#### Their interp allows the aff to reduce ANY regulation that effectively makes nuclear less profitable. That’s massive since nuclear has more regulations on it than any other industry in the world. Under the aff interp ANY regulation is a topical aff.

Rothwell ‘92

(Geoffrey Rothwell is a senior research associate with the Center for Economic Policy Research Stanford University.)

http://www.cato.org/pubs/regulation/regv15n1/reg15n1-rothwell.html

Commercial nuclear power is the world's most regulated industry. The early reason for heavy central government control was to prevent the spread of nuclear weapons technology In the United States the federal monopoly of nuclear materials ended with the Atomic Energy Act of 1954. With this legislation the government's role shifted from owner to promoter: the Atomic Energy Commission (AEC) was established to encourage the private "development and use of atomic energy" The AEC funded the design of reactors to generate electricity through the Power Demonstration Reactor Program beginning in 1955. On the basis of this experience, manufacturers began offering large-scale reactors to the nation's electric utilities in 1963. Haddam Neck, operated by Connecticut Yankee, a 582-megawatt plant, entered commercial operation on January 1, 1968, at a cost of $92 million. Utilities ordered hundreds of reactors on a cost-plus basis during the next ten years.

Regulations are not direct restrictions

LaPrade ’41 (Judge—Supreme Court of Arizona)

Arthur, 57 Ariz. 308; 113 P.2d 650; 1941 Ariz. THE STATE OF ARIZONA, Appellant, v. WALGREEN DRUG CO., a Corporation, Appellee. Civil No. 4301

So far as the legislative right to fix prices to be charged by private business is concerned, we think it has been determined by the well known case of Nebbia v. New York, 291 U.S. 502, 54 Sup. Ct. 505, 510, 78 L. Ed. 940, 89 A.L.R. 1469. Therein the court considered the entire question of the right of the legislature to regulate prices to be charged by private business. In its opinion it laid down the now existing rules of constitutional law on the subject so plainly and definitely that we quote therefrom somewhat fully:¶ "… These correlative rights, that of the citizen to exercise exclusive dominion over property and freely to contract about his affairs, [\*\*\*5] and that of the state to regulate the use of property and the conduct of business, are always in collision. No exercise of the private right can be imagined which will not in some respect, however slight, affect the public; no exercise of the legislative prerogative to regulate the conduct of the citizen which will not to some extent abridge his liberty or affect his property. But subject only to constitutional restraint the private right must yield to the public need….¶ "The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases….¶ "But we are told that because the law essays to control prices it denies due process. Notwithstanding the admitted power to correct existing economic ills by appropriate regulation of business, even though an indirect result may be a restriction [\*\*653] of the freedom of contract or a modification of charges for services or the price of commodities, the appellant urges that direct fixation of prices is a type of regulation absolutely [\*313] forbidden. His position is that the Fourteenth Amendment requires us to hold the challenged statute void for this reason alone. The argument [\*\*\*6] runs that the public control of rates or prices is per se unreasonable and unconstitutional, save as applied to businesses affected with a public interest; that a business so affected is one in which property is devoted to an enterprise of a sort which the public itself might appropriately undertake, or one whose owner relies on a public grant or franchise for the right to conduct the business, or in which he is bound to serve all who apply; in short, such as is commonly called a public utility; or a business in its nature a monopoly….

[No text omitted from original , all elipses are lexis’]

#### Restrictions must actually prevent production, not just indirectly make it more difficult.

Pound in ‘33

New York Court of Appeals Chief Justice

Roscoe, Nebbia v. New York, 262 N.Y 259, lexis

In fixing sale prices the Board "must take into consideration the amount necessary to yield a 'reasonable return' to the producer and the milk dealer. . . . The fixing of minimum prices is one of the main features of the act. The question is whether the act, so far as it provides for fixing minimum prices for milk, is unconstitutional . . . in that it interferes with the right of the milk dealer to carry on his business in such manner as suits his convenience without state interference as to the price at which he shall sell his milk. The power thus to regulate private business can be invoked only under special circumstances. It may be so invoked when the Legislature is dealing with a paramount industry upon which the prosperity of the entire State in large measure depends. It may not be invoked when we are dealing with an ordinary business, essentially private in its nature. [\*542] This is the vital distinction pointed out in New State Ice Co. v. Liebmann (285 U.S. 262, 277). . . .¶ "The question is as to whether the business justifies the particular restriction, or whether the nature of the business is such that any competent person may, conformably to reasonable regulation, engage therein. The production of milk is, on account of its great importance as human food, a chief industry of the State of New York. . . . It is of such paramount importance as to justify the assertion that the general welfare and prosperity of the State in a very large and real sense depend upon it. . . . The State seeks to protect the producer by fixing a minimum price for his milk to keep open the stream of milk flowing from the farm to the [\*\*\*960] city and to guard the farmer from substantial loss. . . . Price is regulated to protect the farmer from the exactions of purchasers against which he cannot protect himself. . . .¶ "Concededly the Legislature cannot decide the question of emergency and regulation, free from judicial review, but this court should consider only the legitimacy of the conclusions drawn from the facts found.¶ "We are accustomed to rate regulation in cases of public utilities and other analogous cases and to the extension of such regulative power into similar fields. . . . This case, for example, may be distinguished from the Oklahoma ice case (New State Ice Co. v. Liebmann, 285 U.S. 262, 277), holding that the business of manufacturing and selling ice cannot be made a public business, to which it bears a general resemblance. The New York law creates no monopoly; does not restrict production; was adopted to meet an emergency; milk is a greater family necessity than ice. . . . Mechanical concepts of jurisprudence make easy a decision on the strength of seeming authority. . .

