EPA'S PROPOSED CARBON DIOXIDE REGULATIONS FOR POWER PLANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

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C O N T E N T S

EPA'S PROPOSED CARBON DIOXIDE REGULATIONS FOR POWER PLANTS

THURSDAY, JUNE 19, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:31 a.m., in room 2123, Rayburn House Office Building, Hon. Ed Whitfield (chairman of the subcommittee) presiding.

Members present: Representatives Whitfield, Shimkus, Pitts, Terry, Burgess, Latta, Cassidy, Olson, McKinley, Gardner, Pompeo, Kinzinger, Griffith, Barton, Upton (ex officio), Rush, McNerney, Tonko, Yarmuth, Engel, Green, Capps, Doyle, Barrow, Matsui, Castor and Waxman (ex officio).

Staff present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy and Power; Annie Caputo, Professional Staff Member; Patrick Currier, Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and Power; Brandon Mooney, Professional Staff Member; Mary Neumayr, Senior Energy Counsel; Graham Pittman, Staff Assistant; Chris Sarley, Policy Coordinator, Environment and the Economy; Peter Spencer, Professional Staff Member, Oversight; Tom Wilbur, Digital Media Advisor; Jean Woodrow, Director of Information Technology; Jeff Baran, Democratic Staff Director, Energy and the Environment; Phil Barnett, Democratic Staff Director; Caitlin Haberman, Democratic Policy Analyst; Bruce Ho, Democratic Counsel; Elizabeth Letter, Democratic Press Secretary; Karen Lightfoot, Democratic Communications Director and Senior Policy Advisor; and Alexandra Teitz, Democratic Chief Counsel, Environment and Energy.

Mr. WHITFIELD. I would like to call the hearing to order this morning, and today we will be discussing EPA's proposed regulations targeting carbon dioxide emissions from existing electric power plants, which was proposed on June 2nd.

Before I recognize myself for an opening statement, I want to welcome Ms. McCabe. We appreciate her being with us this morning.

It is also my understanding that we have a number of interns here today, some from offices here in the Congress, but I know we have quite a few also from EPA, so we welcome the EPA interns

as well as the interns from Capitol Hill. And with that, I will recognize myself for a 5-minute opening statement.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Ms. McCabe, we are delighted that you are here today. All of us view this as a significant, in many ways unprecedented, regulation, and pursuant to the Constitution, I can assure you that Congress is going to do its role and look very closely at this over 600-page regulation that would dramatically change the way electricity is produced in America.

And it is certainly a lot more than about coal. This is one of those regulations that will affect every person in America, whether it be a manufacturing plant, electric generator, a consumer of electricity, or whatever it might be, so we—and this will be the first of many hearings on this regulation.

Now, this proposal looks similar to the cap-and-trade legislation that the Obama administration advocated for a long, long time. They attempted to pass it in 2009. It passed the House, but it was not successful in passing the Senate. Now, the President, as he has said, is going to act unilaterally, and he has directed EPA to set rules and regulations that are essentially, and many of us believe, the majority of us believe on this committee, at least, they are unworkable and will not even have an impact on our future emissions of greenhouse gases or affect global temperatures.

Former EPA Administrator Lisa Jackson confirmed this when she testified before this subcommittee: We will not ultimately be able to change the amount of CO_2 that is accumulating in the atmosphere alone. And then the EPA Administrator Gina McCarthy summed up the views of this administration when she testified before this subcommittee, saying that EPA does not measure whether its regulations and the tens of billions of dollars spent by the administration will actually affect future climate change. It is simply part of an overall strategy to demonstrate the President's global leadership. So these actions appear to be about removing coal as an energy source in America and promoting President Obama's leadership perception in the international community.

Now, beyond the President's unwillingness to listen to the American people, this proposal raises serious policy and legal questions. EPA has never been this extreme under 111(d) before. Instead of the States establishing a performance standard for units within the source category, EPA is now dictating to the States the level of emission reductions that each State must make, so statewide rather than individual units. In essence, they are requiring the States to alter the way in which electricity utility systems make power, and in our experience with oversight of this agency, the proposed rule rarely changes significantly before it is finalized, so we are talking about a proposed rule that was just introduced a few—a couple of weeks ago, but our experience is that even after the comment period, that rule really becomes final.

Now, the original Clean Air Act respected the appropriate role for States and local governments. In fact, the statute begins with the congressional finding that air pollution prevention is the pri-

mary responsibility of State and local governments. This policy is also reflected in the language of section 111(d), which has previously been used by EPA in a very limited and very deferential manner. But with this proposed rule, as I said earlier, EPA appears to be casting aside all precedent and expansively interpreting its authority under this section as a justification to force States to redesign their electricity-generating systems even though two previous EPA Administrators have said it will not have any impact on global warming.

So, is this a power grab? It seems to demonstrate once again that this administration is getting the reputation that we hear repeatedly of being a unilateralist; that the President will decide what is best for America as he did when he went to the Copenhagen conference in 2009 and unilaterally committed America to certain emissions without discussing it with the Congress, without discussing it with job creators.

So we welcome this opportunity to talk to you in depth about this proposal, and thank you again for being with us.

[The prepared statement of Mr. Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD

This morning we will be discussing EPA's proposed regulations targeting carbon dioxide emissions from existing electric power plants. On June 2nd the long-anticipated carbon dioxide regulations for existing power plants were proposed.

This is the first opportunity Congress has had to hear directly from the agency exactly why it thinks it can issue this proposal, what it thinks the proposal should do, how the proposal will be implemented, and what it will accomplish. And I welcome our witness, Janet McCabe, EPA Acting Assistant Administrator for Air and Radiation, who has come to explain the rule and answer our initial questions today. This will not be our only opportunity to take testimony on the proposal or to hear from the agency. This is just the beginning of what we can assure to be a deliberate, careful oversight of the agency's regulatory action.

I have strong concerns at the outset that this proposal looks very similar to the cap-and-trade legislation the Obama administration tried to ram through Congress in 2009. Now, the President is acting unilaterally in directing the EPA to set rules and regulations that are essentially unworkable and will not even have an impact on our future emissions of greenhouse gases or global temperatures. Former EPA Administrator Lisa Jackson confirmed this when she testified before this subcommittee and said "We will not ultimately be able to change the amount of CO_2 that is accumulating in the atmosphere alone."

And, EPA Administrator Gina McCarthy also summed up the views of this administration when she testified before this subcommittee saying, that her agency (EPA) does not measure whether its regulations and the tens of billions of dollars spent by the administration will actually affect future climate change, it is simply part of an "overall strategy" to demonstrate global leadership. These actions are all in an effort to destroy coal as an energy source in America and become a "leader" in the international community.

Beyond the President's unwillingness to listen to the American people, this proposal raises serious policy and legal questions. This proposal is like nothing EPA has ever proposed before as a performance standard—even more so than any of the agency's controversial actions targeting the Nation's coal-based electricity generators. Instead of calling on the States to establish a performance standard for units within the source category, it appears that EPA is dictating to the States the levels of emissions reductions that each State must make, in essence proposing to require States to alter the way in which their electric utility systems make power. And, in our experience with oversight of this agency, the proposed rule rarely changes significantly before it is finalized.

In its rollout of this proposal, the EPA has repeatedly emphasized the rule's "flexibility." What EPA describes as flexibility is really the agency giving itself arbitrary authority to regulate electricity generation and use as it sees fit. We don't know for certain what this proposal would require of Kentucky and other States, but we do know that EPA will make the final decisions in approving or denying each State's

implementation plans. Further, EPA has made clear in their proposal that "[o]nce the final goals have been promulgated, a State would no longer have an opportunity to request that the EPA adjust its CO_2 goal." And all of this regulatory control would be coming from an agency that has no energy policy-setting authority whatsoever, no energy-planning expertise, and no real accountability should things go badly for the citizens of these States.

The original Clean Air Act respected the appropriate role for State and local governments. In fact, the statute begins with the Congressional finding that air pollution prevention is the primary responsibility of State and local governments. This philosophy is also reflected in the language of section 111(d), which has previously been used by EPA in a very limited and deferential manner. But with this proposed rule, EPA appears to be casting aside all precedent and expansively interpreting its authority under this section as a justification to force States to redesign their electricity systems.

Coal faces a devastating one-two punch from EPA. First, the proposed New Source Performance Standards for electric generating units have all but outlawed new and more efficient, state-of-the-art coal-fired capacity. And with this new proposed rule, the agency can begin shuttering existing coal facilities. EPA implies that a coal unit can become 6 percent more efficient, but there are many doubts about the real world achievability of this figure. There are also doubts about EPA's assumptions that States can simply shift away from using that coal plant to using natural gas, nuclear or renewables, because many States such as Kentucky rely on coal to generate over 90 percent of our electricity and do not have an abundance of resources to rely on. But, if coal can no longer be a significant part of a diverse energy supply, it will be the customers and the business community who will feel the very serious implications that these regulations will have for electricity affordability and reliability.

There are a great many questions and concerns about this proposed rule. And, I said, today is only the subcommittee's first step in its examination of EPA's actions and of potential consequences of this administration's plans. We look forward to the testimony of the Acting Assistant Administrator Janet McCabe and we hope to learn more about what this rule really means for our country.

Mr. WHITFIELD. And at this time I would like to recognize the gentleman from California for his 5-minute opening statement. Mr. Waxman.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Mr. Chairman.

On June 2nd, Administrator McCarthy released a central piece of President Obama's Climate Action Plan: proposed carbon pollution limits on power plants. In time historians may identify this as the moment that America got serious about tackling climate change.

We know that carbon pollution from fossil fuels is accumulating in the atmosphere, trapping more heat and warming the climate. We are experiencing the result all around us in every part of the country. We also know that power plants are our largest source of carbon pollution, yet today there are no limits at all on the amount of carbon pollution they can emit.

The good news is that there are many cost-effective ways to reduce the pollution. As the proposed rule demonstrates, the power plants can operate more efficiently, production can shift from the dirtiest and oldest coal-fired plants to modern natural gas plants, retirements of nuclear power plants can be postponed, investments can be made in clean renewable energy, and we can all contribute by becoming more energy efficient. The path outlined in the proposal is the path to cleaner air, better health, a safer climate, and a stronger economy. If we make these investments in cleaner en-

ergy, the United States can be the world leader in the industries of the future. That is not just a perception; that can be a reality.

But you would never know that from the House Republicans. They are using the same scare tactics that opponents of clean air have always used. The fossil fuel industry and House Republicans have a credibility problem when it comes to claims about the economic impacts of the Clean Air Act. I have been in Congress for almost 40 years, and for 40 years industry has made doomsday claims that clean air regulations would shut down businesses, destroy jobs, drive prices skyward, and cripple economic growth, and they have been wrong every time. This morning I released a fact sheet that documents some of these inaccurate claims, and, Mr. Chairman, I ask that this be made part of the record.

Mr. WHITFIELD. Without objection.

[The information follows:]

June 2014

The Clean Air Act's Track Record: Clean Air and Economic Growth

Ranking Member Henry A. Waxman
Committee on Energy and Commerce, Democratic Staff

Republican Members of Congress already are criticizing the Environmental Protection Agency's proposed power plant carbon pollution standards, claiming that it will cost too much to address climate change. House Speaker John Boehner called the proposal "nuts" and claimed that it "would … cause a surge in electricity bills."[1] Senate Minority Leader Mitch McConnell described the proposal as a "massive big-government boondoggle."[2] Rep. Ed Whitfield, the Chairman of the Subcommittee on Energy and Power, said EPA's "draconian proposal is unlike anything ever proposed" and "aims to effectively end coal use in America."[3]

These doomsday claims about the costs of clean air are nothing new. The history of the Clean Air Act is a history of exaggerated claims by industry that have never come true. The reality is that over the past 40 years, the Clean Air Act has produced tremendous public health benefits while supporting America's economic growth.

The Clean Air Act's Track Record. Since its adoption in 1970, the Clean Air Act has reduced key air pollutants by over 70%, while the economy has more than tripled in size.[4] These pollution reductions save lives and improve public health, particularly among children and senior citizens. In 2010 alone, the Clean Air Act prevented over 160,000 premature deaths, 130,000 cases of heart disease, and 1.7 million asthma attacks, as well as 86,000 hospital admissions and millions of respiratory illnesses.[5]

The Clean Air Act has also made the United States a world leader in pollution control technology. In 2008, the U.S. pollution control industry generated $300 billion in revenues and $44 billion in exports and supported over 1.5 million jobs.[6]

The benefits of Clean Air Act programs have consistently outweighed the costs of pollution reduction by substantial margins. In a recent report to Congress, OMB found that major rules promulgated by the EPA between 2003 and 2013 had the highest benefits of major rules promulgated by any agency in that period. In aggregate, the 34 major rules promulgated by EPA had benefits between $165 billion and $850 billion, compared to costs of just $38 billion to $46 billion.[7] By 2020, the economic benefit of reducing air pollution is estimated at almost $2 trillion dollars, exceeding the costs by 30 to 1.[8]

Industry's History of Exaggerating Costs. Throughout the history of revisions to the Clean Air Act, industry has made claims that cleaning up air pollution would impose huge costs and harm our economy. Over and over again, those claims have turned out to be simply wrong.

The 1990 Clean Air Act Amendments were replete with industry scare tactics. Electric utilities fighting the new market-based acid rain provisions in the 1990 Clean Air Act Amendments estimated that the cost of an "allowance," the right to emit one ton of sulfur dioxide, would range between $1,000 and $1,500. In fact, the cost of an SO_2 allowance in 1995 was less than $150, an order of magnitude less than industry estimated.[9]

In January 1990, DuPont testified that accelerating the phase-out of ozone-depleting chlorofluorocarbons (CFCs) to July 1, 1996, would cause "severe economic and social disruption."[10] The Air-Conditioning and Refrigeration Institute testified that it was "certain" that "the large installed inventory which we depend upon in this country cannot survive. … We will see shutdowns of refrigeration equipment in supermarkets. … We will see shutdowns of chiller machines, which cool our large office buildings, our hotels, and

hospitals."[11] In fact, the phase-out of CFC production was accelerated to December 31, 1995, with none of the severe dislocation predicted by industry. To their credit, DuPont and other companies helped make the accelerated phase-out possible by rapidly developing alternatives to CFCs.

In May 1989, Ford Motor Company testified that "we just do not have the technology to comply" with the first tier of new tailpipe standards in the 1990 Amendments, not even with technology "on the horizon."[12] In fact, the motor vehicle industry began making vehicles that met the new standards in 1993. Engineers for the car companies now say the new standards triggered the development of sophisticated engine-control equipment, resulting in three benefits once thought incompatible: lower pollution, more power, and better fuel economy.

In October 1990, Mobil Corporation opposed the new Clean Air Act requirements for reformulated gasoline, writing that "the technology to meet these standards simply does not exist today" and predicting "major supply disruptions."[13] In fact, reformulated gasoline requirements went into effect in 1995 in the nation's most polluted cities, without significant supply disruptions.

House Republicans' Record of Unfounded Claims. Despite the Clean Air Act's 40-year record of success, Republicans in Congress have continued to claim erroneously that the nation cannot afford cleaner air and a safer climate. In April 2011, Republicans in Congress voted to block the new fuel economy standards established by the Obama Administration, arguing that they would price Americans out of the new car market.[14] Rep. Darrell Issa, Chairman of the House Oversight and Government Reform Committee, claimed that fuel economy standards would "hurt American consumers by forcing them to drive more expensive and less safe automobiles."[15] In fact, cars sales are rising, consumers are saving money, and consumer choice has been preserved.[16]

In October 2011, Republicans in Congress voted to block the Obama EPA from promulgating new mercury standards for power plants, saying the rules would cost jobs, raise electricity prices, and lead to blackouts.[17] Rep. Ed Whitfield called it "disastrous to our economy."[18] In fact, implementation has been proceeding successfully. Utilities are installing pollution controls, switching to cleaner fuels, and retiring old inefficient plants. Rolling blackouts have not occurred.

In 2012, Rep. Fred Upton, the Chairman of the Committee on Energy and Commerce described EPA's rule to reduce interstate air pollution as "just one of several new EPA rules targeting America's power sector that together will cost our economy tens of billions of dollars and put thousands of jobs at risk."[19] Rep. Ed Whitfield, the Chairman of the Subcommittee on Energy and Power, called the regulation "a costly and far-reaching rule that has already cost jobs."[20] When the Supreme Court upheld the rule this spring, Rep. Whitfield told reporters the rule "will drive up energy costs and threaten jobs and electric reliability."[21] But these claims are also proving untrue. Tom Fanning, CEO of Southern Company, a large coal-burning utility, has said the rule "will have a relatively minor effect" and require only "minimal" spending.[22] John McManus, vice president of environmental services at American Electric Power, another large coal-burning utility, said the rule would have "no immediate impact on power plants" or "change our plans for our coal-fueled power generation fleet."[23]

The President's Clean Power Plan. Now Republicans in Congress are raising the false specter of job losses and high economic costs to try to block the President from implementing his clean power plan to curb power plant carbon pollution. The history of the Clean Air Act shows that they are wrong: we can have both a clean environment and a strong economy. The President's plan to reduce carbon pollution from power plants will achieve cleaner air, better health, affordable costs, and new economic opportunities.

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[1] The Honorable John Boehner, *Statement on the President's New National Energy Tax* (Jun. 2, 2014) (online at http://boehner.house.gov/boehner-statement-on-the-presidents-new-national-energy-tax); The Honorable John Boehner, Speaker

of the House, *Promise Made, Promise Kept: "Electricity Rates Would Necessarily Skyrocket"* (Jun. 1, 2014) (online at www.speaker.gov/video/promise-made-promise-kept-electricity-rates-skyrocket).

[2] Statement of Senate Minority Leader Mitch McConnell, Congressional Record, S3346 (Jun. 3, 2014).

[3] Rep. Ed Whitfield, *The Truth About Obama's Green Dreams*, Fox News (Jun. 17, 2014) (online at www.foxnews.com/opinion/2014/06/17/truth-about-obamas-green-dreams/).

[4] U.S. Environmental Protection Agency, *Air Quality Trends* (online at www.epa.gov/airtrends/images/y70_12_lineStyles.png) (updated 2013).

[5] U.S. Environmental Protection Agency, Office of Air and Radiation, *The Benefits and Costs of the Clean Air Act from 1990 to 2020: Summary Report*, at 14 (Mar. 2011) (online at www.epa.gov/cleanairactbenefits/feb11/summaryreport.pdf).

[6] U.S. Department of Commerce, International Trade Administration, *Environmental Technologies Industries: FY2010 Industry Assessment* (Apr. 2010) (online at http://web.ita.doc.gov/ete/eteinfo.nsf/068f3801d047f26e85256883006ffa54/4878b7e2fc08ac6d85256883006c452c/$FILE/Full%20Environmental%20Industries%20Assessment%202010.pdf).

[7] Executive Office of the President, Office of Management and Budget, *2014 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, at 9 (online at www.whitehouse.gov/sites/default/files/omb/inforeg/2014_cb/draft_2014_cost_benefit_report-updated.pdf).

[8] U.S. Environmental Protection Agency, Office of Air and Radiation, *The Benefits and Costs of the Clean Air Act from 1990 to 2020: Summary Report*, at 2 (Mar. 2011) (online at www.epa.gov/cleanairactbenefits/feb11/summaryreport.pdf).

[9] Office of Representative Henry A. Waxman, *Clean Air: An Act That Works: The Five-Year Anniversary of the Clean Air Act Amendments of 1990* (Nov. 15, 1995) (online at http://waxman.house.gov/sites/waxman.house.gov/files/6.pdf).

[10] House Committee on Energy and Commerce, Subcommittee on Health and the Environment, *Hearing on H.R. 2699*, at 299, 101st Cong. (Jan. 25, 1990).

[11] *Id.* at 467-468.

[12] House Committee on Energy and Commerce, Subcommittee on Health and the Environment, *Hearing on H.R. 99 and H.R. 2323*, at 584, 101st Cong. (May 23, 1989).

[13] Office of Representative Henry A. Waxman, *Clean Air: An Act That Works: The Five-Year Anniversary of the Clean Air Act Amendments of 1990* (Nov. 15, 1995) (online at http://waxman.house.gov/sites/waxman.house.gov/files/6.pdf).

[14] U.S. House of Representatives, Roll Call Vote on Agreeing to H.R. 910 (Apr. 7, 2011) (255 yeas, 172 nays) (online at http://clerk.house.gov/evs/2011/roll249.xml).

[15] House Committee on Oversight and Government Reform, *Oversight Committee Leaders Statements on Flawed, Rushed CAFE Rule* (Aug. 28, 2012) (online at http://oversight.house.gov/release/oversight-committee-leaders-statements-on-flawed-rushed-cafe-rule/).

[16] *Auto Industry's Higher Sales Reflect Demand for Smaller, More Fuel-Efficient Cars*, Washington Post (Apr. 3, 2012) (online at www.washingtonpost.com/business/economy/auto-industrys-higher-sales-reflect-demand-for-smaller-more-fuel-efficient-cars/2012/04/03/gIQA0I8xtS_story.html).

[17] U.S. House of Representatives, Roll Call Vote on Agreeing to H.R. 2250 (Oct. 13, 2011) (275 yeas, 142 nays) (online at http://clerk.house.gov/evs/2011/roll791.xml); House Committee on Energy and Commerce, *Committee Leaders Concerned EPA's Utility MACT Rule Will Destroy Jobs, Make Electricity More Expensive, Less Reliable* (Dec. 21, 2011) (online at http://energycommerce.house.gov/press-release/committee-leaders-concerned-epas-utility-mact-rule-will-destroy-jobs-make-electricity).

[18] House Committee on Energy and Commerce, *Energy and Committee Leaders Respond to Growing Reliability Concerns* (Nov. 29, 2011) (online at http://energycommerce.house.gov/press-release/energy-and-commerce-leaders-respond-growing-reliability-concerns).

[19] House Committee on Energy and Commerce, *Energy and Commerce Leaders Welcome Court Decision Blocking Costly EPA Power Rule* (Aug. 21, 2012) (online at http://energycommerce.house.gov/press-release/energy-and-commerce-leaders-welcome-court-decision-blocking-costly-epa-power-rule).

[20] House Committee on Energy and Commerce, *Whitfield Commends Senate Efforts on CSAPR, Urges Senate to Take Up TRAIN Act* (Nov. 10, 2011) (online at http://energycommerce.house.gov/press-release/whitfield-commends-senate-efforts-csapr-urges-senate-take-train-act).

[21] *Court Upholds Cross-State Air Pollution Rule*, The Hill (Apr. 29, 2014) (online at http://thehill.com/regulation/energy-environment/204658-supreme-court-upholds-epa-cross-state-air-pollution-rule).

[22] *Investors in Coal-Burning Plants Brush Off Supreme Court Decision on EPA Air Rules*, Bloomberg BNA (May 2, 2014) (online at www.bloomberg.com/news/2014-05-02/investors-in-coal-burning-plants-brush-off-supreme-court-decision-on-epa-air-rules.html).

[23] *Id.*

Mr. WAXMAN. In 1990, when Congress last amended the Clean Air Act, electric utilities widely overestimated the cost of acid rain controls under a cap-and-trade program that we adopted, and which has been tremendously successful. They projected allowance prices of 1,000 to $1,500 per ton. The actual prices were less than $150 per ton.

Ford Motor Company testified that, quote, "we just do not have the technology to comply," end quote. Not even with technology, quote, "on the horizon," end quote. In fact, the industry began making vehicles that met the new standards in just 3 years. Dupont testified that the provisions to protect the ozone layer would cause, quote, "severe economic and social disruption," end quote, while Mobil Corporation predicted that the requirements for reformulated gasoline would cause, quote, "major supply disruptions," end quote.

Well, these dire predictions never happened. Today House Republicans claim that the Clean Power Plan will cause a surge in electricity bills and effectively end coal use in America. This is just the same old scare tactic. We heard that it is not enough to deal with the climate change problem. Well, it is not in and of itself, but you don't take the—you don't refuse to take a step in that direction because you haven't taken all the steps yet.

We have air pollution reductions at the State and local level. That is the way the Clean Air Act has always worked under the EPA rules. The Clean Power Plan is eminently reasonable and achievable. It gives the States the flexibility to choose how to achieve the reductions. The goals are State-specific and cost-effective. Polls show the public supports proposals by large majorities.

It is time for this committee to stop its partisan obstruction. If my Republican colleagues have a better idea for protecting our planet for our children and grandchildren, they should speak up, but just saying no, shortchanging American ingenuity and condemning the next generation to a world wrecked by heat waves, droughts, wildfires, and extreme storms is not an option. If you have another idea, let us hear it, but all we hear from Republicans is, there is no problem, this is not enough to solve it, we shouldn't do anything at all, and that is why I am supporting the President's plan.

Mr. WHITFIELD. The gentleman's time is expired.

I might respectfully say to the gentleman that we did present what we viewed as a better plan, the Manchin-Whitfield bill, that passed the House of Representatives with a large margin of victory.

Mr. WAXMAN. Mr. Chairman, if you would yield to me, that plan simply said EPA may not act.

