act. Their future deployment is also threatened, in no small part by some of the administration's own self-defeating actions. For example, recently proposed Treasury Department guidance threatens to kneecap an emerging hydrogen industry and the EPA's slow pace for reviewing Class VI well permits and primacy applications hampers CCUS-related projects.

"In states like West Virginia, the new renewable energy source requirement would preclude 'blue' hydrogen...the guidance will directly undermine implementation of the hydrogen hubs program established in the bipartisan Infrastructure Investment and Jobs Act (IIJA)."
-Ranking Member Capito

"Together with other policies like the 'pause' on approvals of liquified natural gas export facilities, the administration is sowing regulatory confusion across the natural gas sector. These burdensome and punitive policies will hamstring investments in natural gas..."
-Ranking Member Capito

False Claim: Only bad actors will pay a tax on natural gas.

✗ Whether a company or facility pays the tax has nothing to do with whether it complies with federal regulations.

The natural gas tax is yet another Democrat-created hammer against American energy. In addition to imposing a tax on petroleum and natural gas operators, the EPA is also rewriting the rules that facilities must follow when reporting their emissions to the Agency. EPW Republicans are concerned that the EPA's proposal will overestimate some facilities' methane emissions and make those law-abiding operators liable for the natural gas tax.



False Claim: Americans support a rapid, forced transition to electric vehicles.

✗ A rush to 100 percent electric vehicles would take away affordable, reliable transportation options away from Americans.

The EPA is putting together a series of regulations to force America’s car and truck fleet to electric vehicles (EVs) at warp speed. Recent analysis shows that consumer demand for EVs is slowing due to a multitude of concerns about EVs including: performance issues during cold weather, inadequate or defective EV charging infrastructure, higher prices than internal combustion engine vehicles, and poor reliability ratings. Yet the agency is ignoring reliability and trying to force a transition to speed up.

Last month, the EPA finalized new regulations for model years 2027 to 2032. Meeting the rule would mean approximately 69 percent of car and pick-up truck sales to be battery electric or plug-in hybrid electric vehicles by 2032. In 2023, only 7.6 percent of sales were battery electric and 1.9 percent were plug-in hybrid electric. At the same time, the EPA is pushing a breakneck transition for larger trucks. To meet that EPA rule, up to 60 percent of smaller delivery truck and 25 percent of one quarter of long-haul, sleeper cab tractor sales would need to zero-emissions by model year 2032. On top of that, the EPA is weighing California’s request to allow it and other states to require 100 percent of new cars and pick-up trucks to be “zero-emissions” (electric vehicle or hydrogen fuel cell) by model year 2035. Meanwhile the EPA is also granting California the authority to begin to force the use of electric locomotives in 2030.