[No text omitted from original, all elipses are lexis’]

#### TCA proves, restrictions are prohibitions, distinct from regulations

Green, National Renewable Energy Laboratory, 05 [Jim, ZONING FOR DISTRIBUTED WIND POWER — BREAKING DOWN BARRIERS, Aug http://www.nrel.gov/docs/fy05osti/38167.pdf]

The Preemption Option An option for distributed wind advocates to consider that has significant leverage is the preemption of home rule. A higher legislative authority, state or federal, can override home rule in order to implement particular land-use policy in the public interest. The preemption addressed here is limited in scope so as to preserve home rule to the extent possible while breaking through a particular zoning barrier. The key advantage of preemption is the avoidance of taking the distributed wind zoning battle to each local jurisdiction. The policy argument may be made once at a higher, more central level of government. The result is more rapid and uniform application of a particular policy. Home rule is a well-established legal principle and is not easily set aside, but there are precedents for the effective use of limited preemption. Federal Preemption of Home Rule The Telecommunications Act of 1996 includes partial federal preemption of home rule that facilitated the rapid expansion of the cell phone industry during the past decade (Heverly 1996). This act limits the authority of local jurisdictions to regulate the installation of cell phone antennas and towers. The act precludes 1. unreasonable discrimination among providers of similar services; 2. prohibitions, or restrictions that have the effect of prohibiting, provision of wireless services; and 3. regulation of placement, construction, or modification of facilities based on environmental effects of radio-frequency emissions (so long as facilities comply with FCC requirements). The act requires 4. action on applications to take place within a reasonable period of time; and 5. denial of applications be in writing supported by substantial evidence contained in a written record. Item #2 is quite powerful in that it mandates, in effect, that wireless services must be allowed anywhere the industry chooses to provide service. Item #3 is also critical. It takes the contentious issue of the health effects of the radio-frequency emissions out of the local discussion. Whatever the FCC decides, at the national level, applies to every local zoning jurisdiction. This emotional and highly technical issue could not have been effectively argued by obviously, the telecommunications industry was able to convince the Congress that this level of preemption of home rule was necessary and in the national interest. They are a large and well-capitalized industry with a compelling policy argument for the national benefit of wireless telecommunications. While this is a success story for the preemption option, it may not be a realistic option for the distributed wind industry, which does not have similar financial nor political resources. And, the benefit of distributed wind may be a less persuasive national policy initiative.

#### Restrictions Must preclude energy production—oil—EIS requirements prove, just because the oil company says it’s a restriction on production—it’s NOT, it’s a requirement. ALSO, EIS affs not topical

McGuire ’05 (bachelors of Business Administration, cum laude, in 2000 from The University of Texas at Tyler. After graduating from U.T. Tyler, Mr McGuire co-founded Bridgewater Securities, LLC, a professional securities trading firm, and successfully traded securities for four years prior to attending law school. Mr. McGuire received his Juris Doctorate degree, cum laude, in 2006 from Texas Tech University School of Law where he served as an editor of the Texas Tech Law Review, and received numerous awards for academic excellence.) Shane 38 Tex. Tech L. Rev. 159

Given the history of attempts at drilling in ANWR, many advocates for drilling on federal land cry foul, echoing President Bush, who said, "[O]ur ability to develop gas resources has been hampered by restrictions on natural gas exploration." n92 Those opponents, who may say that the EIS requirement is one of many restrictions preventing use of federal lands for energy exploration, ignore the vast amount of federal lands already utilized for oil and gas production. n93 Currently, oil and gas drilling is allowed on approximately [\*168] "229 million acres of public and private land in 12 western states." n94 That is a greater total land area than Colorado, New Mexico, and Arizona combined. n95¶ Thus, the EIS requirement, girded by the rights of citizen enforcement and public comment, has acted as an effective means of balancing the need for domestic energy production with the public's demand for information about the foreseeable environmental effects of oil and gas drilling. n96 In spite of the fears voiced by energy companies, the EIS requirement has not hindered federal agencies' efforts to lease federal lands for oil and gas drilling. n971

#### Regulations are not restrictions

Indian Supreme Court ‘78

LILLY KURIAN V. SR. LEWINA & ORS [1978] RD-SC 175 (15 September 1978) http://www.rishabhdara.com/sc/view.php?case=6688

The fundamental freedom is to establish and to administer educational institutions : it is a right to establish and administer what are in truth educational institutions, institutions which cater to the educational needs of the citizens, or sections thereof.¶ Regulation made in the true interests of efficiency of instruction, discipline, health, sanitation, morality, public order and the like may undoubtedly be Imposed.¶ Such regulations are not restrictions on the substance of the right which is guaranteed; they secure the proper functioning of the institution, in matters educational." In Rev. Father W. Proost & Ors. v. The State of Bihar & Ors.(1) Hidayatullah C.J. while dealing with Articles 29(1) and 30(1), said :¶ "In our opinion, the width of Article 30(1) cannot be cut down by introducing in it considerations on which Art. 29(1) is based. The latter article is a general protection which is given to minorities to conserve their language, script or culture. The former is a special right to minorities to establish educational institutions of their choice. This choice is not limited to institution, seeking to conserve language, script or culture and the choice is not taken away if the minority community having established an educational institution of its choice also admits members of other communities. That is a circumstance irrelevant for the application of Article 30(1) since no such limitation is expressed and none can be implied, although it is possible that they may meet in a given case." Incidentally, in dealing with the right under Article 30(1) and the extent of the State's power of regulatory control of such right, this Court in State of Kerala v. V.