Mr. WHITFIELD. No, it did not say that. It said EPA could set the standard for existing plants, that Congress would set the effective date, and it also set a standard for now coal-powered plants. But anyway, we did submit a proposal. It is waiting in the U.S. Senate for action now and——

Mr. WAXMAN. Do you think that will solve the problem of greenhouse gases?

Mr. WHITFIELD. You said we are not submitting a proposal. That was one of our proposals.

Mr. WAXMAN. Did your proposal accomplish solving the problem?

Mr. WHITFIELD. We feel quite confident—by the way, our energy emissions are the lowest today they have been in 20 years, and our Manchin-Whitfield bill would even be—make it even better.

At this time I would like to—the gentleman from Michigan Mr. Upton, chairman of the full committee, is not here, so I am going to recognize Mr. Barton of Texas, and if he does not utilize all of his time, if he wants to yield to someone else, that would be great.

Mr. BARTON. Does the chairman know if there are other Members on our side that wish time?

Mr. WHITFIELD. Is there anyone that would like time? You want any time, Mr. Shimkus?

OK. All right. Then I will recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

OPENING STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Well, thank you.

Mr. Chairman, members of committee, and our witness and folks in the audience, one could argue that the audacity of this proposal is so breathtaking that—in and of itself, it is a health hazard because it literally takes my breath away that—what they have proposed.

In the case of my State, Texas, if Texas were to implement this in its entirety between 2012 and 2030, we would have to reduce CO_2 emissions by 41 percent. Forty-one percent. We would also, in terms of the national total, have to reduce CO_2 emissions—our CO_2 emissions would be 25 percent of the national total in one State.

Now, I understand that Texas is somewhat unique because we still are creating jobs in our State. We still have an economy that is growing. In fact, over half of all the net new jobs created in the country in the last 10 years have been created in Texas. Most people think that is a good thing, but apparently the Obama administration thinks that is a bad thing, so it is punitive in its nature.

As Chairman Whitfield has pointed out, there are no health claims. There is nobody claiming that this actually improves the public health, which is the number one goal of the Clean Air Act. There is no net environmental benefit. Even if one were to be a global warming believer, which I am not, this doesn't allege or—that there are any net benefits to changing global warming.

What it is is an exercise in political arrogance that the EPA has the power, I believe, and that is debatable, under the Clean Air Act. All these power plants that are currently in operation are regulated under section 112 of the Clean Air Act. This claims that we can now regulate those same power plants that are already regulated under section 111(d). That is a questionable legal standing, and I believe that the courts will overturn this proposed regulation, if it comes to that, on that basis alone.

My good friend from California in his opening statement referred to carbon pollution. Well, actually what this is, what we are regulating, is CO_2, carbon dioxide, which I am creating as I speak, and which every person in this room is creating as you breathe in and out. Now, I don't know about the rest of the people, but I don't believe everybody that is alive and breathing is a CO_2 mobile source

polluter. That may be the stance of the Obama administration, but it is certainly not my stance.

So, calling CO_2 to be pollution doesn't make it so. I could call Mr. Waxman a conservative, but that would not make him a conservative; or he could call me a liberal, but that would not make me a liberal.

Mr. Chairman, we need to seriously review this proposal, and I think, as the subcommittee does, and, if necessary, the full committee does, we will come to the conclusion that this is more of a political proposal than it is an environmental proposal. And again, I pointed out Texas has to reduce its CO_2 emissions from the baseline of 2012 by 41 percent; Louisiana, 50 percent; Florida, 28 percent; Pennsylvania, 25 percent; Arizona, 45 percent; Oklahoma, 40 percent; Illinois, 20 percent; New York, 49 percent; Alabama, 24 percent; Arkansas, 46 percent.

What is glaring about this list, and that is the top 10 States, the State with the greatest population base and the State with the largest environmental problems, at least in the Los Angeles Basin, the Golden Gate State of California is not even on the top 10 list, and they are the number one State in terms of population.

So I could go on and on, Mr. Chairman, but I have only got 29 seconds. Simply let me say that we have great respect for the EPA. I voted for the Clean Air Act amendments in the early 1990s. This proposal does not comport with my understanding of what the Clean Air Act amendments were when we passed them in this committee over 20 years ago.

With that, I would yield back to the chairman.

Mr. WHITFIELD. The gentleman yields back, and at this time recognize the gentleman from Chicago, Ranking Member Mr. Rush, for his 5-minute opening statement.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. I want to thank you, Mr. Chairman, for this important hearing on the EPA's clean power rule. As part of President Obama's climate action plan to cut carbon pollution and help mitigate the disastrous effects of climate change, this rule would allow EPA to use its existing authority under the Clean Air Act to control carbon pollution from existing fossil fuel-fired power plants.

And, Mr. Chairman, I must say that this rule cannot be more timely as these power plants account for the largest source of greenhouse gases from stationary sources in this country, and they are responsible for about one-third of the total U.S. greenhouse gas emissions with no current Federal limits on their emissions of carbon pollution.

This new proposal seeks to cut emissions by 30 percent compared with the 2005 levels by 2030, and it gives States great flexibility with implementing the rule based on their existing utility infrastructure and policies.

Mr. Chairman, while we hear from some industry groups and opponents of any type of regulation that these new rules will be costly and overburdensome, the newly released report by the Office of Management and Budget contradicts that claim. From the annual OMB reports to Congress, we know that for the 34 major EPA

rules issued between 2003 and 2013, the benefits have greatly exceeded the cost.

In fact, Mr. Chairman, it was two rules issued under the George W. Bush administration, the clean air interstate rule issued in 2005 and the particle pollution rule issued in 2007, that brought about the highest estimated benefits.

More importantly, the science, Mr. Chairman, is settled. Climate change is real, and it is negatively impacting the lives and livelihoods of the American people. You see this in extreme weather events and everything from extensive flooding on our coasts to relentless wildfires in the West, to costly drought and crop loss in the plains and in my beloved Midwest.

That is why, Mr. Chairman, four former Republican U.S. EPA Administrators who served under Presidents Nixon, and Reagan, and George H.W. And George W. Bush all praised the agency's climate change rule in a Senate hearing just yesterday. As George W. Bush's first EPA Administrator Christine Todd Whitman told the Senate Clean Air and Nuclear Safety Subcommittee, and I quote, "The issue has been settled. EPA does have the authority. The law says so; the Supreme Court has said so twice. That matter, I now believe, should be put to rest, Mr. Chairman," end of quote.

The American people expect their legislators to address this serious threat not only to our environment, but to our national security. Even President Reagan's former EPA Administrator Lee Thomas agreed that the science is settled on this matter, telling the same panel just on yesterday, I quote, "We know that carbon dioxide and other greenhouse gases are warming the atmosphere. We know they have contributed to a more than 1.5 degree Fahrenheit rise in temperature," end of quote.

Mr. Chairman, if Congress refuses to address this issue as the American people demand, at the very least we should allow EPA to do its rule, do its job, and act accordingly, then this rule will go a long way in helping us to begin to address this dire issue.

I look forward to hearing from our witness today, and I yield back.

Mr. WHITFIELD. Thank you, Mr. Rush.

The gentleman yields back, his time is expired, and at this time I am going to recognize Ms. McCabe, because we are going to give her 5 minutes to give her views on this issue.

And as I said in the beginning, we do look forward to your testimony and the opportunity to ask you questions. So, Ms. McCabe, you are recognized for 5 minutes.

STATEMENT OF JANET MCCABE, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION, ENVIRONMENTAL PROTECTION AGENCY

Ms. MCCABE. Thank you, Chairman Whitfield and Ranking Member Rush.

Mr. WHITFIELD. I am not positive that your microphone is on.

Ms. MCCABE. There we go.

Thank you, Chairman Whitfield, Ranking Member Rush, members of the subcommittee. Thank you for the opportunity to testify today on EPA's recently issued Clean Power Plan proposal.

Climate change is one of the greatest challenges of our time. It already threatens human health and welfare and economic well-being, and if left unchecked, it will have devastating impacts on the United States and on the planet. The science is clear, the risks are clear, and the high costs of inaction are clear. We must act. That is why President Obama laid out a Climate Action Plan, and why on June 2nd the Administrator signed the proposed Clean Power Plan to cut carbon pollution, build a more resilient Nation, and lead the world in our global climate fight.

Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions. While the United States has limits in place for the level of arsenic, mercury, sulfur dioxide, nitrogen oxides, and particle pollution that power plants can emit, there are currently no national limits on carbon pollution levels.

EPA's proposed Clean Power Plan will cut hundreds of millions of tons of carbon pollution and hundreds of thousands of tons of other harmful air pollutants from existing power plants. Together these reductions will provide important health benefits to our most vulnerable citizens, including our children.

The Clean Power Plan is a critical step forward. Our plan is built on advice and information from States, cities, businesses, utilities and thousands of people about the actions they are already taking to reduce carbon dioxide emissions.

The plan aims to cut energy waste and leverage cleaner energy sources by doing two things. First, it uses a national framework to set achievable State-specific goals to cut carbon pollution per megawatt hour of electricity generated; and second, it empowers the States to chart their own customized path to meet their goals.

We know that coal and natural gas play a significant role in a diverse national energy mix. This plan does not change that. It builds on action already under way to modernize aging plants, increase efficiency, and lower pollution, and paves a more certain path for conventional fuels in a clean energy economy.

The EPA's stakeholder outreach and public engagement in preparation for this rule was unprecedented. Starting last summer, we held 11 public listening sessions around the country. We participated in hundreds of meetings with a broad range of stakeholders across the country and talked with every single State.

Now, the second phase of our public engagement has begun. We have already had dozens of calls with States and other stakeholders, and the more formal public process, both a public comment period and public hearings, will provide further opportunity for stakeholders and the general public to provide input. These are not mere words. That is a proposal, and we want and need input from the public. That is why we have already engaged States, utilities, and other stakeholders to get their feedback.

To craft State goals, we looked at where States are today, and we followed where they are going. Each State is different, so each goal and each path can be different. The goals spring from smart and sensible opportunities that States and businesses are taking advantage of right now.

Under the proposal, the States have a flexible compliance path that allows them to design plans sensitive to their needs, including

considering jobs and communities in a transitioning energy world. It allows them enough time, 15 years from when the rule is final until compliance with the final target, to consider and make the right investments, ensure reliability, and avoid stranded assets.

Our plan doesn't just give States more options, it gives entrepreneurs and investors more options, too, by unleashing the market forces that drive innovation and investment in cleaner power and low-carbon technologies.

All told, in 2030, when States meet their goals, there will be about 30 percent less carbon pollution from the power sector across the U.S. when compared to 2005 levels, 730 million metric tons of carbon dioxide out of the air. In addition, we will cut pollution that causes smog and soot by 25 percent. The first year that these standards go into effect will avoid up to 100,000 asthma attacks and 2,100 heart attacks, and the numbers go up from there.

In 2030, the Clean Power Plan will deliver climate and health benefits of up to $90 billion, and for soot and smog reductions alone, that means for every dollar we invest in the plan, families will see $7 in health benefits. And because energy efficiency is such a smart, cost-effective strategy, we predict that in 2030, average electricity bills for American families will be 8 percent cheaper.

President Obama's Climate Action Plan provides a roadmap for Federal action to meet the pressing challenge of a changing climate, promoting clean energy solutions that capitalize on American innovation and drive economic growth in providing a role for a range of fuels, including coal and natural gas. The proposal sets targets and a reasonable schedule that can be achieved by every State using measures they choose themselves to suit their own needs.

The EPA looks forward to discussion of the proposal over the next several months, and I look forward to your questions. Thank you.

[The prepared statement of Ms. McCabe follows:]

Opening Statement of Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Hearing on EPA's Proposed Clean Power Plan
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
June 19, 2014

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This proposal sets targets and a reasonable schedule that can be achieved by every state, using measures they choose themselves to suit their own needs. The EPA looks forward to discussion of

the proposal over the next several months, and I look forward to your questions. Thank you.

Mr. WHITFIELD. Well, Ms. McCabe, thank you so much again.

And I neglected to mention that she is the Acting Assistant Administrator over at EPA, and so we do appreciate your being here.

At this time I would like to recognize myself for 5 minutes of questions and statements. I have noticed, Ms. McCabe, that sometimes when we have our question period, we oftentimes make statements, so I will probably do a little bit of both.

The first thing I wanted to do, I want to read a statement by a former IPCC coordinating lead article coordinator. His name is Dr. Stephen Schneider. Of course, that is the International Panel on Climate Change, which I think is recognized as the world leader in this issue of climate change. But Dr. Schneider made this statement. He said, on one hand, as scientists, we are ethically bound to the scientific method, in effect promising to tell the truth, which means we must include all the doubts, the caveats, the ifs, and the buts. On the other hand, we are human beings, and we want a better world, and to do that, we must have media support, so we must offer up scary scenarios, make dramatic statements, and do not mention any scientific doubt. And then he concluded by saying, so we decide what must be done to be most effective in getting our message out.

And I say that because you were really positive in your statement, and it is our responsibility to raise doubts about these kinds of regulations that have such an impact everywhere. And so I just wanted—Dr. Schneider is not the only lead coordinator that has made these statements. Others have said we have to make them dramatic to put political pressure on political leaders. Others have said we use the worst-case model scenarios.

So, as I said in the beginning, our responsibility is to try to focus in and see really what is going on here. And so the first question I would like to ask you this morning, I touched on it in my opening statement, EPA's carbon dioxide regulations for power plants are being pursued under section 111(d), and it is my understanding that you all issued regulations under that section on five occasions. And now section 111(d) has traditionally focused, and, in fact, of those five times it has always focused, on emissions standards for specific sources, specific units, and it has never been attempted to do it in a statewide way, and that is what your recent proposal does. It sets a standard that can be achieved only statewide.

What precedent under section 111(d) is there for this type of standard setting which has never been done before?

Ms. MCCABE. There actually have been six regulations issued under 111(d), the last one being the clean air mercury rule in 2005, which addressed this sector, and that took an approach that allowed utilities to trade among themselves to reduce emissions. But the fact is that what we have done in this rule is completely within the four corners of 111(d), which directs us to identify the best system of emission reduction that has been adequately demonstrated for the particular sector that we are looking at. And in the case of the power sector, it is a fully integrated system that encompasses the kinds of technologies that we included in the rule, and we know that because that is what we heard from States and utilities. These are the things they are already doing to reduce carbon from fossil power plants.

Mr. WHITFIELD. But, you know, in this rule, you, for the first time—I mean, you basically are directing the States on setting up renewable mandates. You are setting the efficiency of the coal plants. You are determining the natural gas capacity, what percent of the capacity must be run. You are setting consumer demand. You are going further than you have ever done before, in my opinion.

Ms. MCCABE. We are not actually setting any mandates in the rule.

Mr. WHITFIELD. But you set this out in the regulation.

Ms. MCCABE. But they are not mandates. The States have absolute flexibility to use whatever method——

Mr. WHITFIELD. Don't they have to meet those four standards?

Ms. MCCABE. They do not have to meet those four standards. Those were the——

Mr. WHITFIELD. You have to meet—they have to meet your target, though.

Ms. MCCABE. They have to meet the overall carbon intensity target, but they have complete flexibility to get there however they choose, which is what they told us they wanted.

Mr. WHITFIELD. We are going to explore it some more, but I have 15 seconds left. I want to ask one other questions. One of the real concerns we have—now, this relates to the new power plant rule. We can't build a new plant in America because the technology is not there that commercially makes it feasible. The Kemper plant in Mississippi is like a $5 billion cost overrun. In Europe, they are closing down natural gas plants. They are mothballing them because natural gas prices are so high coming out of Russia, so they are building new coal-powered plants, and last year they imported 53 percent of our coal exports.

So they have the flexibility, if gas prices go up, to build a new plant. We don't have that flexibility. Do you think that that is fair to the American people?

Ms. MCCABE. I actually disagree respectfully, Chairman. We think that new coal plants can be built under the new rule, and they are going forward.

Mr. WHITFIELD. At this time I would like to recognize the gentleman from Illinois, Mr. Rush, for his 5-minute opening statement.

Mr. RUSH. Thank you, Mr. Chairman. I want to commend Ms. McCabe, I want to commend the EPA, I want to commend all your colleagues for the way you have approached this proposal. I think that you have been extremely open during this process of creating this proposal, and from what I hear today, that this process has not concluded, that there will be more and more opportunities for States and stakeholders to add their voices and to look at this proposal and to engage in positive commentaries with you on this proposal. You already reached out and asked for suggestions and been guided by that feedback.

I am from the Midwest, and we get a lot of our electricity from coal. We have a higher climate pollution, rates are—at the beginning, starting out at the gate, but also means that we have more opportunities for cost-effective reductions.

And I want you, if you would, explain to me and to others in more detail how you develop the States' goals, particularly for the

Midwest, and how the different situations and the different States are reflected in the individual State goals.

Ms. MCCABE. That is a very good question, Congressman Rush, and one that we have been getting a lot from people, and it really goes back to the fundamental approach that we took in this rule, which is to take every State from where it started. One of the loudest things that we heard from States was please don't do a one-size-fits-all, every plant across the country has to meet a certain emission limit. Give us flexibility and recognize that States are in different places in terms of their energy mix, the age of their plants, and all that sort of thing. So that is the approach that we took.

We looked across the whole country at the power sector, and we looked at the things that people were already doing, and there are many things that can be done to reduce carbon from the existing fleet, but we found four that were the most prominent and the most promising, we thought, to satisfy the standard of best system of emission reduction. And those things are let's have the coal and gas plants be as absolutely efficient as they can be so that we get every—we get every electron, as many electrons as possible for every ton of coal that is burned, and we found that a lot of efficiency improvements are being made across the country.

We then looked at what else are States and utilities doing to reduce their carbon intensity. Well, they are using their gas plants more than their coal plants, and that is due to a lot of reasons, but it results in less carbon, so that was number two.

Number three was that States all across the country are looking at increasing the amount of energy they get from renewable sources, from zero-carbon-emitting sources, and that is a very positive trend being pursued by a lot of people. So that was our third element.

And fourth was the great interest across the country, in almost every State, to employ energy efficiency or demand sites so that we are more efficient. We know there is many, many ways to waste less energy, and all of these things are important in order to bring carbon down, as well as other pollutants.

So we came up with a national framework that set a reasonable and moderate expectation for each of those four, recognizing that those were not the only things that States could do. And we then looked at every State, and we took the most recent information that we had for the power sector, which was 2012, and we applied those four building blocks, we call them, to each State, and that generated a carbon intensity rate that, if those were applied, that is where that State would get. And these are things that we think are very reasonable to achieve.

Mr. RUSH. Thank you. Thank you very much.

My constituents, when they heard about this proposed rule, the thing that was most important in their mind was the price of electricity. My friends on the other side here, they have been engaged in a lot of fear mongering about the cost of electricity is going to increase and be unaffordable by low-income constituents. And my question to you is how will the Clean Power Plan affect the electricity bills for my constituents?

Ms. MCCABE. Well, the first and most important thing to say is that each State will be in charge of designing its own plan, so that means two things. One is that they will have the opportunity to take those kind of considerations into—build those into their plan, but also that EPA at this moment can't predict exactly what every State is going to do.

We did do some illustrative examples of what States might do, and so in our regulatory impact assessment, we do include those numbers, and that we show that with the significant increase in energy efficiency that will be implemented as a result of the rule, that electricity bills in 2030, we predict, will go down because—electricity bills—because people will be using less energy. We also show that the price of electricity will go up a little bit, but overall, bills will come down.

I also just want to note that low-income families are most at risk of the adverse effects of carbon pollution and climate change and can greatly—will greatly benefit from the health benefits that will be achieved by this rule.

Mr. WHITFIELD. Gentleman's time is expired.

Mr. RUSH. Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time I recognize the chairman of the full committee, Mr. Upton of Michigan, for 5 minutes.

Mr. UPTON. Thank you, Mr. Chairman.

Ms. McCabe, I believe a number of us have concerns with this proposed rule. EPA, an agency with no energy policy authority or expertise, and under questionable statutory interpretation, has now placed itself above State Governments and public utility commissions on electric-generation issues, not to mention, DOE, FERC, or other Federal agencies. Last month the DC Circuit ruled that absent, and I quote, "clear and specific grant of jurisdiction," end quote, the Federal Government cannot regulate areas of the electricity market left by the Federal Power Act to the States, like electricity generation and intrastate transmission. But what EPA calls flexibilities in its proposed reg, changing dispatch rules, mandating efficiency, utilizing other generation sources, are, in fact, the very intrastate generation transmission and distribution matters explicitly reserved by the Federal Power Act for the States.

So where do you see specifically the clear and specific grant of jurisdiction over intrastate electricity matters? Where is the cite that you can refer to?

Ms. MCCABE. Chairman Upton, this is not an energy plan. This is a rule done within the four corners of 111(d) that looks to the best system of emission reduction to reduce emission. No State is required to enter into any particular agreement or take interstate efforts. We are not controlling the power sectors through this.

Mr. UPTON. So you don't have a specific cite, right? Is that right?

Ms. MCCABE. I can——

Mr. UPTON. Because neither DOE nor FERC has the authority to dictate how States plan and operate their energy systems, so if they can't do it, what authority does EPA have to mandate that the States actually restructure their electric systems and subject State energy decisions to Federal oversight and control?

Ms. MCCABE. That is not what the rule does. The rule is a pollution control rule, as EPA has traditionally done under section 111(d).

Mr. UPTON. Well, assuming that you had the legal authority to go forward with the rule, have you identified all the Federal and State agencies that would have to play a role in the redesign of the State electricity systems under the proposed rule?

Ms. MCCABE. We have been talking to many agencies at State and Federal level, but it is State Governments, as they always are with respect to 111(d) plans, that will be responsible for putting these plans together.

Mr. UPTON. So, as we look in EPA's budget, and this year EPA took a reduction in appropriation levels, an agreed-upon amount in a bipartisan way, from the CR that was passed 6 to 1 last January, have you identified more funding of personnel that is going to be required at the Federal level to conduct this review and oversight for existing plants?

Ms. MCCABE. These are State plans. The States will put them together, and EPA will act in its traditional role with respect to State air quality planning.

Mr. UPTON. But you still got—you know, you have got the hammer to go after them, so are you—is it going to be a new—new folks engaged in that?

Ms. MCCABE. We think States will want to take a leadership role on this and——

Mr. UPTON. What if they don't? I heard the West Virginia Governor saying that every utility in his State would be closed. Every coal-fired facility in his State was going to be closed.

Ms. MCCABE. Again, I think that States are going to want to be in the lead on this plan.

Mr. UPTON. I think I know where they want to be.

Ms. MCCABE. I also would suggest that our plan certainly does not require that all coal plants be closed in that State or any State.

Mr. UPTON. Well, I will leave that for Mr. McKinley to ask. I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time I would like to recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Doesn't the EPA, under the Clean Air Act, set standards that States have to meet which affect their energy resources within that State?

Ms. MCCABE. To the extent that it addresses pollution emissions, yes.

Mr. WAXMAN. So this is not unprecedented?

Ms. MCCABE. It is not.

Mr. WAXMAN. OK. I understand EPA asked a lot of stakeholders for input. Did the States ask for greater flexibility, or did they argue that EPA should just tell them what to do?

Ms. MCCABE. They were very strenuously arguing for greater flexibility and, in fact, the ability to use some of the very tools that we have outlined in our proposal.

Mr. WAXMAN. You indicated there are a number of ways that the States can meet the objective of reducing the carbon pollution com-

ing from the power plants, and it is up to the States to design how to do it, but they have to achieve that goal.

Ms. MCCABE. Uh-huh.

Mr. WAXMAN. This isn't a mandate from Washington, how to accomplish the goal. It sounds to me like a mandate from Washington to achieve the goal.

Ms. MCCABE. That is correct.

Mr. WAXMAN. Isn't that the way the Clean Air Act has always worked since 1970?

Ms. MCCABE. With respect to 111(d) and some other elements of the Clean Air Act, that is exactly right.

Mr. WAXMAN. The arguments I hear from the other side is, one, they don't believe the science; two, they don't think there is anything to do; three, this is not good enough because it doesn't achieve the goals; four, it tells the States what to do. Seems like every one of those points is incorrect, and then they come up with an argument that this is going to have a bad impact on the economy. Did you look at whether this will have a negative impact on the economy, or do you have people who make the claim that it is going to help the economy?

Ms. MCCABE. Well, we looked at the expected impacts on the power sector, and we also looked at and heard from a lot of States that are moving forward aggressively with some of the very measures that we outlined in the proposal, and indeed those States are enjoying job growth and additional investment in innovative strategies in the creation of jobs in pursuance of things like energy efficiency.

Mr. WAXMAN. I ask that we put in the record a paper that we drafted of all the quotes over the last 40 years of the industries who said they couldn't achieve what the EPA was asking them to achieve under the law passed by Congress on a bipartisan basis. They said they couldn't achieve it without closing down their businesses or suffering dire economic consequences.

We hear exaggerated claims about electricity costs, job losses, and even impaired electric reliability. These are doomsday claims. We have heard them before. And in the paper we put out, we showed how these claims were made and how inaccurate they were. What has been the history of the advances made under the Clean Air Act to give us some guidance as to whether we have to choose between clean air or a strong economy?

