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US GHG Regs Seen as Move to Protect European Business

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This one is for you Conspiracy Theory fans out there. State and regional greenhouse gas regulations in the US are part of a European effort to extend non-scientific policies and protect its business, according to a new paper. Standards originating in Europe are affecting US businesses by "regulation without representation," according to **Lawrence Kogan**, director of the Princeton, New Jersey-based Institute for Trade, Standards and Sustainable Development (ITSSD).

Kogan makes that argument in a new paper entitled, "How Europe's New Regulatory **Protectionism** Imperils American Free Enterprise." Recently released by ITSSD, the paper will be posted in the near future by the Washington Legal Foundation.

Kogan does not deny that climate change is occurring, but said in an interview that "The jury is still out" on whether the change is cyclical or due to human activity.

Meanwhile, many environmental, health and safety (EHS) standards are being based on "an evolving international legal norm" known as "the precautionary principle," which his paper calls a "non-scientific, 'better safe than sorry' risk-averse philosophy of regulation."

European regulators have adopted the approach, and want to impose it on the US, the paper says. In fact, these "hazard based" regulations are becoming increasingly popular in the US.

"Greens have red underbellies," Kogan said in an interview. "After the fall of the Berlin Wall, communists needed to find a new vocation, so they embraced environmental issues." He added that "The U.N. is the best forum to spread the message" via the Kyoto Protocol, and that Europeans are determined to impact the US, despite the country's shunning of the Kyoto system.

Kogan asserts that European influences are helping to shape the Regional Greenhouse Gas Initiative (RGGI), a plan launched by New York Gov. George Pataki, R, to establish a carbon cap-and-trade system. Nine northeastern states are participating and two others may join RGGI, which could begin in the fall. RGGI is meant to be a model for the nation, and has already spawned a "clone" that would cover California, Oregon and Washington, Kogan notes. It may also link up with the European Union's Emissions Trading Scheme (ETS) through "mutual recognition agreements."

His paper asserts that "the seeds of RGGI had been sown" earlier by a Washington think tank called the Center for Strategic & International Studies (CSIS), "which has advised the

EU to practically bypass the White House in favor of the states."

The effort is misguided, he says, because RGGI "will have no measurable scientific or environmental impact on global warming." Further, RGGI will interfere with interstate commerce because energy imported into the RGGI states will be subject to the initiative's rules. And RGGI stakeholder forecasts show that energy prices will rise for 10 years as a result of the program, partly due to the retirement of older coal and oil plants, Kogan says. These price hikes will be passed along by businesses, so that companies in the RGGI area "will be placed at a competitive disadvantage vis-à-vis their non-RGGI competitors (domestic as well as international)," the paper states.

Other initiatives are proceeding as well, including state restrictions on CO₂ and efforts by state pension funds to exert pressure on companies over GHG issues.

State attorneys general have also filed lawsuits, "hoping to move climate change policy from the elected branches to the courts," because "neither the Congress nor the Administration has chosen to address climate change issues in the manner advocated by European leaders and trans-Atlantic environmental groups," he adds. Kogan refers to a suit filed by eight state attorneys general aiming to force five utilities to reduce CO₂ emissions.

He also notes a number of efforts to impose climate change regulations through the comprehensive energy bill. Kogan favors the final bill's approach of providing loan guarantees and tax benefits for clean energy projects. These provide environmental benefits "without jeopardizing the American free market enterprise and legal systems and the American comparative advantage in international trade," the paper states.

The paper is posted on ITSSD's web site (www.itssd.org) under Library/White Papers.

Christopher James, director of the Connecticut Department of Environmental Protection, rejected Kogan's contention that RGGI is adopting European regulations. Rather, the EU based its ETS program on the US Environmental Protection Agency's acid rain program and NO_x budget program, he said. RGGI was also a "logical outgrowth" of the acid rain and NO_x programs, James commented.

He also said Kogan took one of his comments "out of context" in a footnote, quoting James saying that each state in RGGI "is much like a member state in the EU - a sovereign state subject to its own processes and regulations." James said he was not equating the US states with European countries, but trying to illustrate to people outside the US that states do not necessarily act in the same way.

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