

Bashing EPA is apparently a good political tactic, at least if you're in a red state, but it's also a smokescreen — what is presented as an attack on the agency is actually an attack on the mission assigned by Congress. In terms of carrying out the mission, EPA is no different than the Defense Department or the FBI — it more or less does what it has been told to do, sometimes brilliantly, sometimes less so, occasionally ineptly. But blaming EPA because you don't like environmental regulation is like blaming the IRS because you hate paying taxes.

EPA administers quite a number of statutes, covering everything from pesticides to municipal sewage to drinking water. The most important statute, however, is probably the Clean Air Act. What is EPA's job in controlling air pollution? The statute is very complicated but it basically assigns EPA two tasks:

1. **Air quality standards.** EPA is required to identify air pollutants and then set air quality standards to protect public health with "an adequate margin of safety." Once the standard is set, the states have the primary responsibility for meeting them, under EPA supervision. The main alternative here is to set the standards based on cost-benefit analysis. That is, we would put a dollar value on human life and health, and then compare that with the cost of reducing pollution.
2. **Pollution control technologies.** In a number of contexts such as new plants and plants emitting toxic chemicals, EPA requires industry to use the best available technology to control pollution. "Best available" is defined differently in various contexts, but always requires consideration of technological and economic feasibility. The main alternatives are the use of pollution taxes or cap-and-trade systems to control pollution. In theory, these should allow society to achieve the same goals more cheaply.

Industry generally thinks that EPA is overzealous in performing these tasks, while environmentalists complain about EPA's laxness.

Logically, any conservative call for radical reform has to take one of the following forms:

1. **Dilute protection of public health.** Maybe we shouldn't be trying to protect public health with an ample margin of safety. Maybe a less affluent America can now longer afford a margin of safety. Or maybe our goal should be equally balancing public health and costs. (Similarly, in the health care area, we would ration health care so that the expenses would not exceed the dollar value of the benefit to the patient.) Critics of EPA should say what they want pollution law to achieve.
2. **Change expectations for industry.** Maybe we shouldn't expect plants to use the best available pollution control technology. Instead, we could either apply a lower

standard (perhaps requiring plants to use at least the average plant). Or maybe we should use a different tool entirely, such as a pollution tax, giving industry the job of finding the best mix of pollution controls to minimize their taxes. Critics should say what option they favor.

3. **Change the decision-maker.** Maybe the states should be responsible for evaluating pollution technologies or public health data, or each state should decide how much it values public health. That would still leave a big role for EPA in dealing with interstate pollution, however. Or maybe the proposed REINS act is right, and members of Congress (or their staffs) should make the final judgments about the engineering and medical issues, as contemplated by the proposed REINS law. Or maybe, as Ron Paul seems to think, judges and juries should make these judgments.
4. **Modify administrative procedures.** Maybe the basic statute is OK but EPA is administering it poorly, so we need a change of procedures — more peer review perhaps, or greater involvement of economists within the agency.

Ultimately, Congress calls the shots. Congress has the undoubted power to decide that cost should balance equally with public health, or that air pollution is a local issue rather than a national one, or that pollution taxes would be a better tool than current regulations. Some of those judgment might even be right. But if that's what you think, you should say so.

In short, basically EPA has been doing what Congress has told it to do. Critics should stop denouncing EPA and start explaining why protecting public health should get a lower priority or what different tools they would favor to protect public health.