

DID GEORGE BUSH BREAK THE CLEAN AIR ACT?

The Clean Air Act does not allow the EPA Administrator to take cost into account when he sets new standards for things like ozone levels. Now, as Henry Waxman's Oversight Committee [makes clear](#), on [several occasions](#), the EPA Administration changed his preferred policy to one much less beneficial for the environment after speaking to the White House.

In today's hearing, Administrator Johnson repeatedly discussed costs, even while insisting that his final decision did not take cost into account. So Paul Hodes [asked](#) the obvious question: well, did the White House take cost into account, and then you take the White House's counsel into account.

The law is very clear that EPA may not consider costs in setting a national air quality standard to protect the environment. The Supreme Court specifically addressed the issue in 2001, the court wrote that if EPA established a standard by 'secretly considering the costs without telling anyone' it would be grounds for throwing out the standard, because the administrator did not follow the law. I'm concerned that this is exactly what happened in this case. The record before this committee shows that the unanimous recommendation of the Clean Air Scientific Advisory Committee was rejected by you, Mr. Johnson, apparently on the basis of White House opinion or desire.

That's when Administrator Johnson got all evasive. He was asked (the first several times by Hodes), whether the White House considered

cost in its own consideration of the issue. When Johnson refused to answer that question, Hodes asked him to answer the much simpler question: whether he recalled talking to the White House about the ozone standard.

Johnson wouldn't answer that either.

Johnson neither asserted executive privilege, nor explained on what basis he could refuse to answer questions about whether he recalled whether or not he had had a conversation with the White House about it.

That's when Henry Waxman got pissed.

That's the execrable Darrell Issa that Waxman blew his stack at.

Of course, Johnson is desperately clinging to a memory that rivals Alberto Gonzales' for one reason: While Administrator Johnson can say he didn't consider cost when he set ozone levels (since he was apparently considering primarily what the White House told him), if the White House "secretly considered the costs without telling anyone," then the White House broke the law.

And in case you're wondering, Johnson made it clear that it was not Cheney, this time, interfering into scientific decisions. It was the Petroleum President, not the Vice President, who appears to have illegally considered cost when setting ozone levels.