

Report Release: Legal Analysis of the Clean Air Act

This morning, the Institute for Policy Integrity released its newest report: [*The Road Ahead: EPA's Options and Obligations for Regulating Greenhouse Gases*](#). This detailed legal analysis provides an in-depth and thorough discussion of greenhouse gas (GHG) regulation under the Clean Air Act answering the questions: What are EPA's obligations under the Clean Air Act, and how far can and should the agency go to regulate greenhouse gases?

Now that it has all but finalized its "endangerment finding" the agency has triggered action to regulate CO2 and other heat trapping gases under the Clean Air Act. With this move, the President has created a set of [responsibilities and obligations](#), as well as a range of options and powers to control emissions. The questions now are: What road will he take? Will he be met by success or setbacks?

If EPA pursues traditional command-and-control regulation under the Clean Air Act, it may lock itself into a [collision course](#) with Congress which has been moving quickly to adopt cap-and-trade legislation—if they don't coordinate, there could be significant and unnecessary transition costs for the American economy.

Under the Clean Air Act, however, EPA has a great deal of flexibility to design regulatory programs. It must use that flexibility wisely to avoid a conflict with Congress.

The main finding of the report is that the Obama Administration has the ability to [create a cap-and-trade system](#) entirely through EPA regulation---complete with auctions and the ability to sign an international agreement.

EPA's top priority should be to meet its legal obligations while giving Congress enough breathing room to legislate. But if Congress is unable to move forward, Obama has the power not just to regulate industry with expensive and more inefficient command-and-control rules, but to end the delay with a cost-effective and comprehensive cap-and-trade system of his own.

[Click here to view the full report.](#)

IPI will be hosting a briefing via conference call this morning at 11:30 am (est). To join the call, dial 1-800-944-8766 and enter the pass code 28603. If possible, please RSVP to ednai@nyu.edu if you plan to dial in.

The briefing will feature NYU School of Law Dean Richard Revesz as well as the authors of the report; IPI Legal Fellows Inimai Chettiar and Jason Schwartz. The call will be moderated by IPI executive director Michael Livermore. [Click here for more information on the participants.](#)

All four participants will also be available for interviews after the call. Contact me at (212) 998-6085 or ednai@nyu.edu to schedule.