Ms. MCCABE. We don't have to make that choice between clean air and a strong economy, and, Congressman, I think as you have illustrated, the history of the Clean Air Act shows that we do not. Air has gotten cleaner, and the economy has grown, and the United States has been a global leader in pollution-control technology, energy-efficiency investments, and we expect that to continue with this program as well.

Mr. WAXMAN. We heard a claim on the other side of the aisle that this EPA proposed rule would have no impact on public health. Can you give us your view of that?

Ms. MCCABE. We disagree with that. In fact, as I noted, the rule will result in 25 percent reduction in soot and smog pollutants, as well as 30 percent reduction in climate carbon pollutants. All of

these issues affect public health, and reducing those emissions, taking them out of the air, will improve public health.

Mr. WAXMAN. So this isn't just to do with the global problem of a warming planet that leads to climate change, but it will have an impact on the health of people near some of these power plants?

Ms. MCCABE. That is right. Those are important cobenefits of the rule.

Mr. WAXMAN. Well, I compliment you on the rule. I think it makes a lot of sense, it gives a lot of flexibility, and it achieves the goals, and it encourages entrepreneurship to develop the industry and technology that will make us the leader in the world to accomplish these goals.

Thank you, Mr. Chairman. Yield back.

Mr. WHITFIELD. The gentleman's time is expired.

At this time recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. It is great to be here and—no?

Mr. WHITFIELD. I am sorry, Mr. Barton actually was on the list first.

Mr. BARTON. No, no, I will yield to John, and then I will follow up later.

Mr. WHITFIELD. OK. Mr. Shimkus is recognized for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

And I am glad Mr. Waxman is here because he and many of my friends on the other side have seen this poster before. These are the real live job losses from the last Clean Air Act. Kinkaid, Illinois, I have invited you all to come by there, 1,200 miners lost their job under a flexible system controlled by the State. The State made the decision, this mine closed, 1,200 miners.

So those of us who talk about this debate, we are trying to save our coal miner jobs in this country, and the President promised to make electricity generation by coal so expensive that he would drive that out of our market. Promises—San Francisco Chronicle, well documented, he is just following up on his promise, so those of us in the coal region of this country are under attack, and we have to deal with this, with our constituency and the debate. So that is why there is a lot of emotion, as you can imagine.

Also, part of my portfolio of areas, the nuclear portfolio, the nuclear side, and so there are some curious things about this rule that begs—that creates a problem based upon States that had clean-burning nuclear power or generators that have shut down, but still have a standard by which now they can't meet because we are incentivizing the closing of nuclear power, which, if we are into clean air, climate change, we should be incentivized.

Let me give you an example. 2013, four nuclear reactors prematurely to close. One of those reactors was Kewaunee plant in Wisconsin. When you all set the reduction target for Wisconsin, it did so based on electricity production in 2012, a year in which Kewaunee was still operating. So, you are calculating your reductions a year when you have got a nuclear plant operating, no carbon emissions, that facility closed, now that State and many States that have nuclear power—I have one of the largest nuclear power-generating States in the country—is now disproportionately

harmed by these rules, extremely harmed. So, the result is that Wisconsin will be forced to compensate for the loss of this plant and reduces emissions even further than the EPA targeted; is that correct? Is that analysis all correct?

Ms. MCCABE. So let me explain, Congressman.

Mr. SHIMKUS. Quickly, please, as quickly as you can.

Ms. MCCABE. Yes, yes. So this rule addresses the fossil fuel sector. That is our responsibility under 111(d), so that is where we start, and our job is to identify the best system of emission reduction for fossil-fired plants. That doesn't include nuclear. So in 2012, we looked at emissions in each State from their fossil generation, and we then looked at what that best system of emission reduction, from a national basis, would result in in 2030. We recognize that there are States that rely on nuclear power that is zero carbon emitting. That is very good for carbon intensity.

Mr. SHIMKUS. But we are disenfranchising those States that have the nuclear option.

Ms. MCCABE. We are, in fact, giving States credit for some portion of nuclear in their compliance plan so that——

Mr. SHIMKUS. But to meet the standard, they have to even have more cuts, especially when a plant is closed, because you are basing that off the emissions in 2012, but their generating portfolio was based upon a nuclear plant that was operating.

Ms. MCCABE. This is not an energy plan for the State. This is a——

Mr. SHIMKUS. That is our problem.

Ms. MCCABE. But that is not our job to——

Mr. SHIMKUS. But that is the problem for our ratepayers, and because if you—if a generating facility that has zero emissions drops off 1,200 megawatts, 800 megawatts, whatever the base load is, they have to make that up, otherwise their costs are going to go up. And so we are not taking into consideration, in this carbon debate, zero emittant. We should be incentivizing this; should we not?

Ms. MCCABE. We are, and for any State that uses zero-emitting generation to replace coal-fired generation or to meet their needs, they absolutely will be able to count that in their compliance plan and move them towards their goal.

Mr. SHIMKUS. OK. Let me get to these final last few questions, and I appreciate that answer.

What happens if the EPA doesn't approve a State implementation plan?

Ms. MCCABE. There is a provision—there is a little bit of language in 111(d) that says if we are not in a position to approve a State plan, then EPA is to move forward with a plan for that State.

Mr. SHIMKUS. You will have a Federal implementation plan?

Ms. MCCABE. We are not focused on that right now because——

Mr. SHIMKUS. But that is what the law will be—I mean, the rule will be.

Ms. MCCABE. That is what the law provides.

Mr. SHIMKUS. What will that Federal implementation plan look like?

Ms. MCCABE. We have not come anywhere near to proposing a Federal implementation plan.

Mr. SHIMKUS. I would suggest you start looking at that and be prepared to answer those questions on that.

I yield back my time, Mr. Chairman.

Mr. WHITFIELD. The gentleman's time is expired.

At this time I recognize the gentleman from Kentucky, Mr. Yarmuth, for 5 minutes.

Mr. YARMUTH. Thank you very much, Mr. Chairman, and welcome, Administrator.

Last fall, EPA Administrator McCarthy met with our Governor, Steve Beshear, to discuss the proposed rule, and, after that meeting in Kentucky, sent a framework to EPA with recommendations on ways to develop a rule that would reduce carbon pollution cost-effectively while offering our State the flexibility in meeting the new standards. My understanding is that EPA followed almost all of the Commonwealth's recommendations; is that correct?

Ms. MCCABE. I believe so, Congressman.

Mr. YARMUTH. And those included, again, allowing States to reduce emissions; flexibly using measures such as energy efficiency, renewable energy, and fuel switching to natural gas, rather than forcing States to reduce emissions in any specific plant; also recognizing differences among States' resource potential, current generation portfolios, and allowing a variety of compliance options, including energy efficiency and so forth, as you said.

But here is another example of how that flexibility can help. The American Recovery and Reinvestment Act established a rebate program that helps spur development and adoption of energy-efficient appliances to replace older, less efficient appliances. General Electric has a major manufacturing facility in my district, and because of that program, they were able to bring a manufacturing line of refrigerators from Mexico back to Louisville and creating hundreds of jobs in the process.

Does the proposed rule allow States to take credit for reductions achieved through energy-efficient initiatives like this one?

Ms. MCCABE. Certainly any program that encourages, or incentivizes, or provides for ways for people to save energy, which means less carbon going up the stack, are completely creditable under the plan.

Mr. YARMUTH. Well, we are happy that EPA agrees with that. That is a good example of how to create flexibility, and also create energy efficiency and help consumers save money and reduce emissions.

And I am glad the chairman mentioned Waxman-Markey earlier in his opening remarks, because I was one of a group of 10 or 12 or so Representatives from States that were heavily dependent on carbon, on coal-based energy, who went to our leadership at the time—Rick Boucher from Virginia led that effort—and we basically said to our leadership and to Mr. Waxman that we couldn't support the bill as it was originally drafted, that it would have been devastating for our consumers and our businesses, and they made changes in that bill.

And before I voted for that bill, I talked to all the major consumers of energy in my district, General Electric being one, Ford Motor Company has two major manufacturing facilities, the Uni-

versity of Louisville, the Jefferson County Public School System, Louisville metro government, UPS, we are the global hub of UPS.

And not one of those users of electricity objected to that law, proposed law, and said they were either for it or neutral on it, saying, "We could live with it." I talked to our utility company and asked what the impact of that law would be on residential customers, and they said, "We think that after 10 years, the average residential user will have their rates go up 15 percent, if they do nothing else: They don't adjust their thermostat, they don't change light bulbs, they don't insulate, so forth. So if they are paying $200 a month at the beginning of the period, 10 years from now they will be paying $230 a month."

So, I felt pretty comfortable that I could vote on that and knowing that there would be minimal negative impact on my constituents. So I am glad that the chairman compared what the EPA rule does now to that law back then, proposed law back then, which Republicans in the Senate killed.

But I want to get to this whole scare tactic, with manufacturing businesses being affected and moving out of State and so forth, because, again, I haven't heard from any of my major manufacturers and I have a lot of them in my district. They are not afraid of this proposed rule.

So my question is to you, assuming—it is not easy to move a manufacturing company. Ford has almost a couple billion dollars invested in my district, in their two plants. They just can't pick up and leave even if the energy went up. But you made an estimate at what the increased potential rates would be even in the short term of this, and I think it was about 3 percent. Is that correct?

Ms. MCCABE. That is correct.

Mr. YARMUTH. So it seems hard to logically predict that a 3-percent rise in a manufacturing company's rates would be enough of a financial disincentive to force them to pick up a major investment and move somewhere else. Is that part of the calculation that you did when you were creating this rule?

Ms. MCCABE. Well, energy efficiency is good for everybody and good for business. I think we all know that, and as you say, the increases in electricity prices we see are modest in the short term and then go down over the long term. So I think businesses will take that into account.

Mr. YARMUTH. Great. Thank you.

I yield back.

Mr. WHITFIELD. At this time, recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman.

Am I not correct, Administrator McCabe, when I say that this proposal that we are discussing today is not actually required by the Clean Air Act? Isn't that a true statement?

Ms. MCCABE. No. It is required when we issue a 111(b) standard for a sector to then go forward with a 111(d) standard.

Mr. BARTON. Well, I think that is wrong. I think it is allowed, but I don't see any statutory authority that demands these proposals. I do accept that there is a Supreme Court case and a Presidential finding of endangerment that allows the Clean Air Act to

be used. But I see nowhere in this statute that this has to happen. Do you agree with that?

Ms. MCCABE. Respectfully, no. I believe we, the Clean Air Act does——

Mr. BARTON. If you believe that, I want the general counsel of the EPA to back that up. Will you do that?

Ms. MCCABE. Sure.

Mr. BARTON. Send it to the committee?

Ms. MCCABE. Yep.

Mr. BARTON. My understanding that what you are attempting to propose is directed by a Presidential speech dated June 25, 2013, that was called the climate action plan that has then been followed up by a Presidential memo where some of these requirements were directed towards the EPA to implement that. I would assume that you are aware of this memo.

Ms. MCCABE. I am.

Mr. BARTON. OK. Can you tell me what the legal force of the Presidential memo is?

Ms. MCCABE. Well, the President's memo and climate action plan laid out a series of steps that are within the responsibility of the EPA and other agencies to move forward with. The President gave us a schedule on which to move forward with this rulemaking but directed that we undertake the rulemakings that are within our authority under the Clean Air Act to address environmental challenges.

Mr. BARTON. Well, I accept that the President has the right to give speeches, and I even accept the fact that the President has the right to issue memos and, as the Chief Executive Officer of the Federal Government, to direct that the Executive Branch, in this case your agency, the EPA, to try to implement those Presidential memos, but I don't accept that this is something that absolutely has to be done, and whatever documentation you can provide that shows that this is a forcing authority, I would like to have.

In your statement, you went to some lengths to talk about all the flexibility that the States are going to have. I am told in the case of Texas, the decisions were made before the State of Texas even had an opportunity to comment that they received a memo or a checklist almost after the fact; are you aware of that?

Ms. MCCABE. I am not sure what you are referring to, Congressman. We had many conversations with States, both individually and in groups, and of course, this is a proposal, so we are still taking comment from people. I have had at least multiple hours of conversation with States even since June 2. So there has been lots of opportunity to talk with the States.

Mr. BARTON. Well, just as an example, are you aware of the fact that if Texas closed down every existing fossil fuel generation plant in the State, every one, every coal-fired plant, every natural gas plant in the State of Texas, that it would still not meet the new proposed ESPS; are you aware of that?

Ms. MCCABE. The plan relies on States implementing a number——

Mr. BARTON. OK. I am asking if you are aware of that in the case of Texas. If we shut down every coal-fired plant and every nat-

ural gas plant in the State, every one, we can't meet these suggested goals.

Ms. MCCABE. I haven't done that calculation, Congressman.

Mr. BARTON. All right. Well, I suggest that you do it. Texas would end up with a new source performance standard that is below EPA's own standard. The EPA standard is 1,000 pounds of CO_2 per million megawatts, per megawatt of production, and for Texas to actually meet with the EPA as suggesting it should, we would have to go down to 791, which is about 21 percent below your own standard.

I mean, you know, the renewable standard for Texas is based on the energy renewable portfolio standard for Kansas. Now, I am not anti-Kansas. I want Mr. Pompeo to know, but Kansas' electricity demand and generation is 10 percent of the State of Texas. Texas leads the Nation in renewable generation, and Texas produces three times as much energy by renewable, as the next three States combined.

Ms. MCCABE. Texas has immense opportunities when it comes to——

Mr. BARTON. And we get no credit for that in your proposal. None.

Ms. MCCABE. Well——

Mr. BARTON. None.

Ms. MCCABE [continuing]. The State does, actually, and——

Mr. BARTON. Well, the State of Texas tells me they don't.

Ms. MCCABE. Well, we are happy to have further conversations with the State of Texas about the goal.

Mr. BARTON. My time has expired.

Mr. WHITFIELD. The gentleman's time has expired.

Mr. BARTON. Put me down as extremely undecided on this proposal.

Mr. WHITFIELD. Yes, I will.

At this time, I would like to recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. Thank you, Mr. Chairman, and I thank you, Ms. McCabe, for coming here today.

You mentioned that the EPA predicts a reduction in energy costs, family energy bills, I take it, by the year 2030?

Ms. MCCABE. Yes.

Mr. MCNERNEY. Would you elaborate on that and maybe give us some idea of what the reduction estimates look like?

Ms. MCCABE. Sure. Sure. So as the States implement their plans, we expect a large reliance on demand side and energy efficiency measures, that will reduce the number of kilowatts a family needs to consume over the course of a month, and so when we project that out, we show that it is about an 8 percent decrease in a bill, in a family's bill.

Mr. MCNERNEY. So an American family might look to something almost like 10 percent of reduction in their monthly energy bills by 2030 as a result of this rule, of the proposed rule?

Ms. MCCABE. That is what the proposed rule predicts based on our forecast. Of course, each State, as I have said, will do its own plan.

Mr. MCNERNEY. That is not too bad. Would you please describe the outreach that the EPA conducted to the various States. Give us some idea of the magnitude of that effort?

Ms. MCCABE. Sure. We started last August, well before we even put pen to paper on the rule. In my experience of decades in working, first, from the State side, most of my career from the State side, I am not aware of EPA ever doing this kind of outreach, and it was broad ranging with all stakeholders.

But in particular, with respect to States, we met with States in groups, they have regional organizations. We met with those regional organizations. Our regional offices convene groups of State officials, both from the environmental and the energy side, as well as other stakeholders and utilities.

Mr. MCNERNEY. Were most States cooperative, or did they stand aside and give a, you know, a less cooperative stance?

Ms. MCCABE. Oh, I would say that there was great interest and continues to be great interest from the State officials on talking with us about the program.

Mr. MCNERNEY. Would you describe the reduction of conventional pollution, its projected impact on health and the monetary impacts of those health benefits from these rules, if implemented?

Ms. MCCABE. Sure. So as co-benefits of reducing carbon, there would also be reductions in particle pollution, nitrogen oxide, sulfur dioxide, which have very immediate and localized, as well as regional health benefits and we predict about a 25 percent in reduction of those pollutants compared to what they would otherwise be in 2030 without this rule.

So that will result in reduced asthma attacks, reduced emergency room visits, reduced missed days of school in the billions of dollars of health benefits to the American people.

Mr. MCNERNEY. Is there any way to talk about the return on investment that might have to be made by the different States?

Ms. MCCABE. Well, we do show that for every dollar invested there's a $7 return in public health benefits as a result of the program.

Mr. MCNERNEY. And then would these investments be made by States or by the private entities involved?

Ms. MCCABE. Well, they would be made by the private entities, the businesses investing in technology, investing in new workers to employ energy efficiency around the State with all the benefits that those bring.

Mr. MCNERNEY. Well, you know, I understand the four pillars of this are increasing upbringing efficiency of the different plants. What could be more reasonable than that? Using gas-fired plants at 70 percent of their capacity, which is a good idea if you have a gas-powered plant. In fact, gas is more affordable now than many other forms, using renewable energy that the applicable locally to the State and using nuclear as long as possible, and it is encouraging user efficiency, end-user efficiency.

So, these are all pretty reasonable, in my mind. I don't see how that would be viewed, any of those, as too intrusive. Are there other measures that can be taken that would also help reduce pollution that are included in this rule, or——

Ms. MCCABE. Yes. Those are so reasonable that they are being done in a widespread manner, but there are other things that States or utilities can think about doing. There is other types of fuel switching they can do. They can look at their transmission systems and see whether there is leakage there that can be tightened up. So there are a number of other things that folks can do.

Mr. MCNERNEY. And the last thing is the State flexibility. I mean, I understand there is a great deal of flexibility the States have adopted and it will make it a lot easier for the different States to implement these proposed rules.

Ms. MCCABE. Yes, that is right.

Mr. MCNERNEY. All right.

Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. At this time, recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. LATTA. Well, thank you very much, Mr. Chairman, and thanks very much for being with us today. We greatly appreciate it.

Last week, the Governor of Ohio signed a piece of legislation citing energy costs leading our growth concern, that put a 2-year freeze on Ohio's renewable energy mandate that the State imposed on itself. I would like you to consider this hypothetical situation going into the future.

Assume that the Ohio renewable energy standard was included in its State implementation plan, the SIP, and to comply with the EPA's existing plant rule. Assume also that the EPA approved that SIP, OK. In that scenario, would the State of Ohio maintain its discretion to freeze the renewable energy program in order to protect the interest of Ohioans?

Ms. MCCABE. The State would continue to have flexibility if circumstances change in the State to replace one particular measure with another, and the proposal lays out the process by which a State could do that. So there is opportunities for States to adjust their plans along the way.

Mr. LATTA. Let me ask then, would the State have to get that approval from the EPA?

Ms. MCCABE. If a State wants to replace one measure with another, they would come to EPA and say, this is what we are doing.

Mr. LATTA. OK. And how did the process overall work, and how much time would it take for a State to get that implemented, then, if they want to make a change?

Ms. MCCABE. Well, we work with States all the time in circumstances where they wish to change their State implementation plans and so we work with the State to prioritize those actions and try to meet the State's needs in terms of timing.

Mr. LATTA. And then also, would Ohio be subject to Clean Air Act penalties if they didn't first obtain any EPA approval before they make any implementation to a change at that time?

Ms. MCCABE. I don't believe so, Congressman. The provisions in the Clean Air Act for penalties are pretty clearly laid out and there is a pretty clear process for when those could be invoked. So I think in any circumstance like this, we would work with the State to make sure that they can do what they needed to do as long as it met the ultimate goal.

Mr. LATTA. Well, just to be on the safe side, if you can get that back to the committee, that they wouldn't face penalties if that were to occur?

Ms. MCCABE. Sure, we will answer further on that.

Mr. LATTA. And also, just talking a little bit about Ohio, we get about 70 percent of our generation in the State of Ohio comes from coal. In my district, which I have about 60,000 manufacturing jobs, it is even higher than that—that we are a coal-based generating State, and up in my area of the State, I also have a very unique situation. I have a lot of electric co-ops.

So how does the EPA's Clean Power Plan avoid putting these small co-ops at a competitive disadvantage and especially the customers? Because, again, in my district, when you look who they are serving, you are talking about a lot of—I have 60,000 manufacturing jobs, I also have the largest numbers of farmers in the State of Ohio.

How do you put them not at a competitive disadvantage under the Clean Power Plan? Because, again, you have got the farmers, you have got these small businesses out there, you have got a lot of retirees——

Ms. MCCABE. Yes.

Mr. LATTA. What happens? How do we make sure they are not at a competitive disadvantage?

Ms. MCCABE. Well, this is where the design of Section 111(d) and the flexibility and the plan really shows its value. It is because it will be up to the State of Ohio to design a plan that works for the State of Ohio. I come from Indiana, and so it is very similar in terms of the types of sources——

Mr. LATTA. Well, if I could just interrupt, because you coming from Indiana, you know that just a few years ago, especially when the President was talking about his cap and tax plan, that when Ohio was at about 70 percent generation of coal, Indiana was at about 90 percent. So they are really in harm's way when it comes to these new rules and standards. So excuse me for interrupting.

Ms. MCCABE. No, I gave you the opening. I actually don't think they are in harm's way. I think that the way we have designed the plan is very respectful of the fact that States like Ohio and Indiana do rely heavily on coal. They have different opportunities than States with a different energy mix and they can design a plan that addresses concerns related to small rural co-ops, public power, particular concerns.

This plan works. It doesn't require any particular plant to meet any particular emission rate, and it looks at emissions over a long averaging period. So that is another way in which the plan gives lots of flexibility for the State to be able to adjust to its particular needs, its manufacturing community, its rural communities, cities, whatever the particular needs are.

Mr. LATTA. Thank you, Mr. Chairman.

My time has expired and I yield back.

Mr. WHITFIELD. At this time, I recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

And I have a little different Texas accent, and I'm sorry to my colleague from Texas, Joe Barton is a good friend and we work together on a lot of things.

EPA does have the authority to regulate CO_2 under the Clean Air Act. Supreme Court ruled it and the rule we are discussing will have significant impact for decades on industries in my area, in Houston.

The issue of climate change is one of the most important issues we should face as a Congress. The EPA has constructed a framework that provides States with the flexibility and opportunity. It is important to remember those four building blocks proposed by the rules are not the exhaustive list. The four building blocks are a prescription for success.

States are allowed to construct a plan that matches their needs and those in their affected communities and as I said before, the EPA is legally justified in regulating carbon, and I would prefer Congress take the lead in doing it. I believe as elected officials, we have the duty to act on behalf of our constituents to regulate these pollutants.

Again, Ms. McCabe, I am sure you are aware EPA in my home State of Texas have had some issues in the past and for more than 3 years, EPA was responsible for issuing GHG permits which caused significant problems for our industry looking to build and expand even new facilities. Just this last week, the Governor of Texas along with six other State Governors sent a letter to the President asking him to dispose of the carbon rule. It is my hope that we will not go down that path again.

My first question, having said that, Ms. McCabe, can you explain to the committee what concerns your office receives from stakeholder groups, including States, as you prepared the rules, and what did EPA do to mitigate these concerns?

And obviously, from my part of the country, I appreciate if Texas had some input in how you responded to it.

Ms. MCCABE. Yes. We heard a number of very specific things from States and other stakeholders. We heard that States wanted to be able to, for example, do their own plans or they wanted the ability to perhaps join with other States and do a multi-State plan, and our proposal allows for that.

States were very concerned about the time that they would have for two things: One, to develop a plan; and two, to actually achieve the carbon reductions, and so our proposal response to both of those, first, by giving an extended compliance time period all the way out to 2030 with a long glide path down to that, but also in response to their first concern, how long would they have to submit a plan. We have provided for either a 1- or a 2-year extension for States to get them some additional time to put their plans together if they need that.

Another thing that we heard from States is to allow them the flexibility to either craft their plan around a rate-based approach or a mass-tons-of-carbon-emitted approach, if that is the way they wanted to manage their plan, and so our plan allows for both of those approaches.

Mr. GREEN. OK. I have reviewed the rule and the four proposed building blocks. EPA has estimated that the majority of the carbon

reductions from the State of Texas would come from building blocks, two of them, utilize utilization of the existing natural gas, combined cycle power plants; however, there are other additional reductions calculated under building blocks three and four.

And you may know, Texas has more wind generation than any other State. Texas is the first State in the Nation to pass legislation establishing energy efficiency resources standards.

My concern is, EPA has proposed that Texas is capable of meeting higher renewable energy and energy efficiency demands. My next questions have to do with the studies conducted included by EPA to meet these demands. EPA states these estimates are subject to significant limitations and market barriers, including consumer behavior.

My next question: Are EPA estimates in the proposed rule expected to overcome these limitations and barriers?

Ms. MCCABE. Well, the estimations that we use for each building block are based on a national framework. So they are not individualized to every State, but of course, the State, as I have said, has the ability to apply them in any way that it wishes and that it makes sense for them. So if there are market barriers, for example, to additional renewable energy efficiency, the State can look to other more reasonable, more appropriate measures for them to employ.

Mr. GREEN. OK. I only have 30 seconds.

The State EPA estimates that two building blocks are expected to raise prices. Further, EPA estimates that 90 percent of the efficiency, energy efficiency comes from the rate payers. What effect do you think these prices increase will have on consumer behavior? Will they actually be more efficient? And won't consumers be more inclined to maintain the status quo as opposed to paying more for new programs?