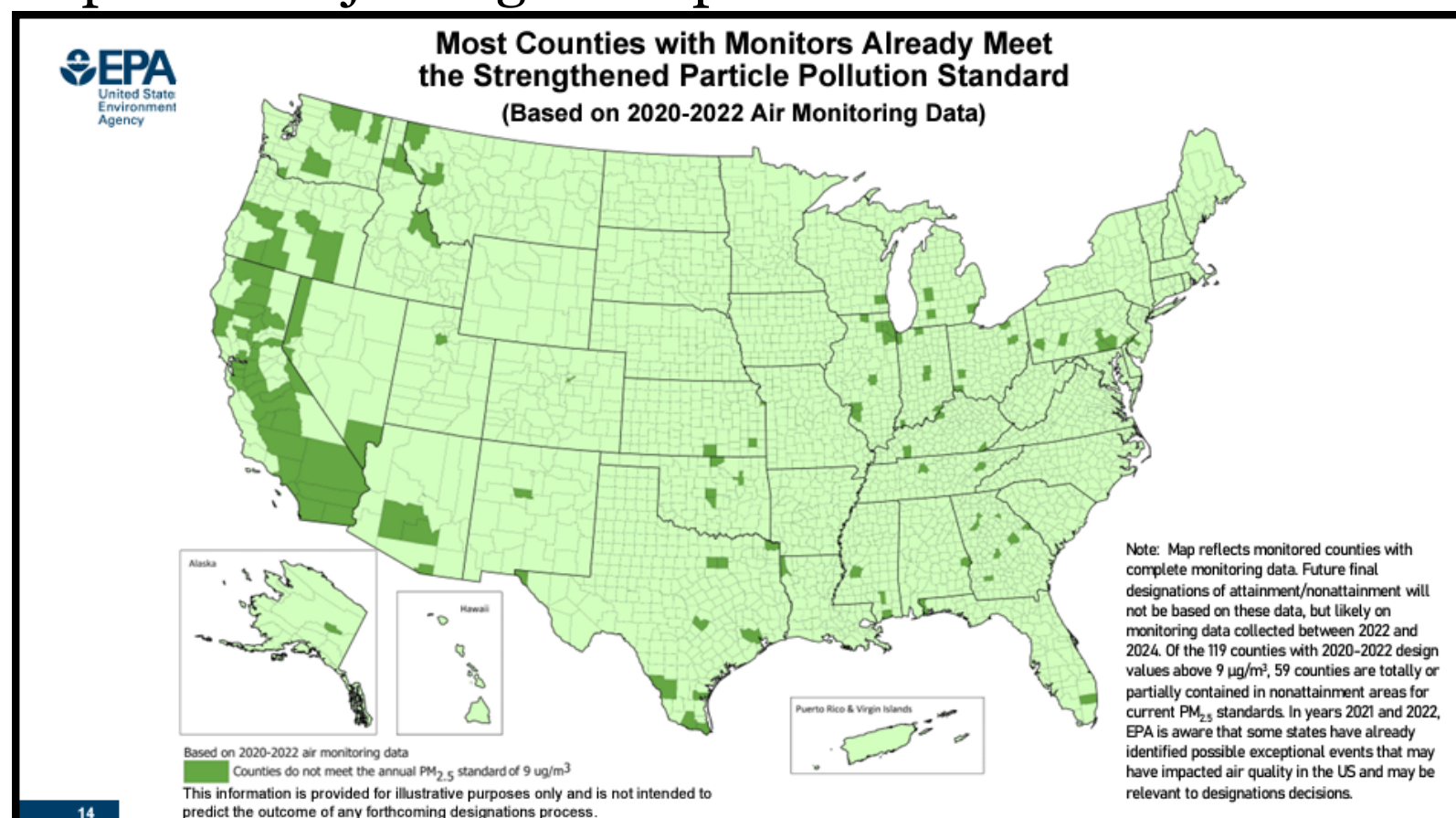
*“These regulations represent yet another step toward **an unrealistic transition** to electric vehicles that Americans do not want and cannot afford, which threatens America’s electric grid and increases our reliance on China for critical minerals.”*

-Ranking Member Capito

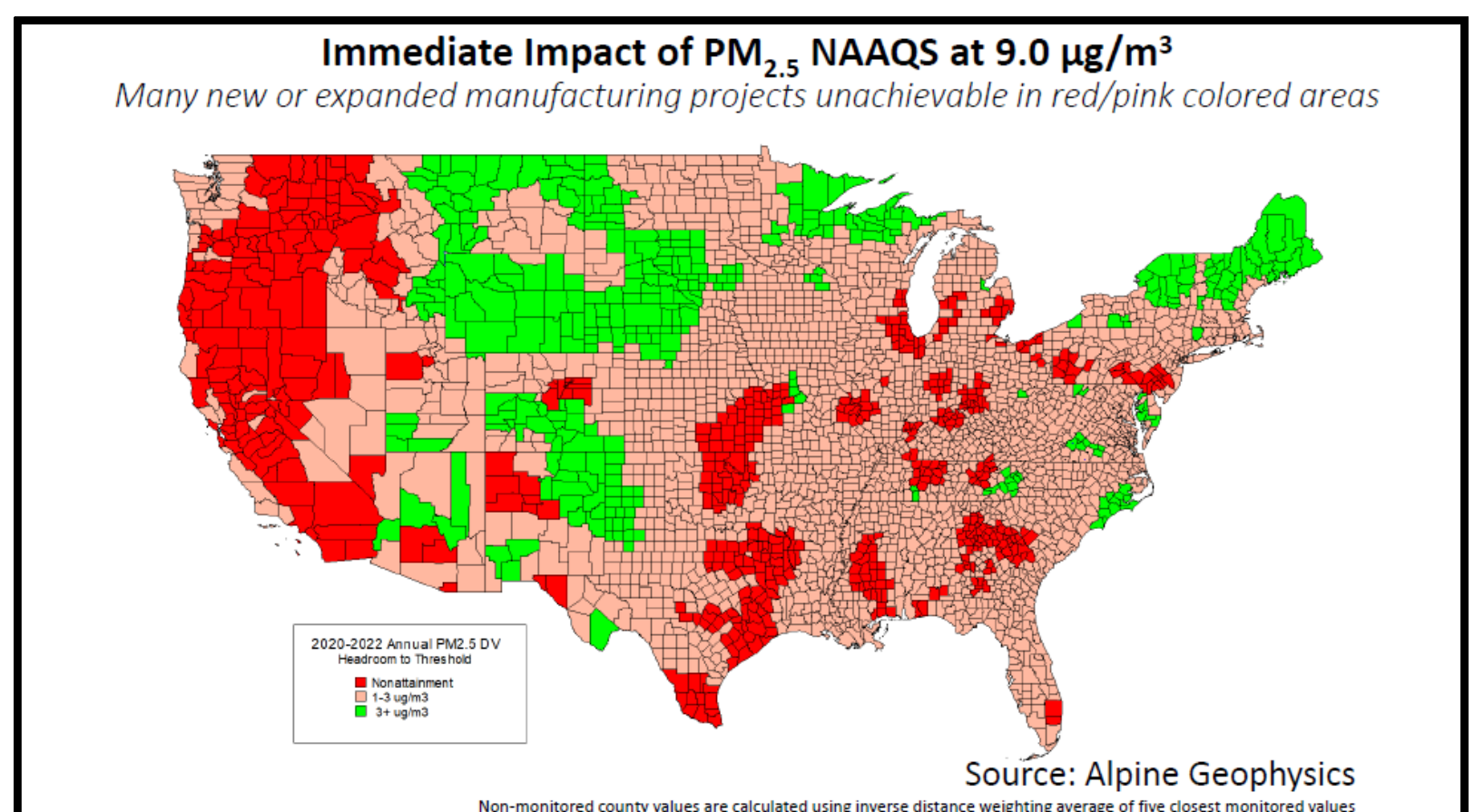
False Claim: The new particulate matter rule will not affect states or industry much at all.

