

There's one thing we all know: the Republican Party *hates* regulation. Republicans want to roll back some key regulations and make it a lot harder to pass new ones. But there's a curious silence about alternatives to regulation. For decades, conservative Republicans have denounced "command and control" regulations by EPA and other agencies. So why don't they advocate alternate ways to solve environmental problems?

There's a simple answer. There *are* other possible ways, some better than others, to deal with environmental problems that place less power in administrative agencies. But Republicans have now renounced all the alternatives, so now they have nothing left except a call for eliminating unwise regulations. Once all the pruning is done, however, the GOP seems resigned to the fact that main approach to controlling pollution will be regulations of industry administered by bureaucrats.

Really, it's fascinating how the conservative Republicans have denounced all the possible alternatives, one after another. All of these alternatives had conservative backing at some point, and all are now unacceptable:

Emission Fees. As a matter of conservative principle, emission fees are far better than conventional regulations. They give businesses much more flexibility and promote innovation. They could also allow reductions in taxes that conservatives hate, like the corporate income tax. But of course, emission fees are unacceptable nowadays, because they pretty much amount to taxes. And there's nothing that Republicans hate more than the "T" word.

Emissions Trading. This is another tried-and-true conservative alternative, first tried on a large-scale under President George H.W. Bush. The idea is to make permits into a type of property and then let the market decide which sources should reduce their emissions by how much. This takes power away from bureaucrats and give it to the market. But another name for this is cap-and-trade. In their fight against the Waxman-Markey climate change bill, Republicans succeeded in equating emissions trading to a tax. And now they're stuck with the equation: ***Emissions Trading = Tax = Spawn of Satan.***

Nuisance Law. Rand Paul and others have argued for using nuisance law — the common law restriction on actions that caused a "nuisance" by harming others. This would never work as a stand-alone solution, but you could imagine having the states do the administrative regulation and letting the courts deal with pollution that crosses state lines. Then we wouldn't really need a federal EPA. It's the conservative judges who have rejected this approach. They've pointed out the obvious fact that this approach would give enormous discretion to unelected federal judges (some of them liberals!), who would decide how much

pollution to allow and how much cost to impose on industry. This in effect would make the federal judiciary the new EPA. If there's anything scarier than a bureaucrat, it's a bureaucrat in a black robe with life tenure!

Financial Incentives for Pollution Reduction. As with nuisance law, it's doubtful whether subsidies for pollution reduction would really be an effective solution. But in any event, this approach won't fly with today's Republican Party. It's the kind "corporate welfare" that drives the Tea Party wing crazy.

At that point, there's really nothing left. Except the EPA regulations that Republicans hate so much. They've rejected everything else. And since they can't quite bring themselves to say that the government should do *nothing* about pollution, they're left by default with agency regulation as the one remaining approach. In short, they've silently surrendered to the regulatory state.