The last thing, though, the studies that EPA is relying on, are they available to the public before the close of the public comment period so that people can respond to?

Ms. MCCABE. Yes, all of our technical support documents in the studies are available in the docket, which I believe opened yesterday when the rule was published.

But the answer to your first question is that, we have seen in States that have very proactive and forward-looking energy efficiency programs that they are quite successful and that measures do get implemented and consumers do save money.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time, we recognize the gentleman from Louisiana, Mr. Cassidy, for 5 minutes.

Mr. CASSIDY. Thank you, Mr. Chairman.

Ms. McCabe, I will also first make a statement and then ask some questions.

When you say that utility bills are going to go down by 8 percent, it reminds me of candidate Obama saying that, under his health care plan, insurance premiums would decrease by $2,500 per family without increased taxes and without a mandate. Of course, now they are up by $2,500 per family. When you say that you are going to give States flexibility, it reminds me of, "If you like your doctor, you can keep it."

Now, I will tell you, I know of a family losing their home. They have refinanced their mortgage and so it is actually paying less for that. But their cost of food, gasoline, insurance is all going up. They have been denied the economic benefits of projects like Keystone XL pipeline, which now Canada is going to ship their oil to China to create Chinese jobs and you want to raise their utility prices.

Now, you may say that conservation will not decrease, but let's be clear, let's not mislead. The reality is poor people, those who are lower income are less able to invest in those conservation measures. This is just going to be a bull's eye on other families' ability to do things such as keep their homes.

Now, there has been a lot of, this administration has raised to an art level misleading the American people by doing certain things, manipulating statistics. But let's at least be honest about it. Now, I will go to Mr. Yarmuth's question earlier. If Ford has a decision to invest in Kentucky or to invest in Mexico, and we are raising their input cost of energy, we are going to tilt them towards investing elsewhere. Is that a fair statement?

Ms. MCCABE. There are many things that go into people's decisions.

Mr. CASSIDY. Is it a fair statement? If one of your key inputs is energy costs and you are raising that cost, we can't compete on labor. So our energy costs have been lower, so people have been reshoring jobs. Reality is now you wish to increase those energy costs. Now, that said, doesn't it just make sense, we will tilt them towards doing further economic development elsewhere?

Ms. MCCABE. I don't think I can agree with that statement.

Mr. CASSIDY. I have got to tell you. Somehow, at some point, we have to be honest with each other. Now, on the other hand, if you say this is not an energy plan, and you are not saying any State has to cut down their coal usage or decrease or eliminate coal usage, but the only way to achieve this goal, which, if they do not, you will come in with your own plan, is to eliminate coal-fired plants.

You may say you don't demand something, but the inherent nature of the rule, the only way it can be reached without the Federal Government squeezing the State will be to shut down coal. Do you deny that?

Ms. MCCABE. I do, actually, Congressman. The plan predicts that in 2030, coal will provide 30 percent of the energy——

Mr. CASSIDY. So we have something here which is based upon an analysis of Washington State, which has to have a 90 percent decrease in their use of carbon, and the only way they get it is to completely shut down coal.

Now, you may say Washington State does not have this mandate to shut down the coal, but the only way they get there is to shut down the coal. So, again, I just feel like there is a lack of openness.

Let me ask you something else. Has the EPA examined the ripple effects of this throughout the economy?

Ms. MCCABE. The EPA has focused on the impacts in the power sector.

Mr. CASSIDY. But throughout the economy, the users of that power, the Ford motor plant or Louisiana has $90 billion in an-

nounced construction projects involving polymers, petrochemical, gas to liquids, industry that will create great paying jobs for working Americans. Have you analyzed the impact of this regulation upon that $90 billion of announced expansion to manufacturing base?

Ms. MCCABE. No. No, we haven't.

Mr. CASSIDY. Yes. Yes. So these jobs are on the bubble. There are more families that will lose their homes, and you have not done the analysis. Now, if you call me skeptical, I will join Mr. Barton in being incredibly skeptical.

Now, what else do I have here? I am sorry if I seem so aggravated, but I keep on thinking of that family losing their home. Their food is going up, their gasoline is going up, their insurance is going up after they were told it would decrease, and now we are told that their electricity bill will go down 8 percent. By the way, a coal-fired plant supplies their electricity. This administration is so busy saving the Earth they are willing to sacrifice the American family.

Now, I am sorry to be so aggravated but I keep on thinking of them, and I can't imagine the insensitivity of this President and this administration to their plight, but it is evident to see.

I yield back.

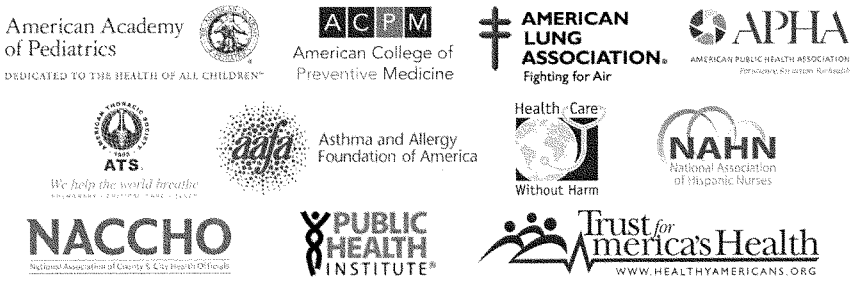
Mr. WHITFIELD. Gentleman yields back.

At this time, we recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Ms. CAPPS. Thank you, Mr. Chairman. And may I ask permission to include in the record a letter from several public health organizations in favor of this ruling by the——

Mr. WHITFIELD. Without objection.

[The information follows:]



June 18, 2014

Dear Senator/Representative,

As health and medical organizations, we see the Clean Air Act as a proven public health tool to reduce dangerous air pollution known to make people sick and cut short lives. We urge you to stand up for the health of your constituents against these dangers. Please oppose all legislative efforts to block, weaken, or delay clean air protections, specifically the U.S. Environmental Protection Agency (EPA)'s proposed limits on carbon pollution from existing power plants, known as the Clean Power Plan.

EPA's proposed carbon pollution limits for existing power plants, are long overdue. Existing power plants are the single largest source of carbon pollution in the country. Even with the steps that are in place to reduce air pollution, evidence warns that higher temperatures due to carbon pollution and climate change will increase the risk of unhealthy air in large parts of the United States. More air pollution means more childhood asthma attacks and complications for others with lung disease, including increased risk of premature death.

The recent National Climate Assessment highlights other critical health impacts from carbon pollution and climate change that are already being felt today across the nation, and are likely to pose even greater threats in the future, including: heat waves, wildfires, extreme changes in weather, such as drought and excessive precipitation, flooding, dust storms, and the spread of infectious diseases. All of these events have very serious public health consequences that we cannot ignore, especially for thousands of your constituents: including people with lung diseases such as asthma, chronic bronchitis and emphysema; children, whose airways are still developing; people who work or exercise outdoors; seniors; low-income communities; and many more.

EPA must adopt strong carbon limits, not just for the future, but to help relieve the harm these plants are doing today. EPA projects that once the Clean Power Plan takes effect, it will save up to 6,600 lives and prevent 150,000 asthma attacks each year, because cleaning up carbon pollution will reduce other pollutants from power plants, such as sulfur dioxide, nitrogen

oxides, and mercury. According to the American Lung Association 2014 "State of the Air" report, more than 146 million people in the United States, (47 percent of the U.S. population), live in counties that already have unhealthy levels of pollution linked not only to asthma attacks and premature death, but also heart attacks, lung cancer, developmental harm to infants and children.

Prevention not only saves lives and improves health, it saves money. Consistent with the 40-year history of Clean Air Act protections, the benefits of the EPA's proposed Clean Power Plan will far outweigh the costs. In fact, every $1 invested in cleaning up carbon pollution is expected to provide up to $7 in health and economic benefits. According to a recent report from the White House Office of Management and Budget, for 21 major air rules EPA issued from 2002 until 2012, the estimated benefits range from $109.4 billion to $629.1 billion, while the estimated costs of those rules were between $29.4 billion and $35.3 billion.

The Clean Power Plan strengthens healthy air protections, and is an important step forward in fulfilling the promise of the Clean Air Act. During the 120-day public comment period, all stakeholders will have an opportunity to voice their views on the proposed rule. EPA is required to consider and respond to all comments before the Clean Power Plan is made final. We urge you to support healthy air protections and oppose riders or other legislation that would block, weaken or delay carbon pollution limits under the Clean Air Act.

Sincerely,

American Lung Association

American Academy of Pediatrics

American College of Preventive Medicine

American Public Health Association

American Thoracic Society

Asthma and Allergy Foundation of America

Health Care Without Harm

National Association of Hispanic Nurses

National Association of County & City Health Officials

Public Health Institute

Trust for America's Health

Ms. CAPPS. Thank you, Mr. Chairman, for holding this hearing. And I thank you, Ms. McCabe, for being here today and for your hard work on these clean power rules.

I know climate change is a critical issue, and it demands action, and EPA's clean power rules, I believe, are a major step forward. Climate change, as we know, is already having such a wide range of impacts on weather, on food and water supplies, ocean, health, air quality and so much more. My background as a public health nurse, I am particularly concerned about climate change's impacts on public health.

EPA's analysis show that there will be significant health benefits from implementing these clean power rules, and as I understand it, these health benefits come on two levels; this is what I would like to ask your confirmation on.

One, the primary benefit of reducing the greenhouse gas emissions that are driving climate change; and two, the coal benefits of reducing emissions of other harmful air pollutants like sulfur dioxide, nitrogen oxides and particulate matter. Do you affirm that this is accurate?

Ms. MCCABE. That is correct.

Ms. CAPPS. And some have criticized the methodology used to evaluate these coal benefits, and they accuse EPA of double counting. Can you respond at this point, how did EPA calculate the health benefits of this rule?

Ms. MCCABE. Yes, when we look at the health benefits of any given proposal, we build those on top of the health benefits that have already accrued from rules that are already on the books.

Ms. CAPPS. Right.

Ms. MCCABE. So we don't include those benefits. These are all additive on top of that, incremental.

Ms. CAPPS. OK. Now opponents of these rules frequently cite the cost of compliance as a reason not to pursue them, and of course, we have to acknowledge, there will be compliance costs. There will also, though, however, be significant benefits and I would like to argue that the benefits are particularly there for children and for families.

Ms. MCCABE. Yes.

Ms. CAPPS. Can you add to our discussion here about how the health benefits of these rules compare to the estimated compliance cost; in other words, what is that cost benefit ratio?

Ms. MCCABE. Uh-huh, yes. So and, again, the costs that will be incurred by the rule ultimately will be decided by how the States choose to go forward with their plans.

Ms. CAPPS. Right.

Ms. MCCABE. But in our assessment, we estimate a $7 to $9 billion cost compared to up to $90 billion health benefits and in particular, with respect to the health code benefits, each dollar spent on the rule will generate $7 in health benefits.

And I should note in response to that and in partial response to the previous question then, that State programs that will be used to implement these, many of them build in assistance to low income, rate payers and, again, those are the citizens and the families that are most at risk and most vulnerable to the health impacts that we see from air pollution and from climate change.

Ms. CAPPS. OK. It is clear that these clean power rules will have some significant benefits for the American people. I believe they deserve our support. I hope we can find a way to work together to get these rules implemented as soon as possible. I, for one, really don't believe we can afford to wait any longer.

You know, there are States like California, where I am from, that have seen some great economic benefits from renewables and energy efficiencies. As these are implemented, there are cost savings just in putting people to work on efficiencies and on developing new resources for renewables.

There is a minute left, if you would like to use it to outline some of the economic benefits, as these could offset the cost of a change over.

Ms. MCCABE. Yes. So California, clearly, has been a leader on renewables and investment in energy efficiency, and these create good jobs that are localized jobs, machining equipment, installing insulation, weatherizing homes, whether it is existing homes or new construction. So these are jobs that happen in our communities and result from these sorts of programs.

Ms. CAPPS. Thank you. Just in the quarter of a minute that I have left, you remind me of some programs that went into effect with some of our low-skilled workforce during the recession to get them to weatherize and put in efficiency opportunities for some of our low-income housing, reducing energy costs for the occupants of the housing, putting people to work, learning some new skills that could continue, and this is, frankly, an ongoing process that as technology advances will never slow down or stop.

And thank you for your answers.

And thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. This time, recognize the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman. I appreciate that.

And I am humored by the argument that this is not a mandate. I mean, if the Federal agency said I live in Omaha but I have to make it to Lincoln at a certain time, and I can only take 45 minutes to get there, that is a mandate. Even if you left me up to my own imagination of how I would get there, it is still a mandate, and so it is interesting that we can play word games, but it is still a mandate and it will have cost.

We are a State that is 72 percent reliant on coal. We are a State where you take 6 to 7 hours at 75 miles an hour to get across. So, some of this doesn't make a lot of sense, but I have reached out to our major public power entities. We are an all-public-power State, so Omaha public power, Nebraska public power, as well as our, NDEQ, NPA, our National Power Association and some of our rules. They are all working together, that is the good news. Bad news is they are completely panicked in how to actually do the plan and how to actually meet the 26 percent mandated reduction. Because we are 72 percent relying upon coal.

So in reaching out to them, they are frustrated in the lack of direction, what they see as conflicting information from the EPA on how to move forward. But one of the areas that they would like to have nailed down is the percentages for reductions are based on, is it 2012 numbers or 2005 numbers?

Ms. MCCABE. Where we look to start to see where States were was the data, most recent data, which is 2012 so——

Mr. TERRY. So that is the baseline, is 2012. Why would they get confused about 2005?

Ms. MCCABE. There isn't really a baseline, but 2012 is the——

Mr. TERRY. How is there no baseline?

Ms. MCCABE [continuing]. Is the starting carbon intensity. The reason that people are confused about 2005 is because 2005 is a year that people have been using a lot to talk about our progress towards reducing greenhouse gases.

And so in describing the impacts of the rule, EPA has compared the reductions that will be achieved into 2030 to that 2005 number. But the starting point for this rule is 2012.

Mr. TERRY. So bottom line, then, just like you finished, 2012 is the date that the State of Nebraska has to use to calculate the 26 percent reduction on, correct?

Ms. MCCABE. That is the date that we used to calculate their goal that they need to meet in 2030.

Mr. TERRY. So, again, if they are using 2012 as their baseline to reduce 26 percent, they are OK with the EPA?

Ms. MCCABE. As long as their plan shows that they will get to the goal that is set forth in the rule.

Mr. TERRY. For 26 percent?

Ms. MCCABE. For 2030.

Mr. TERRY. By 2030?

Ms. MCCABE. And if that is 26 percent, I don't know the Nebraska target off the——

Mr. TERRY. That is the stated reduction that was told to the State of Nebraska.

Ms. MCCABE. Yes.

Mr. TERRY. So now, is there any flexibility in the States of using a different year as the baseline?

Ms. MCCABE. Well, no.

Mr. TERRY. OK.

Ms. MCCABE. We need to start the States at a——

Mr. TERRY. OK.

Ms. MCCABE [continuing]. Where they are.

Mr. TERRY. No is a solid answer. That is clear. Clear is sometimes good even if you disagree with it.

Now, if States include a renewable portfolio standard in their State implementation, does that make it a Federally enforceable mandate?

Ms. MCCABE. So the——

Mr. TERRY. De jure or de facto.

Ms. MCCABE. Right. The plans will be Federally approved. We actually lay out an extensive discussion on this issue in the preamble that we are very interested in getting people's feedback on because we heard this question a lot, and we are looking for feedback on how to design that.

But the plan itself would be enforceable so that to make sure that the reductions would get done.

Mr. TERRY. All right. I have got four pages of questions from our NDEQ in power districts, but we will submit those in writing to you.

Ms. MCCABE. Please do. And we have had a number of conversations with officials from your State and certainly would be happy to set up other opportunities.

Mr. TERRY. Well, I will state for my last few seconds that I have talked to some of the board directors of OPPD and NPPD, and they said the only conclusion they have come to so far is it is going to cost them, quote, "a hell of a lot of money," end quote.

Mr. WHITFIELD. And we are going to have more hearings, so you will have the opportunity to ask more questions, as well.

At this time, recognize the gentleman from Pennsylvania, the manager of the Democratic baseball team, Mr. Doyle, for 5 minutes.

Mr. DOYLE. Thank you, Mr. Chairman.

Welcome, Ms. McCabe.

Ms. MCCABE. Thank you.

Mr. DOYLE. As you know, Pennsylvania generates significant amount of our electricity from coal, and over the last few years, we have seen several coal plants retired in Pennsylvania to be in compliance with the MATS standard. I have heard this type of early action will be acknowledged, and EPA officials said on a recent conference call that it is their intent to credit plant retirements forced by the MATS rule.

So I am curious, how will States and generators get credit for plants they retire or will retire between 2012 and the final rule?

Ms. MCCABE. So anything that a State does that reduces the amount of the carbon intensity of the generation in the State, will be eligible to be part of their plan. So if a State is closing a coal plant, for whatever reason, and there are many reasons why coal plants are being closed around the country, if that power is replaced with either lower carbon natural gas, or zero carbon renewables, or not as much generation as needed because of energy efficiency, that will all work to the State's advantage in building their glide path towards the goal that is required.

Mr. DOYLE. But they will get credit for—I mean, basically we want to make sure that we are getting credit for doing the right thing in advance of the final ruling, whenever that final ruling comes out.

Ms. MCCABE. Right.

Mr. DOYLE. And you are saying that that will be the case?

Ms. MCCABE. Yes.

Mr. DOYLE. OK. Can you talk specifically about some of the opportunities my State might have to reduce carbon pollution from our power sector? I mean, do you anticipate that coal will continue to be a big part of our power mix going forward?

Ms. MCCABE. I do expect and, in fact, we show across the country that coal will continue to be about a 30 percent share of production, and although I don't have the Pennsylvania figures in front of me right now, a coal intensive State like Pennsylvania, we presume, would continue to have a significant amount of its power generated from coal.

And the targets that we calculated, in fact, very much took that existing energy mix into account and we think that Pennsylvania, like other coal intensive States, has things that they can do, and

the target was designed to capture the things that Pennsylvania can reasonably do.

Mr. DOYLE. Uh-huh. I want to talk to you a little bit about the flexibility options in this in terms of the potential for increased flexibility. So my understanding is that State specific emission goals were derived from one calendar year of actual operations, 2012——

Ms. MCCABE. That is right.

Mr. DOYLE [continuing]. Which people are calling the baseline year. You know, in the past rules, an average of several years were used in order to smooth out any anomalies, and it seems that a 1-year snapshot might yield an inaccurate starting point, especially if the State had several plants on extended outages, for example, or some anomalies existed in 2012 that didn't exist in other years.

Would the EPA be willing to consider more flexibility of sorts, like averaging a few years to establish a more accurate starting point or baseline?

Ms. MCCABE. Yes. I know we will get comment on that issue, and it is something we certainly would consider and talk with States about.

Mr. DOYLE. And finally, let me ask you about nuclear, too. Several nuclear generating stations have closed recently, and it is common knowledge that others are on the bubble and I realize the main culprit is market conditions, but market rules in competitive markets disadvantage base load power including nuclear.

Can we meet the greenhouse gas rules goals if more nuclear plants close? And since most nuclear plants operate in competitive deregulated markets, did you consider this in your analysis?

Ms. MCCABE. So the nuclear question is an interesting and a complicated one, and we did recognize what you have just reflected going on in the market with respect to nuclear plants. So we actually have tried to send some signals in the proposal to encourage the retention of that nuclear generation that, as you say, is kind of on the bubble. So we definitely would like to work with States to see how the plan can help encourage the continued operation of those zero emitting carbon sources.

Mr. DOYLE. And finally, let me ask you about reliability, too. I mean, one of the most important duties that State regulators have is to maintain a reliable electric system and that is vital to our economy, obviously. How does the EPA's proposal ensure that States can achieve carbon pollution reductions while maintaining reliability?

Ms. MCCABE. Yes, it is a very good question and one that was paramount in our minds as we worked through the proposal and also as we consulted with FERC and DOE and other agencies that have this as a chief responsibility. So there are a couple of things that we think make it clear that reliability will not be threatened.

One is the length of time for implementation here. There is a long period of time for people to plan, and the utilities sector, this is what they do. They know how to do this, and if you give them enough time, they can plan accordingly.

The flexibility in the plan, the fact that no particular plan is required to meet any particular emission rate over any particular time period is another way in which reliability will be protected,

because States have the flexibility to plan their resources accordingly, and the fact that we have an annual averaging periods and longer averaging periods, again, provides a lot of flexibility. If somebody needs to bring a plant up to deal with a short-term issue, an annual average allows them to do that without compromising their compliance with their own plan.

Mr. DOYLE. Thank you.

Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time, recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. OLSON. I thank the Chair.

Ms. McCabe, I hope you have the same concerns I hear back home about President Obama's announcement on new regulations for coal power, carbon regulations. There is a common theme back home: Why does the EPA that works for me want to kill my job? Why does that same EPA that works for me want to hurt my family? Those questions can't be answered here. They will be answered in November.

I do have a few questions you can answer today. The first few follow the example of Chairman Emeritus Dingell that require a yes-or-no answer.

Question one: EPA added a grid safety valve in the 2011 mercury rule as a way to slow implementation if reliability is threatened. Now America's impartial grid operators, including the ones that keeps the lights on at your headquarters, have asked your staff about a similar valve here. My question is, Will you commit to including a reliability valve in the final carbon rule? Yes or no.

Ms. MCCABE. I can't commit to anything in the final rule. We haven't even gotten the public comments yet, but it is something we will certainly consider if people comment on it.

Mr. OLSON. It is important, ma'am. We will follow up later on this.

Second question is: EPA has justified these new rules to the public with up to $90 billion in, quote, "climate and health benefits," unquote. Health benefits is an important phrase. According to the EPA's impact analysis, the vast majority of this rule's benefits come from cutting traditional pollution, not carbon. Mostly microscopic dust, PM. We already regulate PM. In fact, you are just now starting to implement a brand new ambient air quality standard. My question, being yes or no, is, Do EPA's national ambient air quality standards fully protect human health with, quote, "an adequate margin of safety," unquote? Yes or no.

Ms. MCCABE. Yes, they do.

Mr. OLSON. That is what I thought. That complies with the law.

The second question: The entire country would have to apply with the existing PM 2.5 standard in the coming years, yes or no?

Ms. MCCABE. I am sorry. Can you repeat that?

Mr. OLSON. The entire country, all of America, will have to comply with the existing 2.5 PM standards in the coming years, yes or no?

Ms. MCCABE. That is the air quality standards that States need to meet, yes.

Mr. OLSON. Yes, ma'am. Many parts of the country already meet the new PM rule. Is that correct? Yes or no.

Ms. MCCABE. Yes.

Mr. OLSON. OK. That begs the question, your scientists have just approved a rule designed to push us to perfectly safe levels of PM. Existing rules will protect America's health and then some, and yet this new rule says that there will be billions in new PM protection benefits for EPA to trumpet to the public, and that begs the question, Is EPA giving this carbon rule credit for what it is already doing? Are you double counting?

Ms. MCCABE. Well, there are two answers to that, Congressman.

One is that the PM rule that was just finalized is the standard. It is not the path to get there, and so States will need to implement measures in order to reduce PM to meet that standard, and this proposed plan would be one way for them to do that. So it could be a critical element of a State's PM compliance plan.

The second answer to your question, Congressman, is that the scientists show that there are health benefits from reductions of PM even below the standard. We set the standards to protect from a public health perspective at the national level, but there continue to be health benefits, real health benefits that are experienced by people when those particle pollution levels go down, and so it is appropriate, in our view, to reflect the benefits that will accrue from those further reductions.

Mr. OLSON. I have a letter here that you put out in December 2012 and January of 2013, a fact sheet on the PM standard. I want you to square your comments with this language. It says, and this is your document: "Emission reductions from EPA and States rules already on the books will help 99 percent of counties with monitors meet their revised PM 2.5 standards without additional emission reductions." You are already there. Why do the standards? You have said it. You are there.

Ms. MCCABE. Well, these standards are not driven by PM reductions. These standards are driven in order to reduce carbon, which is a climate change pollutant causing significant health and welfare and economic impacts in this country. The benefits that we reflected in terms of PM are additional health benefits that will be achieved as a result of implementing this carbon pollution rule and but will be real health benefits that Americans will experience.

Mr. OLSON. My time is expired.

Mr. WHITFIELD. The gentleman's time has expired.

At this time, recognize the gentlelady from California, Ms. Matsui, for 5 minutes.

Ms. MATSUI. Thank you, Mr. Chairman, and thank you for having this hearing today.

Ms. McCabe, I want to applaud the administration in the EPA for the release of this critically important proposed rule to cut carbon emissions from existing plants. Now, we already set limits for other air pollutants, but we let power plants release as much carbon pollution as they want, yet the effects of climate change are already being felt across the Nation. Droughts are becoming more severe, which is putting an incredible strain on water supply in California, and specifically my district in Sacramento, where we have experienced historic drought. In addition, extreme weather from hurricanes to heat waves is hitting communities across the country. We can't wait any longer. We have to do something.