✗ Development could slow or altogether stop in large parts of the country.

When the EPA finalized its economically-damaging annual PM2.5 standard at 9µg/m3, the agency published a misleading graphic (below at left) suggesting the majority of U.S. counties could already meet the standard. However, EPA used data from 2020 and 2021, years with lower emissions due to pandemic restrictions, and declined to look at data from 2023, a record year of worse air quality due to an increase in wildfire smoke over the eastern seaboard. The agency is painting a false picture of U.S. air quality to advance its unachievable rulemaking. A more realistic view of the effects of the rule is from the National Association of Manufacturers (NAM) (below right). In the EPA’s map, the agency omitted counties with no air monitors from its analysis and assumed that the full implementation of the IRA and proposed EPA rulemakings will help most U.S. counties be in attainment by 2032—a highly unrealistic scenario. Senate Republican Leader McConnell is leading a CRA against the rule with all EPW Republicans joining as cosponsors.



A link to the EPA’s graphic can be found [here](#).



A link to the NAM’s map can be found [here](#).



Don't Just Take Our Word For It, Job Creators Agree: Statements on the Biden Administration's Damaging Actions

Particulate Matter (PM 2.5) Rule: “Threatens nearly \$200 billion in economic activity and puts close to 1 million good-paying jobs at risk.” - **National Association of Manufacturers and more than 70 other trade associations**

Clean Power Plan 2.0: “EPA couples ... inadequately demonstrated technologies with unworkable timelines that will be impossible to achieve. ... [R]etirements will pose direct threats to electric grid reliability that EPA fails to appropriately assess and inaccurately models.”
- **National Rural Electric Cooperative Association**

Truck Emissions Rule Requiring Too-Fast Transition to EVs: “[T]he post-2030 targets remain entirely unachievable given the current state of zero-emission technology, the lack of charging infrastructure and restrictions on the power grid...any regulation that fails to account for the operational realities of trucking will set the industry and America’s supply chain up for failure.” - **American Trucking Associations**

Revisions to NEPA Regulations: “CEQ’s proposal ... would force federal agencies to insert duplicative and unnecessary analyses into their NEPA reviews. The rule attempts to tip the scale in favor of specific policy outcomes. CEQ’s proposal is beyond the statutory authority of NEPA and would directly undermine the effectiveness and impact of the bipartisan infrastructure law.”
- **American Road and Transportation Builders Association**

California EV Locomotives Rule Under Consideration by EPA: “...the [California] rule itself is unworkable and infeasible...its implementation would literally bankrupt some small business short lines.” - **American Short Line and Railroad Association**

California Ban on Gas-Powered Vehicles Under Consideration by EPA: “...not aligned with a reasonable expectation of the growth of consumer demand...EVs are still significantly more expensive...and most U.S. families are unable to purchase a new vehicle, much less an EV.” - **National Automobile Dealers Association**

Natural Gas Tax Rule: “...a serious misstep that undermines America’s energy advantage...creates an incoherent, confusing regulatory regime that will only stifle innovation and undermine our ability to meet rising energy demand.” - **American Petroleum Institute**

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