In California, as you know, we have made great strides with a cap-and-trade program, energy efficiency programs and renewable energy portfolio standards. Nationally, we have already made progress by moving to cleaner sources of energy and improving the energy efficiency of our cars, trucks and buildings. Now, EPA is setting carbon standards for power plants to protect public health and welfare, and I support these efforts in making our communities and planet a cleaner and safer place.

Now, my State has a lot of companies who have invested in other States. How will EPA determine who gets credit towards compliance when one State or company has invested in renewable energy, and clean energy production in other States? I know that EPA has asked for comment, but we are hoping that the EPA encourages a fair way of assigning credit.

Ms. MCCABE. Yes, we look forward to the public comment on this and to discussions with people. Basically, we start from the perspective of States being responsible for the carbon emissions in their States, but we recognize that there are programs like renewable energy programs where systems are set up so that States or companies will invest in renewable resources that are outside State boundaries. So the proposal does contemplate letting those States take account of those investments as part of their plan.

Ms. MATSUI. So does California get credit, then, for energy efficiency programs that deal with imported electricity?

Ms. MCCABE. The energy efficiency is a little bit different from renewable energy. So we are focused there in the proposal on energy efficiency that takes place in the States that reflects reductions in use in that State.

Ms. MATSUI. OK.

Ms. MCCABE. But, again, I am sure we will get lots of comment on this issue because it is a complicated one, and you want to make sure that, both, you are not double counting, but also that all energy efficiency is being counted somewhere in the right place.

Ms. MATSUI. Absolutely. Now, will the EPA have ongoing oversight of State plans or multi-State plans?

Ms. MCCABE. Like we do throughout the Clean Air Act, we will provide oversight to the State implementation of approval and implementation of plans as we normally do with State implementation plans for other pollutants.

Ms. MATSUI. OK. Now, California would have to convert EPA's rate-base standard to a mass-based standard due to programs it has in place. Will this conversion affect this reduction target?

Ms. MCCABE. It should work out to be just exactly the same; that is the whole point. And we have a technical support document that walks States and others through how you would do that conversion.

Ms. MATSUI. OK. Now, would California get credit towards compliance for its new Pacific coast collaborative with Oregon, Washington, and British Columbia. The leaders of all four jurisdictions have agreed to account for the cost of carbon pollution and that where appropriate and feasible make programs to create consistency and predictability across the rejudge of 53 million people?

Ms. MCCABE. Yes. So if States choose to join with other States in a plan, they would be able to pool their resources and pool their

targets and be able to put in a joint plan that we could review and approve. That provides a lot more flexibility, those can be very attractive arrangements.

Ms. MATSUI. OK. Great. Now, did EPA find any parts of the country that don't have the potential to boost their use of cleaner energy?

Ms. MCCABE. No, every State has many opportunities.

Ms. MATSUI. OK. If a State does not comply or create a plan, can it affect a neighboring State's reduction target?

Ms. MCCABE. No, I don't believe so. Each State is responsible for its own target, and as I said, if they go in on a joint plan with others, then we would look at that as a joint plan, but each State is responsible for itself.

Ms. MATSUI. OK. There is an interim reduction goal that must be met by 2020. What happens if the State does not meet the interim standard?

Ms. MCCABE. Well, actually the interim standard needs to be met on average over the decade between 2020 and 2029, so they can kind of plan that out.

Ms. MATSUI. All right.

Ms. MCCABE. They don't have to have a straight trajectory. There can—there is some States, for example, that know they are going to have plant closures later in the decade so they can do less in the first part.

Ms. MATSUI. OK.

Ms. MCCABE. So, each State's plan will lay out what it expects to do over that 2020 to 2029 period and show how it is getting that average.

Ms. MATSUI. OK.

Ms. MCCABE. And then we will work with the States to help them along the way.

Ms. MATSUI. Great. Well, thank you, Ms. McCabe.

I yield back.

Mr. WHITFIELD. The gentlelady's time is expired.

At this time recognize the gentleman from Kansas, Mr. Pompeo, for 5 minutes.

Mr. POMPEO. Thank you, Mr. Chairman.

I want to follow up on a question from Mr. Whitfield. He asked you for precedent about going beyond the source under 111(d), and you cited the Clean Air Mercury Rule. Are there other precedents that EPA has for going beyond regulating existing sources?

Ms. MCCABE. Well, we actually don't think this is going beyond existing sources because it is focused on the fossil generation, and all——

Mr. POMPEO. But you gave that example where you have gone beyond the actual source, and you cited the Clean Air Mercury Rule. Do you have other examples like the Clean Air Mercury Rule, yes or no?

Ms. MCCABE. No. The other examples, though, are industry specific like this one is.

Mr. POMPEO. Right. And under the Clean Air Mercury Rule, there is nothing outside of regulated sources that you attempt to regulate. You could trade among the regulatories.

Ms. MCCABE. Correct.

Mr. POMPEO. But you couldn't go beyond that to appliances as you are proposing here; is that correct? It is a yes or no question.

Ms. MCCABE. That is right.

Mr. POMPEO. And my recollection is the Clean Air Mercury rule was overturned.

Ms. MCCABE. But not on that basis.

Mr. POMPEO. But it is no longer in effect.

Ms. MCCABE. It is no longer.

Mr. POMPEO. Right. So, it is gone. It was unlawful, it was lawless, much like you are proposing here. Yes.

Let me talk about—but have you met with John Podesta in the course of developing these regulations?

Ms. MCCABE. I have.

Mr. POMPEO. How many times?

Ms. MCCABE. I don't recall.

Mr. POMPEO. One time, three times, five times, do you have an estimate?

Ms. MCCABE. Not that——

Mr. POMPEO. Do you have a parking——

Ms. MCCABE. Not——

Mr. POMPEO [continuing]. Spot at that building? Is it infrequent?

Ms. MCCABE. It is infrequent.

Mr. POMPEO. OK. How many times has your staff met with him or someone else at the White House on this set of regulations?

Ms. MCCABE. Not to my knowledge, or infrequently.

Mr. POMPEO. And Ms. McCarthy, has she met with Mr. Podesta as well on this set of regulations?

Ms. MCCABE. I expect that she has.

Mr. POMPEO. Can you give me the information about the frequency of those meetings, the location of the meetings, and the subject matter of those meetings?

Ms. MCCABE. I will take that back.

Mr. POMPEO. No, that is not the question. The question is can you get me the information?

Ms. MCCABE. I know. I will take the question back.

Mr. POMPEO. Great. I mean, this is about politics, right? That is why Mr. Podesta is over at EPA working on this. This isn't about law, we talked about that. It is about politics. It is also not about science, and I want to turn to science now.

I talked with Ms. McCarthy about this. I want to make sure nothing has changed in your view. So you have now 30 indicators. You have gone from 26 to 30 indicators on your Web site about how you measure impact of what you all call climate change today.

So I want to ask you a series of yes-or-no questions about this set of regulations, these carbon regulations, and what you think they will do to the indicators that EPA uses.

So, yes or no, will this set of rules, when fully implemented, reduce sea surface temperatures.

Ms. MCCABE. I can't answer that. I don't know.

Mr. POMPEO. Will this reduce ocean acidity?

Ms. MCCABE. It will contribute to reducing ocean acidity.

Mr. POMPEO. Do you have the data to support that, and can you tell how much and when we will see reduced ocean acidity as a result of these regulations?

Ms. MCCABE. You can't predict the climate this way.

Mr. POMPEO. I will take that as you have no idea. Is that a fair statement? You don't know. You have no data. Do you have any science to support the reduction in ocean acidity connected to these rules?

Ms. MCCABE. We have science to show that increased carbon in the atmosphere leads to things like ocean acidity, and if you have less carbon in the atmosphere, you will——

Mr. POMPEO. Decreases in the lake ice. How much—how much less lake ice will there be as a result of this set of rules?

Ms. MCCABE. Same answer I gave you before.

Mr. POMPEO. Right. You don't know. The answer is you can't show me how much less lake ice. I would just like to see the data. If you are proposing a set of rules and you have indicators, it would seem reasonable for the citizens of America to demand that you say, "Hey, we think this is the impact, and so we will—this is what you are going to get in exchange for all the costs that we have all talked about this morning, this is what you are going to get. You are going to get this much less—or this much more of something that is really good."

Ms. MCCABE. But that is not the way climate science works.

Mr. POMPEO. Right. Yes. Science used loosely.

Have you met with FERC in connection with electrical reliability and talked to them about the impact?

Ms. MCCABE. Yes.

Mr. POMPEO. And tell me about those discussions. Did you—were there memos? Are there written materials where FERC provided you information about what they thought the impact of these rules would be on electricity reliability?

Ms. MCCABE. So, I or my staff have consulted with staff at FERC. They are part of the interagency review process that we always go through, and so they have given us their input on electric reliability.

Mr. POMPEO. And do you have—when you say their input, is there a memo? Do you have a document? Or did you just pass in the hallway and talk? There has got to be a written document.

Ms. MCCABE. I don't believe there are written documents, but it was more than passing in the hallway. We had discussions with them.

Mr. POMPEO. They were just discussions about something that is critical as electrical reliability. We have such a radical rule, and you didn't ask them to put anything in writing or you didn't demand and say, hey, tell us what you think in a formal scientific manner. You just said, hey, let's sit at a table and talk about it?

Ms. MCCABE. We had substantive discussions with them.

Mr. POMPEO. Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time I recognize the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. All right. Thank you, Mr. Chair, and Administrator McCabe, welcome, and thank you for your work on EPA's Clean Power Plan.

The President and EPA are doing exactly the right thing by placing the limits on the amount of carbon pollution that can be emit-

ted from power plants. Climate change is a serious threat, as we all know, and we cannot address it without addressing the biggest source of carbon pollution in the United States.

In the 2 weeks since the release of EPA's proposed rule, we have heard a lot of attacks on the Clean Power Plan, so I want to give you a chance, Administrator, to clear up some of these misunderstandings. One of the claims is that no one goes to the hospital for breathing in carbon pollution so there can't be any real public health benefits from limiting carbon pollution. Could you please explain how this rule will help protect the public health from the effects of both conventional air pollution and carbon pollution?

Ms. MCCABE. Yes, thank you. People do go to the hospital for breathing issues and for other ailments that are caused or exacerbated by air pollution, so this rule will—by reducing both carbon but also other ancillary pollutants that are emitted by coal-fired and other fossil fuel-fired power plants, will reduce the amount of air pollution in the air, that means fewer asthma attacks, fewer visits to the emergency rooms, fewer premature deaths, and fewer heart attacks resulting from exposure to those pollutants.

Mr. TONKO. Right. There is also talk about the impact on modest income households. I can tell you representing households that saw their life savings washed away when their homes were totally destroyed is an effect that is never totally recovered, and so, the inaction here can be very expensive.

We have also heard repeatedly that the Clean Power Plan is a heavy-handed attempt by EPA to regulate the power system and to tell States exactly how much efficiency in renewable energy they must achieve. This charge must particularly be—must be particularly frustrating for you. As I understand it, the proposal is designed to offer flexibility, as you have mentioned here today. The proposal sets a target, but it is left, is it not, to individual States to choose how to achieve it? Can you respond to this misrepresentation of the proposal?

Ms. MCCABE. Yes, it is absolutely left to States, and we know that States will pick and choose the things that make the most sense for them, and if energy efficiency is where they want to put their investment, then they have the ability to do that. If investing in their existing coal-fired generation can make it just as efficient as possible is where they want to put their investment, then the plan allows them to do that.

Mr. TONKO. Right. Thank you. And then, Administrator McCabe, I am sure that you are aware that New York is a member of the nine State compact of Regional Greenhouse Gas Initiative, or RGGI in the Northeast. Our nine State coalition has agreed to a cap on carbon pollution, and we have a regional trading market for carbon pollution credits.

The revenue from the sale of those credits has allowed us to fund a wide variety of initiatives, including efficiency and renewable energy, investment in education and training for jobs, new jobs in clean energy, transitioning of jobs, and support businesses and initiate plans for climate adaptation. In short, the RGGI States have accomplished much already.

In fact, since 2009, the nine member State compact has had an emission reduction by 18 percent, while our economies grew by 9.2

percent. By comparison, the emission in the remaining 41 States of our Nation, saw that emission reduced by 4 percent while their economies grew by 8.8 percent. So the track record is not intimidating. It is actually quite rewarding.

It appears to me that what States are doing under RGGI is consistent with EPA's proposal. So the States in our coalition are already on their way to meeting your proposed target. Is that the case, or are we going to have to rework our initiatives?

Ms. MCCABE. No, that is the case, and the approach that these States have taken is certainly one approach that States can choose to take, and as you say, has been very beneficial to those States and very workable.

Mr. TONKO. OK. Well, I appreciate that because I was involved in the early discussions about the formation and implementation of RGGI from my seat at NICERTA. I heard many of the States claim—the same claims about threats to reliability and affordability of electricity, job losses, and predictions of everything short of returning to the days of reading by candlelight. It didn't happen. I won't say these aren't challenges. There are challenges, but they are manageable, and the effort is yielding significant benefits for public health and the economy.

Ms. McCabe, proponents of action to address climate change say that requiring coal-fired power plants to control their carbon pollution is a part of a war on coal. Is the Clean Power Plan going to eliminate the use of coal?

Ms. MCCABE. Absolutely not. In fact, coal will remain roughly a third of our power supply in this country in 2030 under this proposed plan.

Mr. TONKO. OK. Well, my time has been exhausted, so I will yield back, and I thank you for, again, appearing before us today and offering clarification.

Mr. WHITFIELD. At this time, recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. I have to just say, representing a coal district where lots of jobs have been lost and more expected to be lost because of these rules, we certainly feel like we are under attack from Washington, DC, and if it is not a war, it sure is something that is pretty close to hell. Thank you.

That being said, it is my understanding—and if I could get yes or no answers, I would appreciate it. It is my understanding that you are a lawyer by training; is that correct?

Ms. MCCABE. I am.

Mr. GRIFFITH. And it is also my understanding that the Attorney General of West Virginia, Patrick Morrisey, wrote a letter to Gina McCarthy on June 6, 2014, regarding these new rules. In there, I understand the EPA agrees in its technical documents filed with this proposal that under the plain reading of the statutory language of section 111(d) found in the U.S. Code, EPA has no legal authority to regulate CO_2 emissions from power plants under section 111(d). In particular, section 111(d) of the U.S. Code provides that if the EPA is already regulating a source under section 112 of the Clean Air Act, the EPA cannot also establish standards under section 111(d) for those same sources.

Isn't it true, that in 2012, EPA started regulating power plants under section 112 under its Mercury and Air Toxics Rule? Yes or no.

Ms. MCCABE. We did issue a regulation under section 112.

Mr. GRIFFITH. Under section 112. So, under the plain reading of the U.S. Code, and by the way, a plain reading of the legislation reported from this committee and the substantive provisions of law enacted by the House and the Senate, this decision by the EPA foreclosed, the decision to regulate under 112 foreclosed the agency's ability to regulate greenhouse gases under section 111. Isn't that correct?

Ms. MCCABE. That is not correct.

Mr. GRIFFITH. And you base that upon your new understanding that the EPA takes the position that they don't read the provisions of the U.S. Code literally because there was a technical conforming amendment included in the 1990 Clean Air Act amendments that you all assert, you and the EPA assert creates ambiguity in what is the law or about what the law is; is that your position, ma'am?

Ms. MCCABE. This is not a new interpretation. This is the interpretation that the agency took in 2005 also in the Clean Air Mercury Rule, that reading of the statute.

Mr. GRIFFITH. And do any of the following still work for the EPA: Carol Holmes, Howard J. Hoffman, or Wendy L. Blake?

Ms. MCCABE. Yes, some of them.

Mr. GRIFFITH. So then the court, in its ruling, made an error when it said that your position was the opposite of what you have said just. I read from the opinion that you referenced, that would be New Jersey versus EPA, 2008 opinion. For all the lawyers listening in, 517 F.3d 574, quote, "This requires vacation of CAMRs regulations, for both new and existing EGUs. EPA promulgated the CAMR regulations for existing EGUs under section 111(d), but under EPA's own interpretation of the section, it cannot be used to regulate sources listed under section 112. EPA thus concedes that if EGUs remain listed under section 112, as we hold, then the CAMR regulations for existing sources must fall. EPA promulgated the CAMR regulations for new sources under section 111(b) on the basis that there would be no section 112 regulation of the EGU emissions and that new source performance standards would be accompanied by a national emissions cap and voluntary cap-and-trade program," end quote.

From the opinion that you just said where your people argued the opposite, the courts seem to think they argued what I think, and that is, you don't have authority if you regulated greenhouse gases under 112, you don't have the authority—not greenhouse gases, but regulated the existing coal-fired power plants, you don't have the authority under 111. How do you reconcile those two, your thought that this was your position before and now finding that your lawyers had previously argued the opposite, at least if the court is not mistaken,and I note that the case was appealed on other grounds but cert was not granted?

Ms. MCCABE. The CAMR decision was based on a completely different basis, the decision to vacate the rule.

Mr. GRIFFITH. I understand that, but you just stated here today that your position—this was not a new position for the EPA be-

cause of this case. This case says the opposite. How do you reconcile that?

Ms. MCCABE. I am not intimately familiar with the court decision that you are reading. I will be happy to respond to this, and I am sure we will.

Mr. GRIFFITH. I appreciate that. Let's just talk about good basic lawyering then. You know what a scrivener's error is. You have been around the process for a long time, you have gone to law school, you understand that when a bill passes, and this committee does it all the time, when we say at the end, our chairman will say that, you know, closes by saying the staff can make technical conforming amendments, what the EPA is hanging their hat on is a scrivener's error that was a confirming amendment, and you are saying that a scrivener's error and the conforming amendment should trump the law of the United States? Really. With your background and your education, I would expect a better argument.

Thank you very much, Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. CASTOR. Thank you very much, Mr. Chairman, and welcome.

I think it is very heartening that America is moving forward to tackle the challenges of the changing climate and carbon pollution. We are already making great progress when it comes to the cars we drive and fuel efficiency. We have reduced emissions substantially and put money back into the pockets of American families. That has been very positive.

Then look at what has happened with the appliances in our homes. They are more efficient than ever, and we can do even better, the building codes are better. New technology is out there so you can control with your smart phone what is going on in your own home and save money that way. Again, the new technology is improved by leaps and bounds, and this is part of American ingenuity, and we are going to bring that same ingenuity to tackling carbon pollution from the largest emitters.

Back home, all I have to do is look around the Tampa Bay area on top of the huge Ikea store, we have got large solar arrays, they are saving on their electric bills, the largest beer distributor in the area has a major warehouse. They said this makes sense for us now to put solar panels on the roof. Our local governments have done it at courthouses, and there is a corresponding benefit that we have created jobs and clean energy, and we have created new businesses, and we are boosting small businesses all across my community and all across America.

So now comes another important piece in the climate action plan focused on the largest sources of carbon pollution, and when you review the proposed rule by EPA, I think the hallmark of it is the flexibility granted to the States. So, by the year 2030, it is almost hard to imagine where we will be at 2030, but by 2030, States will have to meet these overall pollution reduction goals.

Now, some people expressed to me, Madam Administrator, that the rule grants too much flexibility. A State like mine in the State of Florida at the State level, we don't have much State leadership right now, surprisingly. The State, I would argue, that could be the

most impacted by the changing climate, the leaders at the State level had receded from energy efficiency standards. We don't have any renewable goal at all, so some folks say, gosh, couldn't have EPA done a little bit better by setting some targets on energy efficiency and renewables? But I mean, Mr. Barrow, Georgia is producing more solar power than the Sunshine State. That is pretty ridiculous. So——

Mr. BARROW. It is a point of pride.

Ms. CASTOR. Point of pride for you in the Peach State but not so much from the Sunshine State, but there is progress at the local level. Like in my home county in Hillsborough County, they have a waste energy plant that has been expanded, they are getting greenhouse gas credits. The city of St. Petersburg is a leader nationally in what they are doing in lighting and solar power and eliminating methane and waste energy, so here is a question.

What will States be able to do to harness the improvements at the local level? And it is not just local governments. It is nonprofits and it is businesses. How will that count towards our goal, our State goal of reducing overall carbon pollution?

Ms. MCCABE. This is a great point. I think there is something like a thousand mayors across the country that have pledged to address carbon emissions in their cities, and it is just so encouraging and so positive, and the way these programs will fit into a State's plan is that any measure that helps the State reduce the amount of energy it needs to produce from its high carbon sources will be able to be counted in the State's progress towards their goal. So, all these local programs, weatherization programs, building efficiency programs, they all will be able to count.

Ms. CASTOR. But you all have a State organization that will able to bring all of that data together; isn't that right?

Ms. MCCABE. Well, the State Government is responsible for the plan under the Clean Air Act, as they always are, and they know how to do these things, and so we are working with the State agencies that are definitely thinking about how they will do this and asking lots of questions, and I think they have the opportunity to work with their mayors and their utilities and their local businesses and utilities to make sure they know what is going on and——

Ms. CASTOR. It is really a call to action to everyone. We all have a responsibility to do this, and I think there is a great potential for cost savings for consumers. It is interesting that you have identified a potential for reduced electric bills because of energy efficiency. If you can save, you save money, but one of the problems, though, is the State incentives, do not encourage energy efficiency and conservation. Hopefully we can do better there, don't you think?

Ms. MCCABE. We think States will find that energy efficiency is a very positive program for them to invest in as some other States that are further along that path have found.

Ms. CASTOR. Thank you very much.

Mr. WHITFIELD. At this time, recognize the gentleman from Texas, Mr. Burgess, for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman. I appreciate you having the hearing.

I appreciate our witness being here so long with us this morning and your forbearance through our questions.

I want to go back, I think it was Mr. Barton or maybe it was Mr. Shimkus who asked the question to which you responded that there would be an 8 percent reduction in electricity prices in Texas; did I hear that correctly?

Ms. MCCABE. Electricity bills. We predict that electricity bills will go down. This is a national average, not——

Mr. BURGESS. Can you provide us with the formula and the data that you put into the formula to come up with that answer?

Ms. MCCABE. Sure. That is all laid out in our regulatory impact assessment, and the attachment is in the record, so we will be happy to point you to where that is.

Mr. BURGESS. You also said in your opening statement, that we will avoid 100,000 asthma attacks under these rules. Can you tell us, since the passage of the Clean Air Act, when I wasn't here then—I mean, that was before the earth cooled the first time, it has been so long ago—but how many asthma attacks have been prevented under the Clean Air Act?

Ms. MCCABE. I don't know that figure, but we will be glad to get you some more information on that.

Mr. BURGESS. Does this figure of 100,000 include those asthma attacks that would have been avoided simply because of the passage of the Clean Air Act?

Ms. MCCABE. The health benefits that we predict from this rule are associated with the pollution reductions that are required by this proposal.

Mr. BURGESS. Well, now you say pollution reduction, but of course, this all was predicated on the endangerment finding for carbon dioxide, and now carbon dioxide has become a regulated pollutant; is that correct?

Ms. MCCABE. That is correct.

Mr. BURGESS. So is regulation or reduction of carbon dioxide in the atmosphere going to result in 100,000 fewer asthma attacks?

Ms. MCCABE. The asthma attacks that we associate with this rule in our analysis are due to reductions in other pollutants that will happen as the carbon is also reduced.

Mr. BURGESS. Can you provide us with the journals that back up the 100,000 figure as well as the reductions that you are asserting.

Ms. MCCABE. We will be happy to point you to where in the record we lay out our expectations on the benefits.

Mr. BURGESS. I am really not interested, but what I really would like to see are, are there publications in refereed journals that will attest to this fact? The ones that I have been able to find really are rather nebulous about the finding that reduction of carbon dioxide means a lower number of asthma attacks.

Ms. MCCABE. We will be glad to follow up with you.

Mr. BURGESS. And in note planning, I brought my Harrison's Principles of Internal Medicine with me this morning just in case we wanted to look at it. I don't see carbon dioxide listed as a trigger for inciting reactive airway disease.

Ms. MCCABE. So, let me clarify because I think I didn't quite see where you were going. So, there are certain airborne pollutants that are very clearly associated with exacerbation of asthma at-

tacks. The impacts that we are seeing from climate change also can create conditions in which asthma can be exacerbated, so——

Mr. BURGESS. May I stop you there for just a moment because you seem to conflate climate change with carbon dioxide. My understanding of the purpose of this rule was because of an endangerment finding from carbon dioxide, and the asthma reductions that you are asserting in your testimony this morning are as a result of reductions in carbon dioxide.

Ms. MCCABE. No, that is not correct, so let me be really clear. The endangerment finding found that emissions of greenhouse gases, including carbon dioxide, created adverse impacts to public health and welfare, and that is through a variety of impacts that a changing climate has, increasing heat, increasing bouts of——

Mr. BURGESS. Again, I need to stop you because of time considerations, but those are relatively nebulous. And when I review the literature, I don't see the—I mean, this is a fairly assertive statement that you have made for the record here in your opening statement, and I don't see the data to back that up.

But I would just ask that you be careful about the language because the language—I think I see why that language is being used, but I don't think it is fair to use that, and I think, you know, we are oftentimes accused of using fear to motivate people to be against some of these principles, but here, I believe you are using fear, who wants more asthma attacks? No one. But your assertion that asthma will be reduced by 100,000 because of reductions of carbon dioxide in the rule that you promulgated as a result of a court opinion, I am sorry, it just doesn't follow.

Ms. MCCABE. If I could be really clear then. The health benefits that we describe as a result of this rule, the asthma attacks, in particular, are the result of the reductions in other pollutants that will happen accompanying the reductions in carbon.

Mr. BURGESS. So, I would just simply ask, what have you been doing? Why haven't you reduced those other pollutants? Why did it take this activity to motivate the EPA to reduce those other pollutants if it was within their power to do so all along under the Clean Air Act?

Ms. MCCABE. EPA and the States have been working for many years to reduce air pollution that results in asthma attacks and other health effects and has made a lot of success along the way.

This is an additional program that will result in additional pollution reductions, and there are real health benefits associated with those.

Mr. WHITFIELD. The gentleman's time is expired.

Mr. BURGESS. Mr. Chairman, I have some additional questions. I will submit those for the record. I appreciate your indulgence.

Mr. WHITFIELD. Absolutely, yes, we do have some other questions, and we are going to have some more hearings.

At this time I recognize the gentleman from Georgia, Mr. Barrow, for 5 minutes.

Mr. BARROW. Thank you, Mr. Chairman.

Thank you, Ms. McCabe, for being here.

I am sort of in a lonely place in this committee, you know. Sometimes I think a lonely place is the only honest place to be in this town, but you be the judge.

I accept the scientific evidence of a climate change. I accept the scientific evidence and the common sense that tells me if you take all the carbon that God put down in the ground and belch it in the air, we are going to have an impact on climate sooner or later. I accept that.

But I reject previous legislative attempts to address this problem, and I don't accept and don't agree with the current administration's efforts to do this by regulation, mainly because I don't think that it will work, but they will definitely hurt. They won't work, especially when you consider it in isolation or when you consider it against the backdrop of what is taking place in the rest of the world, and so I think we need to take another approach in this basically.

And the debate between those folks that say we need to put mandates out that in the hopes that technology will arrive, you know, on time, to the rescue, and those who think you ought to invest in technology, I am firmly in the technology first camp, and I don't think we are doing that with these regulations.

But, you talk about a number of things that we are doing that some folks are doing someplace, everybody ought to try and use those tools to try and get where we need to be. You talk about things like making coal plants more efficient, talk about shifting from coal to natural gas, talk about more renewables, you talk about consumer efficiency in a variety of different ways. Nowhere in there did I hear you talk about shifting from coal to nuclear.

Of the existing technologies that are on the shelf, nuclear is the only one that can provide significant base load capacity with zero emissions. My question is, does shifting from coal to nuclear count? Should it count?

Ms. MCCABE. It should and it does.

Mr. BARROW. All right. In Georgia and in South Carolina, we are the only ratepayers I know of in the Nation making significant investments in shifting from coal to nuclear. In my district at Plant Vogtle, we are adding the two next nuclear power generators to come online in this county. Vogtle 3 is going to come online in 2017. Vogtle 4 is going to come on in 2018. How are they going to get counted toward the goals they are going to be held to in 2020 of getting down to 891 pounds per kilowatt hour?

Ms. MCCABE. So when those megawatts are produced by a nuclear plant with zero carbon and they replace megawatts that were produced by a plant that emitted carbon, those will be counted for the State, and they will help it get towards its final goal.

Mr. BARROW. So, you are telling me the time between these come online in 2017 and 2018, the reductions that take place then will be counted toward the goal that you set for us of getting 891 as the adjusted average?

Ms. MCCABE. They will, and with those plants as part of Georgia's——

Mr. BARROW. Base.

Ms. MCCABE [continuing]. Base and how they produce their power, that it will help address, or achieve the carbon intensity goal, absolutely.

Mr. BARROW. Well, let me put this in context. In 2005, Georgia utilities were belching about 2,000 pounds per kilowatt hour into

the atmosphere, and we have already achieved a 25 percent reduction in that amount, getting down to about 1,500 as of 2012. So in the 7 years between 2005 and 2012, we have already achieved a 25 percent reduction.

Now, against the President's goal of achieving a 30 percent reduction for 2005 to 2030, how come we haven't already gotten there? Why are we still being required to cut it from 1,500 down to 891 in 2020 and 834 in 2030?

Ms. MCCABE. Well, each State is in a different place and they have made different progress, but what we did in our rule was we looked at these reasonable and existing technologies that people can use and how much more is reasonably able to be done.

Mr. BARROW. My point is, though, we are already achieving a 25 percent reduction and are shifting from coal to natural gas. One of tools in the toolbox you say we have got, and we have got plans to shift even more from coal to nuclear in 2017 and 2018. We have already achieved 25 percent of the starting goal of reducing what we were producing in 2005 to 2030 by 30 percent. We are most of the way there. Why do we have to cut it in half even further?

Ms. MCCABE. This rule was not set up to achieve a specific goal of reduction. That is not the way it works. It was set up to look at what the available technologies are, and for each State, that results in a different trajectory and a different ultimate goal.

Mr. BARROW. But we are utilizing two technologies, one you specifically list and one you haven't listed, need to add it to the mix, shifting from coal to nuclear, and we are already most of the way there.

Let me put it another way. Let me put it another way. It makes no sense to me that a little old itty bitty State like Wyoming is going to be held to producing, belching, 1,700 pounds per kilowatt hour into the atmosphere while a big old State like Georgia is going to be required to belch out no more than 834 pounds of CO_2 per kilowatt hour.

Makes even less sense to allow a little old itty bitty State like North Dakota to do 1,783 pounds in 2030, whereas a big old State like Texas has got to do no more than 700-and-something. That makes no sense to me in terms of whatever you want to do, whatever the existing technologies are, and that is a problem I have got with this whole approach.

Ms. MCCABE. We would be glad to spend more time with you, Congressman, and explain how those targets got——

Mr. BARROW. This will take a lot explaining. Thank you, ma'am.

Mr. WHITFIELD. The gentleman's time is expired.

At this time I recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman.

I would like to try to keep this issue in perspective and maybe have to get at the 30,000-foot level to look at this, because you know, according to the EPA's own Web site, it says that 82 percent of all manmade CO_2 comes from areas outside the United States, and so, to me, it is kind of ludicrous, as we have this discussion, to think that we are going to improve—we are going to have health benefits to America and we are going to start reversing the climate

change when 82 percent of those contributing to CO_2 are exempt around the world.

It just—I can't think of any other way that we are going to make this policy work than by engaging the rest of the world into this discussion. But this experiment that he wants at 30 percent is just—it doesn't seem to be working. If we go back to the Kyoto protocol, it called for a 5.2 reduction in CO_2 emissions, but by the end of that protocol, the globe had already, had increased by 10 percent and just ignored what was being documented.

So, while we want to experiment, while this administration wants to experiment by reducing 30 percent, the International Energy Agency is already predicting that by 2030 the rest of the world is going to be producing 40 percent more CO_2 around the world.

While we are experimenting with reduction, the rest of the world is not following our lead, they are going to 40 percent. Just consider China and India alone. With this chart, you can see that, this is what they are going to be doing. Over this time period, China is going on the introducing 557,000 more gigawatts of coal-fired power house; India, 519,000. In that time period, by 2030, China is going to increase their CO_2 output by 60 percent while we are decreasing 30 percent. India is going to increase by 50 percent their CO_2 output while we are decreasing our 30 percent.

This administration just seems to be ignoring that China burns more coal than the rest of the world combined, and no one is following this lead. We seem to be operating in a vacuum.

Just recently the EPA Administrator, former Administrator—EPA Administrator Lisa Jackson said U.S. action alone will not impact world CO_2 levels. Do you agree with that?

Ms. MCCABE. I——

Mr. MCKINLEY. Yes or no.

Ms. MCCABE. I take your word that she said it.

Mr. MCKINLEY. She said that just yesterday. Former EPA Administrator William Riley said, absent action by China, Brazil, and India, what we do will not suffice.

Ms. MCCABE. I don't think anybody disagrees that action is required by many countries to address climate change.

Mr. MCKINLEY. So what we are doing—so, with these regulations, we are ignoring the global reality that the rest of the world is not following us. We are going to affect our American economy. We are going to put it at risk where already the numbers are predicting that anywhere from $9 to $40 billion annually we are going to pay for this experiment.

We are going to be increasing our utility bills. We are going to be putting Americans out of work. We are going to disrupt our manufacturing base. We are ignoring the advice of the predecessors with EPA over this thing, so I am going ask you a quick—a year from now, if China and India and Japan have not reduced their CO_2 emissions, will you withdraw this regulation?

Ms. MCCABE. We are not——

Mr. MCKINELY. Just yes or no.

Ms. MCCABE. No.

Mr. MCKINLEY. OK. How about 2 years from now? If no one is following, will you withdraw it?

Ms. MCCABE. Congressman, this rule——

Mr. MCKINLEY. Is that no?

Ms. MCCABE. I can't speak to what——

Mr. MCKINLEY. So, I would say in the final rule then, since you mention it earlier, in the final rule, you said that it is not final. We have—final language has to be worked out, so will you agree to insert metrics into this? Engineers, we deal with metrics. We want to see how you measure success, so will you put into the final bill a metric that says that if America's economy is tanking because of this or the world isn't following and they are continuing to increase their CO_2 emissions, that this will void this rule? Just a yes or no.

Ms. MCCABE. I don't believe that would be an appropriate thing to do under a Clean Air Act rule, Congressman.

Mr. MCKINLEY. OK. So, again, trying to paint the final picture here as we go with this. This experiment in working separate from the rest of the Nation is kind of—and you yourself have mentioned, efficiency. As an engineer, I agree with you about efficiency, but when I think of it, what comes to mind is someone insulating their home and then opening all the windows. What have we accomplished with this? We are not working in concert with the rest of the world. They are not following us.

So for us to expect to have health benefits from something while 82 percent of the rest of the world are exempt from this is ludicrous.

I have to—my time is expired. I am sorry. I hope we can have more of a dialogue and follow back up with this. Thank you.

Ms. MCCABE. Happy to. Happy to. We are absolutely not ignoring other countries, and we have many activities focused on it.

Mr. MCKINLEY. You and I both know they are not joining us.

Mr. GRIFFITH [presiding]. The gentleman's time is expired.

The gentleman from New York, Mr. Engel, is recognized for 5 minutes.

Mr. ENGEL. Thank you, Mr. Chairman. I want to welcome and thank you, Administrator McCabe, for joining us here and for your testimony.

I want to give you a chance to perhaps answer some of the things—questions that Mr. McKinley asked because there are a couple of arguments that we hear over and over again from those who oppose U.S. action on climate change.

First, they say this is a global problem so why should the U.S. act first, and secondly, they say even if America acts, it is not going to solve the problem anyway because other countries are going to ignore it, so why bother. As far as I am concerned, there is no question that climate change is a global problem, and it demands a global solution, and it doesn't mean that we wait for other countries to act first.

So, to the contrary, I would say progress on big global problems almost always requires United States' leadership, and I don't think anyone would claim that the world will meaningfully make a slow climate change without U.S. leadership and action.

I wanted to give you a chance to answer some of the specifics because it is hard when you have to answer just yes or no to say what you really feel, so——

Ms. MCCABE. Yes. I appreciate it, Congressman, and I agree with the way you have characterized this.

There is no question it is a global issue. There is no question that countries beyond the United States are going to have to take action. This has been the case with other environmental problems in the past. I also agree and the President agrees that the United States has a responsibility to act here both because we are a significant contributor. We are the second largest, I believe, contributor, and because we are a world leader, and we work in the international community with other countries, with China, with India, with other countries, and are working with them to get them to look at similar sorts of approaches so that we can together address this global environmental problem.

Mr. ENGEL. So on the specific issue of climate change, can you tell us why American leadership is particularly critical on this particular issue?

Ms. MCCABE. Well, the global impacts of climate change affect us here in the United States, they affect our citizens and our families, and so we have a responsibility to do everything that we can to encourage and work with other countries to have them take the kinds of steps that we ourselves are showing we have the leadership to take here at home.

Mr. ENGEL. Well, and also, as you mentioned, the United States is one of the world's top emitters of carbon pollution, and in order to be a credible negotiator, I think we need to be able to urge and approach other countries to do more. We need to take action ourselves, you know, walk the walk.

Ms. MCCABE. That is correct. That is absolutely correct.

Mr. ENGEL. Not just talk the talk. So how will EPA's actions to cut carbon from power plants, in particular, strengthen the United States' ability to influence the direction of international negotiations on climate change?

Ms. MCCABE. It already is having an impact when we meet with other countries in these discussions to see that a major world leading economy is putting its money where its mouth is, so to speak, and taking affirmative steps to address carbon. And so that shows that it can be done, it shows that a country has moved forward in that regard, and that puts pressure on other countries to do similar or explain why they can't.

Mr. ENGEL. Now, power plants are the largest single source of our emissions and the source of huge emissions worldwide, and so obviously, to be credible, we need to address power plants, and by doing so, we can help other countries understand that it can be done. I would assume you agree with that statement?

Ms. MCCABE. I do agree, and by moving forward with our power companies, we can be on the forefront of technologies and the types of methodologies that we can then help other countries with which will benefit our manufacturers and our innovators here at home.

Mr. ENGEL. So let me ask you, you have talked about it, but I want to give you again you know, a chance to enhance your statement. When those who oppose action say that this rule won't solve the problem so why should we bother, why should we bother?

Ms. MCCABE. It is an extremely important step to help solve the global problem for the United States to move forward with real meaningful reductions in carbon.

Mr. ENGEL. So I would just like to say, and I assume you agree, and tell me if you do, no single action to reduce carbon pollution will ever stop climate change but we will never address this problem without many individual actions, so these actions do add up to a meaningful difference.

Ms. MCCABE. That is absolutely correct.

Mr. ENGEL. OK. Thank you.

Thank you, Mr. Chairman.

Mr. GRIFFITH. The gentleman yields back. Thank you.

And now recognize the gentleman from Pennsylvania, Mr. Pitts, for 5 minutes.

Mr. PITTS. Thank you, Mr. Chairman.

Madam Administrator, many coal-fired power plants have spent millions of dollars to comply with the EPA's final Mercury and Air Toxics rule MATS. Despite the retrofits, many of these plants would operate significantly less or potentially retire under EPA's proposed rule which contemplates greater utilization of natural gas. My question is, how does the proposed rule prevent the problem of stranded assets?

In other words, for coal plants that have made millions of dollars of investments to be compliant with MATS, but may not be able to meet the requirements of this rule, there are plants in my State that have spent hundreds of millions or even billions of dollars to comply with the Mercury and Air Toxics rule. Do generators and their customers and their investors just have to eat these costs?

Ms. MCCABE. It is a good question, Congressman, and hopefully I can give you a couple of answers to it. So, one way in which we anticipated avoiding this kind of situation is providing a very lengthy trajectory for compliance. So, going all the way out into 2030, that gives utilities the time to do two things. One is to plan carefully so that the plants in which they have made significant investments, they can get all the value out of those investments and also to plan to make sure that their fleet is being managed over time.

The other thing is that where the coal-fired fleet in this country is aging, as I am sure you know right now half of the plants are in their 40s, I think, and 10 percent or so are 60 years old or older, so, so there is a transition going on in the industry already, quite apart from MATS and quite apart from this rule.

And the flexibility that this rule provides will allow States to focus on and utilities to focus on investing in the plants that have a long life ahead of them and make the most sense in order to continue to be key parts of the portfolio and perhaps not to invest in the oldest plants, the ones where it doesn't make as much sense economically to put investments into them. So that is how this rule helps avoid those kinds of situations, which we agree is a very important thing to do.

Mr. PITTS. In your calculations in developing the rule, did you take into account the loss of jobs as a result? Did you quantify these as to the impact by State?

Ms. MCCABE. Well, again, as I said before, since the States will ultimately decide exactly what their plans are, all we could do was to do some illustrative examples, and in our regulatory impact assessment, we did look at the potential job losses and job gains associated with the rule. That is all laid out there.

Mr. PITTS. Now, under the proposed rule for existing power plants, EPA is requiring of each State develop a State implementation plan and to submit it to EPA for approval. What if a State chooses not to participate? Would EPA impose a Federal implementation plan in that regard?

Ms. MCCABE. The Clean Air Act does provide that if a State doesn't submit a plan, that EPA would do one. I will tell you right now that we are not focused on that right now. We are focused on making sure that States understand the opportunity is here for them, and we are confident that States will want to be in the lead on this program.

Mr. PITTS. Well, we saw that many States didn't want to establish their own programs to implement Obamacare and trying to implement that at the State level. If EPA were to impose a Federal implementation plan in their State, what does EPA envision that plans would look like?

Ms. MCCABE. We really haven't thought that through, and any proposed Federal plan, we would go through a public process to get people's views on that.

Mr. PITTS. Would you take over energy planning for the States and decision making like about their electricity mix, would you take over planning that electric rates for consumers?

Ms. MCCABE. No, Congressman. Our job is to look at the emitting facilities, the coal-fired power plants, and look at ways to reduce the emissions from those power plants, and any proposed plan would be squarely within our authority.

Mr. PITTS. All right. Combined heat and power facilities are already inherently efficient. What has EPA done to prevent those facilities from being swept into the 111(d) rule? Will you take measures to ensure that those facilities are not adversely impacted by this proposal?

Ms. MCCABE. Actually, combining power is a very efficient way of generating electricity, so those kinds of facilities will be very helpful to States in putting their plans together.

Mr. PITTS. My time is expired. Thank you, Mr. Chairman.

Mr. GRIFFITH. The gentleman's yielded back.

We now recognize the gentleman from Illinois, Mr. Kinzinger, for 5 minutes.

Mr. KINZINGER. Thank you, Mr. Chairman, and thank you for being here on a long day, and thanks for your service.

The EPA has recognized in the past, and I believe they have tried to recognize in this current rule that retaining nuclear power generation is a cost effective means in reducing carbon, and I appreciate that. As we, unfortunately, witnessed in Wisconsin, 8 years of carbon emission reductions brought about by the construction of renewable energy were wiped out with the closure of a single small nuclear reactor.

I believe it is important to talk about this, given the fact that nuclear is the only base load power supply that runs around the clock

without producing carbon. Understanding the current outlook on the nuclear industry, I have some concerns with the direction our regulatory agencies have been taking in regards to allowing them to operate and would like to ask you a few questions on the EPA's outlook for nuclear power going forward.

In past models of climate change compiled by your agency, major questions surrounding the degree to which nuclear power is technically, politically, and socially feasible have been raised. Does the EPA still consider the use to be a major area of uncertainty?

Ms. MCCABE. I don't know that I can speak to that, Congressman. We do recognize that nuclear power is an important aspect of clean generation, and as I said before, we have tried to signal in a proposal and encouragement towards retaining existing, and we know that new is being planned and built, and that squarely will be advantageous to a plant, but we recognize that there are existing challenges beyond our control for the industry.

Mr. KINZINGER. And I understand the proposed rule relies on an EIA study that shows 6 percent of the nuclear fleet being at risk, but they are still expected to continue their operations going forward. In addition to this, economic modeling of climate legislation by EPA, EIA, and others has consistently shown that dramatic growth in nuclear energy is necessary to reduce carbon emissions and that constrained development of nuclear energy dramatically increases the cost of compliance.

What will happen if the EPA's assumption that these plants currently at risk will continue to operate with that assumption is incorrect, what will happen?

Ms. MCCABE. Well, it depends on what a State would choose to do to replace the nuclear generation, so we hope and expect that there would be opportunities for States to go with lower or other zero emitting generation renewables and also rely significantly——

Mr. KINZINGER. Make a ton of windmills or something, right?

Ms. MCCABE. There is a lot of wind power being built in the country, significantly a growth area, and energy sufficient——

Mr. KINZINGER. Takes a lot of wind, though, to replace a nuclear power plant.

Ms. MCCABE. It does.

Mr. KINZINGER. Does the EPA have the legal authority to compel those plants to continue their operations?

Ms. MCCABE. Not that I am aware of.

Mr. KINZINGER. Do you know, does any agency currently have that authority?

Ms. MCCABE. I couldn't speak to that, Congressman.

Mr. KINZINGER. OK. And so a recent modeling done by EPA determined that 44 new reactors would be necessary to satisfy performance standards based on the Lieberman and Warner bill from 2008, and another showed that an additional 96 gigawatts of new nuclear power capacity would be needed by 2030 to meet standards set out in another proposed piece of legislation from 2009.

Does the EPA believe we can make meaningful reductions in carbon dioxide emissions from baseload power generation while still ensuring reliable and affordable power without substantial growth in nuclear power generation?

Ms. MCCABE. Well, I do, and I will note that the—that our proposal here is not legislation like you have described. It takes a very different approach, which is what is reasonable to expect the existing fossil plant to do and for States to do to reduce the carbon intensity, and it takes every State where it is. So if we see nuclear coming on the ground, we consider it. We are not counting it. We are not assuming other nuclear construction that is not already contemplated.

Mr. KINZINGER. Do you know how many new—under the proposed rule, do you know how many new nuclear reactors would be needed to meet those standards?

Ms. MCCABE. Well, I think we are aware of maybe 5 that are under construction now, and so we took account of those, and we didn't take account of others that aren't yet built.

Mr. KINZINGER. OK. And currently there is eight licenses under review by the NRC right now. I just want to reiterate that 100 percent of nuclear power generation is carbon free, and not only will every plant be necessary to ensure compliance with any future mandates but many more will need to be brought on to ensure affordable and reliable energy is available throughout the country. And I think that the key is we want to talk about affordable and reliability, we need a lot of nuclear power plants to come online.

I thank you for your time and your patience today, and I yield back.

Mr. GRIFFITH. All right. In closing, let me note that the committee has outstanding document requests relating to our investigation of EPA's adherence to the Energy Policy Act of 2005 and its rulemaking for new plants. It has been 4 months since we initiated these requests, but the EPA has been decidedly slow in its document production. Can you tell me who at the EPA ultimately is accountable to the committee for responding to its requests?

Ms. MCCABE. The agency will respond, and we are working on them. We have responded to various requests, and responses are under way.

Mr. GRIFFITH. All right. And will you commit on behalf of the Administrator that the EPA will produce outstanding documents and fully comply with our requests?

Ms. MCCABE. I won't make a commitment on behalf of the Administrator, but we will certainly do what we need to do to be responsive.

Mr. GRIFFITH. Will you commit to have your staff work with our staff to ensure the committee has what it determines is necessary to fulfill its oversight obligations?

Ms. MCCABE. Our staffs work very well together, and again, we will do what we need to do in order to be responsive.

Mr. GRIFFITH. Thank you. We will have questions for the record forthcoming. I would ask that you provide your response in a timely fashion, particularly given this rule appears to be on a very fast track with the administration. Will you commit to providing us responses to these questions within 60 days?

Ms. MCCABE. Right now I can't commit to a timeframe because I don't know how many questions there will be or what will be involved, but we will do our best to be as expeditious as possible.

Mr. GRIFFITH. All right. With that, I want to thank you for being here today and for the testimony that you have given us and the members for their devotion to this hearing, and that will conclude our hearing.

[Whereupon at 12:23 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Opening Statement of the Honorable Fred Upton
Subcommittee on Energy and Power
Hearing on "EPA's Proposed Carbon Dioxide Regulations for Power Plants"
June 19, 2014

(As Prepared for Delivery)

EPA's proposed new regulations for existing power plants cap off a comprehensive federal regulatory agenda aimed at electricity generation and use. But this is not the first Obama administration takeover of a major sector of the economy. That distinction goes to the Affordable Care Act, and we are only beginning to see what a disaster that is turning out to be.

The rollout of EPA's proposed rule makes me think the administration has learned virtually nothing from its health care mistakes.

Once again, we see a Washington power grab of a highly complex and critical sector of the economy that affects every American consumer without thinking through all of the consequences.

Once again, we see only murky assertions as to legal authority, as to what will be required, and as to how this unprecedented regulatory scheme will work in practice.

Once again, the preferences of consumers and job-creating businesses are taking a back seat to the dictates of NGOs and federal bureaucrats.

And once again, the administration is making promises that costs won't go up, choices won't be reduced, rationing won't be imposed, and jobs won't be jeopardized.

The Clean Power Plan is essentially the same for energy as the Patient Protection and Affordable Care Act was for health. Maybe the administration isn't concerned about repeating the health law's mistakes at the American people's expense, but this subcommittee certainly is. We are going to ask the tough questions that need to be asked at this hearing and in the months ahead.

With this proposed rule, EPA – an agency with no energy policy authority or expertise and under questionable statutory interpretation – has now placed itself above state governments and public utility commissions on electric generation issues, not to mention the DOE, FERC, and other federal agencies.

EPA's explanation of how states can comply reveals how unworkable its proposal is. To take just one example, the agency assumes that nuclear power will play a key role in helping states comply in the coming years. At the same time, the Obama administration is aggressively limiting the future of nuclear power in the United States and has virtually ensured declining nuclear capacity in the years ahead.

The agency also says that states could sharply ramp up the use of natural gas to replace coal in electric generation. But this won't be possible without more natural gas pipelines, and new pipeline projects face Keystone-style opposition. The House passed H.R. 1900, the Natural Gas Pipeline Permitting Reform Act, to bring certainty and accountability to the natural gas pipelines permitting process, but the president opposes it.

There are also serious questions about implementation and enforcement. EPA offers up demand side management as another means to help meet its requirements. In other words, states can comply by reducing demand for power. But exactly how is the government going to force businesses and homeowners to reduce their electricity use? The very idea of energy rationing raises serious issues that need to be addressed.

The impact of the EPA's proposed rule on electricity costs is of particular concern to me, not only for middle-class homeowners struggling to pay their utility bills, but also for domestic manufacturers

competing in a global marketplace. Needless to say, few if any other industrialized nations are currently seeking to impose anything like the Obama administration's Clean Power Plan on their industries. In fact, European nations that experimented with similar measures found them to be costly and ineffective and are now on the path to weakening them. We should be learning from Europe's mistakes, not repeating them.

As with the health law, another train wreck is coming - unless Congress does something about it. It's time to start being honest with the American people about this expensive power plan, and that process begins with today's hearing.

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American
Forest & Paper
Association

AMERICAN WOOD COUNCIL

American Forest & Paper Association
and
American Wood Council

Statement Submitted for the Record
House Energy and Commerce Committee
Subcommittee on Energy & Power

EPA's Proposed "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units"
June 19, 2014

The American Forest & Paper Association (AF&PA) and the American Wood Council appreciate this opportunity to provide the following views to the House Energy and Power Subcommittee concerning the EPA's proposed carbon pollution emission guidelines for existing electric utility generating units (Proposal).

The American Forest & Paper Association (AF&PA) serves to advance a sustainable U.S. pulp, paper, packaging, and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative - *Better Practices, Better Planet 2020.* The forest products industry accounts for approximately 4 percent of the total U.S. manufacturing GDP, manufactures approximately $210 billion in products annually, and employs nearly 900,000 men and women. The industry meets a payroll of approximately $50 billion annually and is among the top 10 manufacturing sector employers in 47 states.

The American Wood Council (AWC) is the voice of North American traditional and engineered wood products, representing over 75% of the industry. From a renewable resource that absorbs and sequesters carbon, the wood products industry makes products that are essential to everyday life and employs over one-third of a million men and women in well-paying jobs. AWC's engineers, technologists, scientists, and building code experts develop state-of-the-art engineering data, technology, and standards on structural wood products for use by design professionals, building officials, and wood products manufacturers to assure the safe and efficient design and use of wood structural components. AWC also provides technical, legal, and economic information on wood design, green building, and manufacturing environmental regulations advocating for balanced government policies that sustain the wood products industry.

EPA's "Clean Power Plan" to regulate greenhouse gases from existing power plants effectively reshapes our nation's energy supply, forcing new fuel choices on utilities contrary to the market. In setting the emission rate targets for each state, EPA is making judgments about what energy mix is possible for that state or neighboring states. This Plan impacts all users of electricity. The forest products industry is energy-intensive and spent over $5 billion on purchased electricity in 2011. Because we operate in a highly competitive global market, increases in our energy costs can significantly harm the competitiveness of the U.S. industry. We have stated before that the Clean Air Act is the wrong tool to address greenhouse gas emissions, and we are concerned that EPA's proposal could have unintended consequences.

For the time being, the Plan treats biomass CO_2 emissions the same as fossil fuel emissions even though EPA acknowledges that using biomass for energy can have climate benefits compared to using fossil fuels and can help reduce greenhouse gases. Despite the differences between fossil fuel and biomass used for energy, EPA nevertheless for the time being proposes to regulate biogenic CO_2 emissions the same as fossil fuel without a scientific basis to do so. EPA also fails to justify including such biogenic CO_2 emissions for purposes of determining applicability and compliance with the standards prior to completing its pending Accounting Framework for Biogenic CO_2 Emissions from Stationary Sources (Accounting Framework).

As EPA and other governments around the world have long recognized, burning biomass for energy recovery is different than burning fossil fuel. Biomass combustion is one part of the continuous cycling of carbon between the atmosphere and biomass stocks via photosynthesis.[1] Unlike the biomass carbon cycle, carbon from fossil fuels will not be removed from the atmosphere in the near future through regeneration of the fossil fuel.

In the United States, biomass stocks currently represent a strong GHG sink, with U.S. forests alone sequestering over 15% of U.S. GHG emissions in 2012.[2] U.S. Forest Service data indicate that net forest growth exceeded removals by 72 percent in 2006.[3] EPA's own analysis concluded that, in the United States, land use, land-use change, and forestry activities in 2011 resulted in a net carbon sequestration, representing an offset of approximately 13.5 percent of total U.S. CO_2 emissions.[4] The logical

[1] As forests grow, CO_2 is removed from the atmosphere via photosynthesis. This CO_2 is converted into organic carbon and stored in woody biomass. Trees release the stored carbon when they die, decay, or are combusted. As biomass carbon is released, the carbon cycle is completed. The carbon in biomass will return to the atmosphere regardless of whether it is burned for energy, allowed to biodegrade, or lost in a forest fire.

[2] *See* EPA, Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012, Feb. 2014, at p. ES-20. *See also*, e.g., Heath, L.S., et al., Managed Forest Carbon Estimates for the U.S. Greenhouse Gas Inventory, 1990-2008, *Journal of Forestry* 109(3): 167-73 (2011) (finding that overall forest sequestration is increasing and projecting that forest carbon stocks will remain stable for the foreseeable future).

[3] Forest Resources of the United States," U.S. Forest Service, Table 36.

[4] EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2011, at 7-1 (Apr. 2013).

conclusion is that biogenic CO_2 emissions would not add to atmospheric carbon levels and therefore should be excluded from this rule.

The use of biomass for energy production is *not* the same as burning fossil fuels or purchasing fossil fuel-based electricity, and the time has come for EPA to fully recognize this in their regulations and policy. AF&PA and AWC recommend that EPA complete its Accounting Framework, acknowledge these carbon neutrality principles, and apply them consistently to its regulations. EPA also should clarify that the Proposal is intended to exclude all biogenic CO_2 associated with burning biomass pending EPA's completion of its Framework.

Conclusion

Given the importance and far reaching impact of EPA's regulation of greenhouse gases from the power plant sector, EPA must fully examine the Proposal's impact on various manufacturing industries and commit to favorably addressing biomass used for energy. Until EPA has concluded its scientific review of biogenic CO_2 emissions, EPA should exclude biogenic CO_2 emissions as carbon neutral for applicability and compliance purposes under the rule.

A LEGISLATIVE HISTORY OF THE CLEAN AIR ACT AMENDMENTS OF 1990

TOGETHER WITH

A SECTION-BY-SECTION INDEX

PREPARED BY THE

ENVIRONMENT AND NATURAL RESOURCES POLICY DIVISION

OF THE

CONGRESSIONAL RESEARCH SERVICE

OF THE

LIBRARY OF CONGRESS

FOR THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
U.S. SENATE

VOLUME I

BOOK 2

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CHAPTER 2

CONFERENCE DEBATES AND REPORT

SENATE DEBATE ON THE CLEAN AIR ACT AMENDMENTS OF 1990
CONFERENCE REPORT

OCTOBER 27, 1990

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report on S. 1630, which the clerk will report.

The legislative clerk read as follows:

"The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes."

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The time for debate until 11:15 a.m. is controlled by the Senator from Idaho, Mr. Symms.

Mr. SYMMS. Mr. President, I yield myself such time as I may consume to make some opening remarks. I have some time reserved, I might say to my colleagues, for other Senators who have asked to speak on the bill.

I might say to those staffs or Senators who may be listening, if there are Senators who wish time to speak in opposition to this bill that there should be some time available between now and 11:15.

As I rise here this morning the other body has now passed the tax increase on the American people and the American economy. They have passed the clean air regulatory package also.

So we will be able to give the American people a double whammy today. We can raise their taxes on the incomes of their households and interfere with the progress of their savings accounts and their educational funds for their children, so the Government can continue to grow and profligate spending will not have to be interfered with.

As a matter of fact the package that passed the House this morning, and I assume the votes are here in the Senate, I think allows for the Government growth in spending to go up somewhat around the neighborhood of $100 billion-plus. So there is really no savings in spending that are appreciable in the eyes of this Senator and most of the American people. It is really business as usual by the Congress.

The reason I say that is oftentimes there is an impermeable wall around the beltway and somehow people inside the beltway just refuse to listen and watch and see what is happening and think somehow actions taken here under this dome, in this Capitol, have no impact on the rest of the Nation when, really, there is a cause and effect relationship, Mr. President. The actions we take here have a traumatic and dramatic impact on the American people and the way they live their lives. It impacts the costs of their lives and so forth.

For the strength of the American economy, in this Senator's opinion, the right thing for us to do from a fiscal policy would be to hold the line on Federal spending, not increase taxes on the producers, the savers, the investors, and the workers of America but hold the line on the Government side on spending, and freeze the budget, if you will, so we will live within the revenues that we have. That would be the right thing to do fiscally.

CLEAN AIR ACT AMENDMENTS OF 1990
CHAFEE-BAUCUS STATEMENT OF SENATE MANAGERS

Mr. President, the conference report that is before us includes some 800 pages of legislative language and less than 40 pages--double spaced--of explanatory text. Due to time constraints, we do not have a particularly useful statement of managers.

To help rectify this problem, we have prepared a detailed explanation of five important titles. The explanation is in the form of a traditional statement of managers. It has not been reviewed or approved by all of the conferees but it is our best effort to provide the agency and the courts with the guidance that they will need in the course of implementing and interpreting this complex act.

The titles covered by the "Chafee-Baucus Statement of Senate Managers" are: title I on nonattainment; title II on mobile sources; title V on permits; title VI on stratospheric ozone; and title VII on enforcement.

Mr. President, I ask unanimous consent that this document be printed in the Record.

There being no objection, the material was ordered to be printed on the Record, as follows:

CHAFEE-BAUCUS STATEMENT OF SENATE MANAGERS, S. 1630, THE CLEAN AIR ACT AMENDMENTS OF 1990

Title I--Provisions for Attainment and Maintenance of National Ambient Air Quality Standards.
Title II--Mobile Sources.
Title V--Permits.
Title VI--Stratospheric Ozone Protection.
Title VII--Enforcement.

TITLE I--PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS

SECTION 101--GENERAL PLANNING REQUIREMENTS

Senate bill. In sections 101 and 104 the Senate bill amends the Clean Air Act with respect to processes for designating areas of the country based on air quality and with respect to requirements for preparation, contents, submittal, and review of State implementation plans.

In section 106 the Senate bill amends section 176(c) of the Clean Air Act which requires conformity of Federal activities and federally funded activities with the State implementation plan.

House amendment. In section 101 the House bill amends the Clean Air Act to establish a somewhat different structure from existing law for State and EPA action following promulgation of new or revised national ambient air quality standards, including procedures for designating areas based on air quality and for preparation, submittal and review of State implementation plans.

Conference agreement. The Senate recedes to the House except that, by reference to the provisions in section 103 of the agreement, transportation control requirements applicable in severe ozone nonattainment areas--including the requirement applicable to employers of 100 or more employees--are also applied in serious CO nonattainment areas.

SECTION 105--ADDITIONAL PROVISIONS FOR PARTICULAR MATTERS (PM-10) NONATTAINMENT AREAS

Senate bill. Section 109 of the Senate bill provides for classification of PM-10 areas based on the severity of pollution, deadlines for attaining the PM-10 primary standard, requirements applicable to PM-10 nonattainment areas depending on their classification, and consequences for failure to comply with requirements or meet deadlines.

House amendment. The House amendment is similar in structure and content to the Senate bill but differs in details.

Conference agreement. The Senate recedes to the House.

SECTION 107--PROVISIONS RELATED TO INDIAN TRIBES

Senate bill. Section 113 of the Senate bill authorizes the Administrator to treat Indian tribes as States under the Clean Air Act and requires the Administrator to issue regulations that specify which provisions of the Act may be administered by Indian tribes.

House amendment. The House amendment provides similar authority and directives to the Administrator regarding treatment of Indian tribes.

Conference agreement. The Senate recedes to the House.

SECTION 108--MISCELLANEOUS PROVISIONS

Senate bill. In section 103 the Senate bill revises sections 108 (e) and (f) of the Clean Air Act to require the Administrator and the Secretary of Transportation to update air quality/transportation planning guidance and to add to the transportation control measures to be evaluated by the Administrator after consultation, when appropriate, with the Secretary.

House amendment. The House amendment contains a similar provision to the one in the Senate bill regarding amendments to section 108 of the Clean Air Act. In addition, the House amendment contains provisions for a technology clearinghouse to be established by the Administrator, for amending section 111 of the Clean Air Act relating to new and existing stationary sources, for amending section 302 of the Clean Air Act which contains definitions, to provide a savings clause, to state that reports that are to be submitted to Congress are not subject to judicial review, and for other purposes.

Conference agreement. The Senate recedes to the House except that with respect to the requirement regarding judicial review of reports, the House recedes to the Senate and with respect to transportation planning, the House recedes to the Senate with certain modifications.

In striking the provision in the House amendment that stated that reports to Congress are not judicially reviewable, the conferees recognized that the issue of whether the contents of reports are judicially reviewable has already been satisfactorily addressed by a court in *NRDC v. Hodel* (D.C. Cir. 1988), which found that report contents are not subject to such review. The House provision was deleted so that there would be no doubt that the failure of the Administrator to submit reports in a timely manner is subject to judicial review.

In the language on transportation planning, the notice and comment requirements in sections 108 (e) and (f) do not create a formal, Administrative Procedure Act review requirement for the Administrator. The guidance to be issued under subsection (f) is guidance and not a regulation requiring a formal rulemaking process. However, EPA must provide public notice of its intent to issue guidance and solicit ideas and comments from State and local officials and other interested parties as the guidance is being prepared.

SECTION 109--INTERSTATE POLLUTION

Senate bill. In section 110 of the Senate bill amends section 126 and section 302(h) of the Clean Air Act to strengthen to prohibitions on emissions that result in interstate pollution.

House bill. The House amendment is similar to the Senate provision.

Conference agreement. The Senate recedes to the house.

SECTION 110--CONFORMING AMENDMENTS

Senate bill. No provision.

House bill. The House amendment contained provisions amending various sections in title I and title III of the Clean Air Act to conform to provisions elsewhere in the House amendment.

Conference agreement.

The Senate recedes to the House.

TITLE II--PROVISIONS RELATING TO MOBILE SOURCES

SECTION 201--HEAVY-DUTY TRUCKS

Senate bill. The Senate bill codifies particulate matter standards for heavy-duty trucks scheduled to take effect in 1991 and 1994 under EPA regulations. The standard for oxides of nitrogen scheduled to take effect in 1991 would be codified, and tightened in 1998. Averaging credits for emissions reductions was allowed between engine families of the same manufacturer and among manufacturers.

House amendment. The House amendment does not specify standards for heavy duty trucks, rather it authorizes the Administrator of EPA to set technology-forcing emission standards, considering cost, energy, and safety factors.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

July 14, 2014

The Honorable Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. McCabe:

Thank you for appearing before the Subcommittee on Energy and Power on Thursday, June 19, 2014, to testify at the hearing entitled "EPA's Proposed Carbon Dioxide Regulations for Power Plants."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Monday, July 28, 2014. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power

Attachments

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 11 2015

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Whitfield:

Thank you for your July 14, 2014, letter to the Environmental Protection Agency in which you requested responses to Questions for the Record following the June 19, 2014, hearing before the Subcommittee on Energy and Power entitled, "EPA's Proposed Carbon Dioxide Regulations for Power Plants."

The responses to the questions are provided as an enclosure to this letter. If you have any further questions, please contact me, or your staff may contact Josh Lewis at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

[redacted]

Nichole Distefano
Deputy Associate Administrator
for Congressional Affairs

Enclosure

Responses to Questions for the Record from June 19, 2014, Subcommittee on Energy and Power Hearing entitled, "EPA's Proposed Carbon Dioxide Regulation for Power Plants"

Attachment 1—Additional Questions for the Record

The Honorable Ed Whitfield

1. The Attorney General of West Virginia wrote to EPA Administrator Gina McCarthy on June 6, 2014 regarding EPA's view that the agency is not bound by the plain reading of the statutory language of Section 111(d) found in the U.S. Code, under which EPA has no legal authority to regulate CO2 emissions from power plants under Section 111(d). Our understanding is that EPA has taken the position that it does not need to read the provisions of the U.S. Code literally because there was a technical conforming amendment included in the 1990 Clean Air Act amendments that the agency asserts creates "ambiguity" about what is in the law. EPA itself acknowledged in 2005 that that technical conforming amendment was non-substantive and appears to have been a "drafting error."

   a. Is EPA aware of any decision, from any court, which has held that a statute that is unambiguous by its "literal" terms can be rendered ambiguous by a non-substantive conforming amendment?

   b. If yes, please identify any such decision(s).

   Along with the proposed rule, the EPA included in the docket a Legal Memorandum providing background for the legal issues raised by the rule. That Legal Memorandum details the EPA's understanding, at the time of proposal, of the ambiguity arising from Congress's simultaneous enactment of two separate versions of this provision. That document can be found using Docket ID Number EPA-HQ-OAR-2013-0602-0419. The EPA is currently reviewing the more than 3.5 million comments received on the proposal, including the comments on the issues addressed in the legal memorandum, and will respond to the issues raised in those comments when we issue a final Clean Power Plan.

2. Has EPA estimated the impact of its proposed CO2 rule for existing power plants in terms of global mean temperature? If yes, what is the estimated impact?

   The EPA included with its proposed Clean Power Plan a Regulatory Impact Analysis that estimated the total monetized climate-related benefits and costs of the rule, following applicable statutes, Executive Orders, and other guidance. Although the EPA has not explicitly modeled the temperature impacts of this rule, the Clean Power Plan is an important and significant contribution to emission reductions, thereby slowing the rate of global warming and associated impacts.

3. Has EPA estimated the impact of its proposed CO2 rule for existing power plants in terms of global mean sea level rise? If yes, what is the estimated impact?

   The EPA included with its proposed Clean Power Plan a Regulatory Impact Analysis that estimated the total monetized climate-related benefits and costs of the rule, following applicable statutes, Executive Orders, and other guidance. Although the EPA has not explicitly modeled the sea level rise impacts of this rule, the Clean Power Plan is an important and significant contribution to emission reductions, thereby slowing the rate of global warming and associated impacts.

4. Last year the Congressional Budget Office did a study of carbon tax policies. It noted that by raising the cost of using fossil fuels, a carbon tax would tend to increase the cost of producing goods and services, would diminish purchasing power of people's earnings, and would on net reduce the number of people working – it would cause more unemployment.

   a. Has EPA fully examined the ripple effects caused by the agency's proposed CO2 rule for existing power plants of higher electricity prices throughout the economy?

   b. Has that work been subject to independent peer review? Will you supply that work to the Committee?

The EPA's Clean Power Plan for existing power plants was signed on June 2, 2014 and published in the Federal Register on June 18, 2014. The proposed rule's Regulatory Impact Analysis lays out the analysis the agency has conducted. Our analysis is based on peer-reviewed literature, and the proposal and underlying analysis are available for public comment. EPA held a 165-day public comment period on the proposal, which closed on December 1, 2014. The EPA is currently reviewing the more than 3.5 million comments received on the proposal, including comments on the Regulatory Impact Analysis.

In all of our significant rulemakings, the EPA uses the best peer-reviewed science and the best available information to estimate benefits and costs, including both quantifiable and unquantifiable benefits and costs. For those benefits and costs that the EPA is not able to quantify, the Regulatory Impact Analysis includes a robust qualitative discussion of the potential impacts of the regulation.

EPA projects that the Clean Power Plan will continue – and accelerate – the trend among states, cities, businesses and homeowners who have been working for years to increase energy efficiency and reduce growth in demand for electricity. Nationally, this means that, in 2030 when the plan is fully implemented, electricity bills would be expected to be roughly 8 percent lower than they would been without the actions in state plans. That would save Americans about $8 on an average monthly residential electricity bill.

5. You indicated in your testimony that EPA's proposed CO2 rule for existing power plants would demonstrate U.S. leadership to the rest of the world with regard to addressing climate change.

   a. Is it the Administration's position that this rule as proposed is necessary to demonstrate climate leadership to other nations?

   b. On what basis does EPA believe that China, India and other countries will adopt similar regulations that will raise electricity rates?

   c. On what basis does EPA believe that China, India and other countries will not take strategic competitive advantage of the United States if EPA adopts this proposed regulation?

As stated in the Climate Action Plan, "The Obama Administration is working to build on the actions that it is taking domestically to achieve significant global greenhouse gas emission reductions and enhance climate preparedness through major international initiatives focused on spurring concrete action, including bilateral initiatives with China, India, and other major emitting countries. These initiatives not only serve to support the efforts of the United States and others to achieve our goals for 2020, but also will help us

move beyond those and bend the post-2020 global emissions trajectory further. As a key part of this effort, we are also working intensively to forge global responses to climate change through a number of important international negotiations, including the United Nations Framework Convention on Climate Change."

On November 11, 2014, President Obama and President Xi Jinping of China made a joint announcement on climate change and clean energy cooperation. Building on strong progress during the first six years of the Administration, President Obama announced a new target to cut net greenhouse gas emissions 26-28 percent below 2005 levels by 2025. At the same time, President Xi Jinping of China announced targets to peak CO2 emissions around 2030, with the intention to try to peak early, and to increase the non-fossil fuel share of all energy to around 20 percent by 2030. The announcement is the culmination of months of bilateral dialogue, highlighting the critical role the two countries must play in addressing climate change.

6. In the proposed CO2 rule for existing fossil fuel-fired electric generating units (EGUs), EPA proposes to set mandatory state CO2 targets derived from four "Building Blocks," the combination of which EPA maintains reflect the "best system of emission reduction" (BSER) for affected EGUs.

   a. With regard to Building Block 2 of the BSER, under what legal authority can EPA require the utilization or dispatch rates of natural gas combined cycle units?

   b. With regard to Building Block 3 of BSER, under what legal authority can EPA require the utilization or dispatch of renewable energy and "at risk" and under construction nuclear capacity?

   c. With regard to Building Block 4 of BSER, under what legal authority can EPA require states to implement energy efficiency improvement programs?

   In the proposed Clean Power Plan, the EPA proposed four Building Blocks that make up the "best system of emission reduction ... adequately demonstrated" (BSER) that, in turn, serves as the basis for the state CO2 emissions goals. The EPA discussed its legal justification for why those measures qualify as part of the BSER at length in both the preamble for the proposed rule (79 Fed. Reg. 34,830, 34,878 – 34,892) and the accompanying Legal Memorandum (Docket ID Number EPA-HQ-OAR-2013-0602-0419, pages 33-93). The EPA is currently reviewing the more than 3.5 million comments received on the proposal, including the comments on the issues addressed in the legal memorandum, and will respond to the issues raised in those comments when we issue a final Clean Power Plan. The EPA notes that the proposed Clean Power Plan builds on what states are already doing to reduce carbon pollution from existing power plants. It does not require that the states actually use each of the building blocks as they develop their plans for meeting the state goal. Instead, it empowers the states to chart their own, customized path to meet their goals. Under the proposal, the states have a flexible compliance path that allows them to design plans sensitive to their needs, including considering jobs and communities in a transitioning energy economy.

7. Under the proposed rule for existing power plants, EPA would require that each State develop a state implementation plan and submit it to EPA for approval.

   a. What if a State chooses not to participate? Would EPA impose a Federal Implementation Plan (FIP)?

b. If EPA were to impose a FIP on a State, does EPA maintain that it has the legal authority to implement Building Blocks 2-4 referred to above? If so, please cite and explain the source of that authority, and how it would be implemented for each of the building blocks.

c. Why did EPA decide not to issue a draft FIP or model FIP under its proposed CO2 rule for existing power plants? Please explain the agency's reasoning for not issuing a draft or model FIP.

d. Does EPA plan to issue a model FIP relating to its proposed CO2 rule for power plants? If yes, when? If not, why not?

Under Section 111(d) the EPA is proposing a two-part process where the EPA sets state-specific goals to lower carbon pollution from power plants, and then the states must develop plans to meet those goals. States develop plans to meet their goals, but EPA is not prescribing a specific set of measures for states to put in their plans. This gives states flexibility. States will choose what measures, actions, and requirements to include in their plans, and demonstrate how these will result in the needed reductions. The Clean Air Act gives EPA the authority to write a federal plan if a state does not put an approvable state plan in place. In response to requests from states and stakeholders since the proposed Clean Power Plan was issued, EPA announced in January 2015 that we will be starting the regulatory process to develop a rule that would set forth a proposed federal plan and could help states starting to think about developing their own plans. EPA's strong preference remains for states to submit their own plans that are tailored to their specific needs and priorities. The agency expects to issue the proposed federal plan for public review and comment in summer 2015.

8. Why did EPA choose 2012 as the base year for establishing binding CO2 emissions rates for states? For the final Mercury Air Toxics Standards rule, for example, EPA used heat input data over a three-year period to set base-year emissions. Why, then, did EPA decide to use just one year (2012) in setting binding emissions rates for state plans under the agency's proposed CO2 rule for existing power plants?

EPA did not set a baseline or a base year. EPA projects that by 2030, when states meet these goals, the U.S. power sector will emit approximately 30 percent less carbon pollution than it did in 2005. But 2005, 2012 – or any other year – is not used a "baseline" year for a fixed percentage of reductions.

To set state-specific goals, EPA analyzed the practical and affordable strategies that states and utilities are already using to lower carbon pollution from the power sector. These include improving energy efficiency, improving power plant operations, and encouraging reliance on low-carbon energy sources. We gathered publicly available data for each state, from 2012, which is the most current information available. From 2012, EPA looked ahead to what could reasonably be accomplished by 2030 across the power sector if states made practical and affordable changes to generate electricity without emitting as much CO_2. In a Notice of Data Availability published on October 30, 2014, we also published data from 2010 and 2011 to allow commenters to weigh in on the data from earlier years and whether we might use a period greater than one year.

9. In the proposed CO2 rule for existing power plants, EPA states that a State Implementation Plan (SIP) "must include enforceable CO2 emissions limits that apply to affected EGUs. In doing so, a state plan may take a portfolio approach, which could include enforceable CO2 emission limits that

apply to affected EGUs as well as other enforceable measures, such as RE and demand-side EE measures."

a. Would all measures included in a SIP become federally enforceable? If yes, how would they be enforceable?

b. What is EPA's legal view as to who will be legally responsible for meeting a state's binding emissions limit?

c. How will citizen suits under Section 307 of the Clean Air Act come into play? For instance, consider a situation in which a state's demand response program fails to achieve the required results as mandated by an EPA-approved SIP. If a person or particular group files a citizen suit, at whom would that suit be directed? A utility? The state? Specific electricity consumers?

Under a state plan approved under Clean Air Act (CAA) §111(d), all measures that a state adopts into the plan and submits to EPA for approval, and that EPA approves, become federally enforceable. Under the proposed rule, the states have significant discretion in determining what types of measures to adopt and submit to EPA for approval. The EPA will approve a state plan if it meets the state goal. EPA discussed the concept of federal enforceability, including the availability of citizen suits, in the preamble to the proposed rule (79 Fed Reg 34,830, 34902-34,903) and the accompanying legal memorandum (Docket ID Number EPA-HQ-OAR-2013-0602-0419, page 4) and the agency will review any comments we receive on this issue.

10. If EPA deems a particular component of a SIP deficient in its review of the state's progress in attaining its 2030 emission limit, does EPA maintain that it can require the state to create and enforce a more stringent renewable portfolio standard? Or to create and enforce a more stringent demand response program? Or to dispatch greater amounts of natural gas? Or to utilize nuclear units at a higher rate?

Under the proposed Clean Power Plan, a state may choose to adopt and submit to EPA for approval a state plan that inherently requires both interim progress and the full level of required emission performance in a manner that is federally enforceable against affected EGUs. The EPA refers to this type of state plan as self-correcting. This type of plan is not required to include periodic programmatic milestones. If the state chooses to adopt and submit to EPA for approval a state plan that is not self-correcting, then the state must include periodic programmatic milestones and specify corrective measures that will be implemented if the state's progress in achieving its level of performance falls short of what the state projected. The EPA requested comment on various aspects of the corrective measures.

Under the proposed Clean Power Plan it is the states, not EPA, who choose what measures to include in their plans as well as the stringency of those measures. EPA is committed to work with states and provide assistance and support, in the form of tools and guidance, etc. to help states develop approvable plans. The approvability of a plan is based on a demonstration that the goal will be met and not on the stringency of any individual measure.

11. EPA's plan proposes to allow States to hold "other entities to be legally responsible for actions under the plan that will, in aggregate, achieve the emission performance level" (79 Fed. Reg. at 34901)

a. Does this mean States will be able to sue third parties, such as industrial, commercial and residential end users, for violations of EPA-approved State Implementation Plans?

b. If the State fails to take action against these "other entities" will EPA be able to bring an enforcement proceeding?

Under a state plan approved under Clean Air Act (CAA) §111(d), all measures that a state adopts into the plan and submits to EPA for approval, and that EPA approves, become federally enforceable. Under the proposed rule, the states have significant discretion in determining what types of measures to adopt and submit to EPA for approval. For example, under the proposed portfolio approach, a state plan would include emission limits for affected EGUs along with other enforceable measures, such as renewable energy and demand-side energy efficiency measures that reduce CO2 emissions from affected EGUs. (79 Fed Reg 34,901). We also requested comments on an alternative approach where state requirements for entities other than affected EGUs would not be components of the state plan and therefore would not be federally enforceable (79 Fed Reg 34,902). EPA discussed the concept of federal enforceability, including the availability of citizen suits, in the preamble to the proposed rule (79 Fed Reg 34,830, 34902-34,903) and the accompanying legal memorandum (Docket ID Number EPA-HQ-OAR-2013-0602-0419, page 4) and the agency will review any comments we receive on this issue.

12. Under the proposed CO2 rule for existing power plants, EPA assumes that States can cut total electricity use by 1.5% annually.

    a. What types of energy efficiency measures does EPA anticipate would be required?

    b. Who would be responsible for the costs associated with undertaking these measures?

    c. Who would be liable if the efficiency goals aren't met? Commercial, industrial and residential end users?

    d. How does EPA plan to monitor and enforce consumer behavior?

    e. What authority does EPA have to require energy consumers to reduce their electricity consumption? What other federal agencies have this authority?

As noted, the basis for EPA's fourth Building Block, demand-side energy efficiency, is that over time States can achieve annual electricity savings of 1.5% annually. This Building Block is one of four that make up the "best system of emissions reduction ... adequately demonstrated" (BSER) that, in turn, serves as the basis for the state CO2 goals. The basis for Building Block four is discussed at length in the preamble to the proposal (79 FR 34830-34950) and the GHG Abatement Measures Technical Support Document, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-ghg-abatement-measures. EPA does not propose to require the inclusion of any particular type of measures, including demand-side energy efficiency, as plans are developed for meeting the state goal. Instead, states are empowered to chart their own, customized paths to meet their goals.

13. State Public Utility Commissions traditionally have authority over energy resource planning, distribution systems, and demand-side management programs within their borders.

    a. How would EPA's proposed CO2 rule for existing power plants impact State authority over integrated resource planning?

b. How would EPA's proposal impact State authority to design, operate, enforce and revise state renewable energy programs?

c. How would EPA's proposal impact State authority to develop, operate, enforce and revise demand-side management programs?

States would continue to retain existing authority to regulate the electricity sector.

14. EPA's proposal suggests that the largest potential for CO2 reduction is in "re-dispatch" from high-emitting generation sources (e.g., coal units) to lower-emitting existing natural gas combined cycle units.

a. Does this mean EPA favors a generation dispatch model based on a plant's environmental attributes, rather than the current economic dispatch model which picks generation from least expensive to most expensive?

b. What precedent is there for such a dramatic shift?

c. Some states belong to Regional Transmission Organizations (RTO), which control the order in which generation is dispatched. How does EPA account for the fact that states in RTOs do not have control over dispatch? Will RTOs be required to review SIPs if a state relies upon dispatch methodology that differs from normal RTO operations? What if two states within the same RTO have conflicting SIP proposals for the dispatch of generation?

EPA's understanding of how dispatch to lower-emitting forms of generation would work is discussed at length in the preamble to the proposal (79 FR 34830-34950) and the GHG Abatement Measures technical support document, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-ghg-abatement-measures. We note, however, that even restructured markets already are able to account for pollution control requirements that apply to power plants.

15. States within organized electricity markets – which represent about two-thirds of the country – do not have control over the dispatch of electricity. Rather this is controlled by regional grid operators that are subject to oversight by the Federal Energy Regulatory Commission. How does EPA propose to allow States in organized electricity markets to claim credit for dispatch decisions that are outside both their authority and EPA's authority?

EPA's understanding of how dispatch to lower-emitting forms of generation would work is discussed at length in the preamble to the proposal (79 FR 34830-34950) and the GHG Abatement Measures technical support document, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-ghg-abatement-measures. We note, however, that even restructured markets already are able to account for pollution control requirements that apply to power plants.

16. In the proposed rule, EPA assumes that natural gas combined cycle (NGCC) plants can operate at 70% capacity.

a. Has EPA calculated how much additional natural gas will be required to operate the fleet at 70% capacity?

b. How many of the existing plants have the pipeline capacity to receive sufficient supply to operate at 70%?

c. What is the pipeline capacity needed to supply the current and anticipated natural gas plants with enough natural gas to maintain 70%?

d. What is the anticipated schedule for the construction of the additional pipelines needed?

Natural gas is a relatively clean and low-emitting form of energy, and the proposed Clean Power Plan recognizes the role it can play in lowering CO_2 emissions. While natural gas demand is anticipated to increase in response to the guidelines and other power sector rules, we believe supply is sufficient to justify the 70% capacity factor. More details about our understanding of the availability of natural gas, including the infrastructure that would be needed to supply it, are available in Chapter 3 of the Greenhouse Abatement Measures TSD, available at: http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-ghg-abatement-measures.

17. In the proposed CO2 rule for existing power plants, EPA sets renewable targets on a regional basis. Some states within a region are being asked to reduce CO2 emissions based on the renewable targets of surrounding states. This may or may not be applicable to some states. Why did EPA choose this approach? Does this put some states in a difficult position, especially given that their ability to comply within their state boundaries may be limited?

In the proposal, the EPA estimated the potential renewable energy available to states as part of BSER by developing a scenario based on Renewable Portfolio Standard (RPS) requirements already established by a majority of states. The EPA views the existing RPS requirements as a reasonable foundation upon which to develop such a scenario for two principal reasons. First, in establishing the requirements, states have already had the opportunity to assess those requirements against a range of policy objectives including both feasibility and costs. These prior state assessments therefore support the feasibility and cost of this scenario as well. Second, renewable resource development potential varies by region, and the RPS requirements developed by the states necessarily reflect consideration of the states' own respective regional contexts. This scenario's results for states represent a level of renewable resource development for individual states—with recognition of regional differences—that we view as reasonable and consistent with policies that a majority of states have already adopted based on their own policy objectives and assessments of feasibility and cost.

We solicited comment on an alternative method of quantifying renewable energy that relies on a state-by-state assessment of RE technical and economic potential, rather than a regional application of state RPS commitments. More detail is available in the preamble; in the Alternative RE Approach TSD, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-ghg-abatement-measures; and in a Notice of Data Availability that the agency issued on October 28, 2014, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule. We also solicited comment generally on the proposed state RE targets and will carefully consider comments received on this issue as we craft the final rule.

18. How does EPA propose to account for CO2 emissions from biomass renewable resources in calculating the amount of CO2 reduced if states choose biomass as a compliance option?

EPA intends to allow the states flexibility in developing their plans with respect to biogenic feedstocks, similar to other components of the CPP, such as energy efficiency. In the proposal EPA recognized that every state has a unique set of energy systems and fuel mixes, and renewable energy policies. A number of states have already developed a variety of sustainable forestry and land use management policies and programs that recognize the multiple benefits these lands provide.

The EPA will evaluate the biogenic feedstock components of proposed state plans—along with all other aspects of each plan—as part of the compliance plan review and approval process and may speak further in the final rule or other technical documents to the basis on which it will make such biomass-related evaluations. As in the case of many other aspects of the CPP, we expect other experts, such as our colleagues at USDA, states and stakeholders to be critical in helping provide clarification and examples of existing state and third-party programs already recognized as meeting sustainability goals as articulated by the President's Climate Action Plan.

19. In the proposed CO2 rule for existing power plants, EPA projects that under the rule an additional 46 to 50 gigawatts of coal-based electric generation may "be uneconomic to maintain and may be removed from operation by 2030."

    a. How did EPA estimate the amount of coal-based electric generation that would shut down by 2030?

    b. How many coal-based generating units does this represent? And in which states are those coal-based units located?

Consistent with statute, Executive Orders, and OMB guidance, the EPA conducted a regulatory impact analysis that shows illustrative benefits and costs of compliance with the proposed Clean Power Plan. The actual benefits and costs will depend on what measures the states choose to implement their goals. The EPA's illustrative RIA relied on peer-reviewed modeling to show that, in 2030, we predict that coal and natural gas will each continue to account for more than 30% of electricity generation. More details, including the detailed modeling inputs and outputs, are available in the RIA and the docket.

20. Does EPA's proposed CO2 rule for existing power plants preclude states from providing coal-fired EGUs that face special circumstances (i.e., plants that have no fleets to offset emissions, and which have made significant investments in pollution control equipment) with alternative compliance pathways, including more time and flexibility to meet specific requirements under the rule?

The EPA's proposed state goals do not impose specific requirements on any individual source. Instead, states have the flexibility to choose their own compliance pathways, including avoiding stranded assets and maintaining electric reliability. Following publication of the proposed rule, EPA published a Notice of Data Availability [79 FR 64543, October 30, 2014] that provided additional information on certain issues that had been consistently raised by a diverse set of stakeholders, , including ideas about the glide path of emission reductions from 2020-2029. EPA issued the NODA to ensure that all stakeholders and the public were aware of these issues and could consider them as they commented on the proposed Clean Power Plan.

21. The polar vortex events in January and February exposed the fragile nature of the electric grid. An estimated 50 gigawatts of coal-fired generation is expected to shut down in the next couple of years due to prior EPA rules, including the MATS rule, and EPA is estimating that the proposed CO2 rule

for existing power plants could result in the retirement of another 46 to 49 GW by 2020. Has EPA requested NERC and FERC to complete a reliability assessment of the proposed rule? If not, why not?

Utilities are making substantial progress in complying with MATS. The electric power sector is doing the necessary planning and making the investments needed to reduce emissions of mercury and other hazard air pollutants across the existing fleet of power plants. EPA, together with FERC and DOE, has been closely monitoring these compliance activities for any potential reliability issues that may arise. All of the information that EPA has seen to date indicates that the planning authorities and grid operators, through their established processes, have been able to manage the changes to their respective systems.

Throughout the development of the proposed CPP, EPA met with FERC, DOE, state regulators, grid operators, NERC and the industry to hear their suggestions and advice as to how to address reliability concerns. We are confident that our careful consideration of the comments we have received and our diligent efforts to monitor compliance will ensure that the transition to a cleaner electric power system, called for by the CPP, can be achieved while reliability is maintained.

22. Interagency comments on EPA's proposal made public in the Federal Register indicate that EPA's compliance cost estimates did not model the cost of state emissions rate reductions using EPA's proposed building block framework. Is this correct? If so, please explain why, and provide EPA's estimated compliance costs for states and/or regions that were based on EPA's proposed building block framework.

Consistent with statute, Executive Order, and OMB guidance, the EPA conducted a Regulatory Impact Analysis that shows illustrative benefits and costs of compliance with the proposed Clean Power Plan. The actual benefits and costs will depend on what measures the states choose to implement their goals. Because states have flexibility in how to meet their goals, the EPA allowed such flexibility in estimating compliance impacts. Failing to do so would make our estimates less accurate and informative.

23. EPA estimates that power sector compliance costs associated with its proposed (primary option) rule will be between $7.3 billion and $8.8 billion in 2030. Please provide a breakdown of the components of this estimate, including projected incremental costs for electricity transmission, power plant operations and maintenance, pipeline infrastructure, fuel costs, energy efficiency, and other costs.

Consistent with statute, Executive Order, and OMB guidance, the EPA conducted a Regulatory Impact Analysis that shows the benefits and costs of illustrative scenarios states may choose in complying with the proposed Clean Power Plan. Because states have flexibility in how to meet their goals, the actions taken to meet the goals may vary from what is modeled in the illustrative scenarios. Specific details, including information about how costs and benefits are estimated are available in the RIA (http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf.)

24. The proposed rule sets a national *mass-based* carbon emissions reduction target of 30 percent below 2005 levels by 2030, but then proposes individual *rate-based* emissions reductions for individual states. Please provide EPA's estimate of the mass-based emissions reductions projected for each state necessary to achieve the national reduction target of 30%. Please also provide EPA's estimate of mass reductions that would be achieved through building block on a state-by-state basis.

The EPA did not set a mass-based target of 30 percent reductions as you state. Instead, the EPA conducted unprecedented outreach to learn about what actions states, utilities, and others are already taking to reduce carbon pollution from existing power plants. Using that information, we interpreted the statutory provisions of the Clean Air Act, which directs the EPA to determine the "best system of emissions reduction...adequately demonstrated" by considering several factors. Having arrived at our proposed conclusions, we then quantified the results of implementing this best system and projected that it would lead to approximately a 30% reduction in CO2 relative to 2005 utility sector emissions. We note that proposed state targets are calculated as rate-based goals, but the proposal would give states the option to convert these to mass-based goals for compliance purposes.[1]

25. Has EPA done an analysis of the funding and personnel that would be required to implement and enforce EPA's proposed CO2 rule for existing power plants?

    a. If yes, how much funding and personnel would be required at the federal and state level to carry out EPA's proposed CO2 regulations for existing power plants? And is EPA's analysis publically available?

    b. If no, does EPA plan to prepare such an analysis of the funding and personnel that would be required to implement and enforce EPA's proposed CO2 rule for existing power plants?

Because of the flexibility afforded to states in meeting their proposed targets, it is difficult to project in advance quantitative impacts on funding and personnel. As indicated in the preamble to the proposal, a detailed Federalism Summary Impact Statement (FSIS) describing the most pressing issues raised in pre-proposal and post-proposal comments will be forthcoming with the final rule, as required by section 6(b) of Executive Order 13132.

26. It is our understanding that early in 2015, the Obama Administration plans to announce a U.S. CO2 reduction commitment that it hopes will form the basis of a new international agreement to replace the Kyoto Protocol. EPA's existing power plants rule is expected to be central to this international proposal, but the Administration has not been transparent with Congress or the American public regarding what it intends to pursue.

    a. Please detail EPA's involvement in Administration discussions leading up to this new international commitment, including when meetings are taking place, what agencies and officials are involved, and what options are under consideration.

    b. Does EPA intend to bolster the Administration's international efforts by following the power plant rule with new GHG regulations on other sectors, such as refining, manufacturing, agriculture, and chemicals? If so, what is the timetable for those follow-on rules?

The EPA has provided technical assistance, when requested, in understanding the emissions reductions from our voluntary and regulatory efforts to reduce GHG emissions. We have also contributed to a thorough understanding of the science of climate change.

[1] In November 2014 EPA released a rate to mass technical support document in which we outline two possible methods for doing a rate-to-mass translation, and include mass-based equivalents for each state. The TSD is available at: http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule-technical-documents

The EPA is not currently developing national standards to specifically regulate GHG emissions from any other source categories, including petroleum refineries. Were the EPA to propose a New Source Performance Standard that would limit GHG emissions from another source category, the proposal would reflect the best available science and data, including information about all applicable regulations, to determine what standard represents the Best System of Emissions Reduction as defined by the Clean Air Act. Any such proposal would be made available for public comment.

27. It is my understanding that EPA is currently considering an application for an Alternative Renewable Biomass Tracking requirement from the Argentinian biodiesel association. The purpose of this application is to establish an alternative compliance mechanism to prove that these foreign companies are in fact using soybeans that qualify under the renewable biomass definition of the program. Ensuring that fuels are produced from renewable biomass is the foundation of the underlying program. Domestic fuel producers are required to meet stringent standards that add to the production costs of the fuel.

    a. In addition, the approval of such a plan would have significant impact on the biodiesel producers here in the U.S. and the volumes of fuels they are producing in order to fulfill the mandate under the EPA's 2014 volume obligations. It is my understanding that our domestic suppliers are concerned that hundreds of millions of gallons of Argentinian biodiesel could be shipped to this country and qualify for RINs. What can the EPA tell us about how these decisions are being considered and whether industry will be able to comment on any alternative compliance proposal?

    b. As the agency considers the approval of an alternative tracking requirement for foreign producers which would act as a substitute for the traditional compliance requirements, do you intend to make such tracking requirements should be open to the public comment period so that industry stakeholders can weigh in on the proposal?

The regulations allowing for an Alternate Biomass Tracking program were put in place in 2010 through an extensive notice and comment rulemaking process as part of the final regulations for the Renewable Fuel Standard (RFS) program. Under these regulations, parties may submit applications for consideration and approval of an Alternate Biomass Tracking program. On January 27, 2015, following an extensive review process, EPA approved the Alternate Biomass Tracking Program plan submitted by *Camara Argentina de Biocombustibles* (CARBIO). CARBIO's plan includes a robust tracking program that requires an independent third party to conduct an annual survey of the entire biofuel supply chain. This approved plan enhances existing regulatory oversight requirements currently applied to qualifying renewable fuels being imported from Argentina. Any and all subsequent alternate biomass tracking program applications that are submitted will be reviewed thoroughly by the Agency, and EPA will ensure any decision is fully consistent with the regulations.

In setting the annual volume standards, the Agency considers all possible sources of renewable fuels, including imports. This would necessarily include consideration of imports from Argentina as well as other countries. Further, Argentina already imports some volume of qualified biofuel under the existing regulations. The decision to import more or less biodiesel in the future will not be made based on a particular compliance approach, but instead will be based on economic factors unrelated to the compliance program. EPA's decision to approve the alternate biomass tracking program did not lift a trade barrier since no trade barrier existed. Instead, it put in place a more robust alternate path to meet the Agency's compliance

requirements, as the CARBIO program provides for a more rigorous approach to ensuring feedstock are grown on qualified land.

Aggregated data for 2014 shows that domestic biomass based diesel production was about 1.5 billion gallons and Imported / foreign produced production was about 300 million gallons. Imports from Argentina totaled approximately 40 million gallons in 2014, or a little more than 10 percent of total imports of biomass-based diesel volumes under the program.

Regarding opportunities for public comment, the regulations that created and define what an approvable alternate biomass tracking program must include were developed through an extensive notice and comment process with significant input from a wide range of stakeholders. Our action to approve the CARBIO proposal is purely a ministerial confirmation that the CARBIO plan complies with those regulations and is not an opportunity to change or adjust the underlying regulations based on further notice and comment.

Attachment 2—Member Requests for the Record

During the hearing, Members asked you to provide information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Joe Barton

1. During the hearing, you testified that you would provide the Committee with the legal support for your testimony that "It is required when we issue a 111(b) standard for a sector to then go forward with a 111(d) standard." Please provide the Committee with the legal basis for this statement and your position that EPA's proposal for existing power plants is required under the Clean Air Act.

Response: At the hearing, in her exchange with Congressman Barton, Acting Assistant Administrator McCabe stated that when we issue a 111(b) standard it is required that we go forward with a 111(d) standard. Congressman Barton asked for EPA's General Counsel to back this statement up and send it to the committee. Along with the proposed rule, the EPA included in the docket a Legal Memorandum providing background for the legal issues raised by the rule. That Legal Memorandum details the EPA's understanding, at the time of proposal, of the legal issues surrounding the proposed rule. That document can be found using Docket ID Number EPA-HQ-OAR-2013-0602-0419.

The Honorable Robert E. Latta

1. Assistant Administrator McCabe, during the hearing you testified that a state would not be subject to Clean Air Act penalties if they do not obtain EPA approval prior to adjusting their Renewable Portfolio Standard. Please provide the Committee assurances that states will not be subject to Clean Air Act penalties when revising state laws, including renewable energy standards, without EPA approval.

Response: EPA has engaged with a wide range of stakeholders on the role of renewable energy standards and other state laws related to energy in the proposed Clean Power Plan. States and others have indicated the need to be able to change such laws in the future and have expressed concern that this could be problematic if such laws were incorporated into state plans. This

circumstance is not unique to the proposed Clean Power Plan. States can and have historically made such changes and had them incorporated into updated state plans.

However, recognizing that there are interactions between state energy policies and state 111(d) plans to address CO2 emissions from power plants, the rapid technology changes in power generation technology and the tremendous learning by doing occurring in energy sector regulation (both environmental and economic), the proposed Clean Power Plan discussed additional potential state plan designs that could make it possible for states to change underlying state energy requirements without the need to make resubmissions to EPA. The Agency will be reviewing comments it received on this issue and factoring them into the final 111(d) regulation that it promulgates.

The Honorable Mike Pompeo

1. Please provide the Committee all information related to meetings between EPA and White House personnel concerning this proposed rule for existing power plants, including: dates, location, attendees, and specific subject matter of those meetings.

Response: On June 25, 2013, President Obama announced his Climate Action Plan and issued a Presidential Memorandum directing EPA to use section 111(d) of the Clean Air Act to cut carbon pollution from existing power plants. Immediately following the President's announcement and at his direction, the agency embarked on an extensive public outreach process—one that reached thousands of people through hundreds of meetings, listening sessions, video conferences, phone calls, conference calls, and almost two thousand emails from individuals across the country. We talked to states, power companies, local communities, environmental groups, associations, labor groups, Tribes, and many more. This process was a critical component in developing this rule because it helped focus our attention on what was going on—on the ground—in states and communities across the country, and it generated public discussion and ideas from numerous groups and individuals that helped inform our thinking.

Consistent with E.O. 12866, the proposed rule underwent interagency review prior to its release on June 2, 2014. And as part of the interagency review process, EPA staff met with other agencies and the Office of Management and Budget to discuss the draft proposal.

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