

EPA'S CO2 REGULATIONS FOR NEW AND EXISTING POWER PLANTS

HEARING BEFORE THE SUBCOMMITTEE ON ENERGY AND POWER OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS FIRST SESSION

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EPA'S CO₂ REGULATIONS FOR NEW AND EXISTING POWER PLANTS

WEDNESDAY, OCTOBER 7, 2015

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

The subcommittee met, pursuant to call, at 10:05 a.m., in room 2123 Rayburn House Office Building, Hon. Ed Whitfield (chairman of the subcommittee) presiding.

Members present: Representatives Whitfield, Olson, Barton, Shimkus, Pitts, Latta, Harper, McKinley, Pompeo, Kinzinger, Griffith, Johnson, Long, Ellmers, Flores, Mullin, Upton (ex officio), Rush, McNerney, Tonko, Engel, Green, Capps, Doyle, Castor, Sarbanes, Welch, Yarmuth, Loeb sack, and Pallone (ex officio).

Staff present: Nick Abraham, Legislative Associate, Energy and Power; Will Batson, Legislative Clerk; Leighton Brown, Press Assistant; Patrick Currier, Senior Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Mary Neumayr, Senior Energy Counsel; Chris Sarley, Policy Coordinator, Environment and the Economy; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Andy Zach, Counsel, Environment and the Economy; Jeff Carroll, Democratic Staff Director; Timia Crisp, Democratic AAAS Fellow; Caitlin Haberman, Democratic Professional Staff Member; Rick Kessler, Democratic Senior Advisor and Staff Director, Energy and the Environment; Josh Lewis, Democratic EPA Detailee; and Alexander Ratner, Democratic Policy Analyst.

Mr. WHITFIELD. I would like to call the hearing to order this morning, and the subject, of course, is the hearing on EPA's CO₂ Regulations for New and Existing Power Plants. And then, of course, also you all have a proposed rule that is part of this relating to a Federal Implementation Plan in the event States do not act.

And, first of all, Ms. McCabe, we appreciate your being with us this morning as the Acting Assistant Administrator. You've been here many times before, and we genuinely appreciate your being here.

At this time, I would recognize myself for 5 minutes for an opening statement.

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

Not too many years ago, an autobiography was compiled of Harry Truman and it was entitled, "Plain Speaking," and that's what I intend to do with my opening statement today, just do some plain speaking.

In July, the United States Supreme Court ruled in the Michigan Case that the EPA had acted unreasonably and beyond its scope of authority on Utility MACT by not considering cost. And I was really taken back a little bit by the response that Ms. McCarthy and other spokesmen for EPA gave when they were questioned about that Supreme Court decision.

Basically, every one of them said the regulation was finalized 3 years ago, the companies have already spent the money, so everything has been accomplished, and so basically sort of negating any emphasis on the Supreme Court's decision. And we perceive that that's precisely what is going to happen with this existing and new coal plant rule, that your goal is to have this implemented. Lawsuits we know are going to be filed, but you want to have it implemented so that if the Supreme Court rules against you, everything has already been done.

Now, on the new coal plant rule we have serious problems with it. You know that. Initially, you gave as an example four plants that showed that carbon capture sequestration could be used in these coal plants. One was in Texas, which has not been built; one was in California, which has not been built; one was in Mississippi, which has had extensive cost overruns and without significant investment from the Federal Government never would have been built; and then you've got the Canadian plant, which is really a unit, 110 megawatts. It costs over \$1 billion a year. So, there's not any practical way available for anyone using reasonable cost figures to comply with this new rule, because the emission standard is so low that it simply cannot be achieved.

And then on the existing coal plant rule you all talk frequently about oh, we're flexible, and we're maximum flexibility to the States, but you arbitrarily set the CO₂ emission caps for every State, so it's going to be extremely difficult for many of the States to reach these caps.

Now, when I go down to the District in Kentucky and around the country, I hear a lot about this is a rogue agency out to do in the fossil fuel industry. Many people view you as nothing but a political arm of the White House today, as a result of the President's Georgetown speech in which he said, "I want EPA to act." And you all have followed that rule and you've acted. You've actually become a legislative arm, because Congress considered cap and trade, Congress considered CO₂ emissions, and Congress did not act. And I've heard people at EPA and the President say repeatedly, "Congress did not act, so we are going to act."

And not only did the Supreme Court invalidate our question and call it unreasonable and acting beyond your scope of authority under the Michigan Case, but also in the Tailoring Rule. It said you went beyond your scope of authority. And then on this existing rule, how can we ever forget that one of the preeminent constitu-

tional lawyers in the country, Larry Tribe, sat right there and said, “You’re burning the Constitution” by these actions. And you had to reverse about 30 years of legal opinions of EPA itself in order to say you have the authority to act under 111(d).

So, we are very much concerned about your running roughshod over the U.S. House of Representatives, U.S. Senate, the Governors, the attorney generals, the utilities, the people in the fossil fuel industry, the employees, and the American taxpayers. And it’s interesting, the EIA recently reported 2014 electricity rates went up 14 percent, and this year they anticipate them going up another 10 percent, but coal prices are down, natural gas prices are down, and oil prices are down. And, yet, all these independent reports say they’re going up because of regulations. So, this committee, we’re going to continue to do everything we can do to stop you. And not only that, but we’re urging Governors to take action to stop you. And we know that lawsuits are going to continue to be filed, and this will be a big issue in 2016.

[The prepared statement of Mr. Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD

This subcommittee has been examining EPA’s carbon dioxide regulations for new and existing power plants since they were first proposed. Last August, EPA announced the final versions, and unfortunately none of the fundamental concerns we’ve raised appear to have been addressed. This EPA has become the political arm of the White House issuing regulations by fiat. It is time to stop and review what these rules mean for the Nation’s electricity system and the economy overall. I welcome Acting Assistant Administrator Janet McCabe to this subcommittee.

The new and existing source provisions are the most significant part of the President’s Climate Action Plan, and they closely resemble the 2009 Waxman-Markey cap-and-trade bill in that they comprehensively control the electric sector well beyond the fence line of regulated power plants, and they threaten extraordinary costs yet will do almost nothing to reduce the earth’s temperature. I believe that the regulatory version of cap and trade is every bit as inflexible and unworkable as the legislative version that I voted against.

Our Ratepayer Protection Act addressed two major concerns with the existing source rule—its legality and its impact on ratepayers. First, the bill would have extended the compliance deadlines so that the rule’s provisions would not take effect until after judicial review is complete. On this point, I am disappointed that EPA has not learned the lesson from its Mercury MACT rule, which the Supreme Court recently found to be legally flawed. This decision came too late to avoid serious economic damage, including the irreversible decision to close several coal-fired power plants in response to this rule. As with the Mercury MACT rule, the existing source rule’s aggressive deadlines would necessitate potentially costly compliance measures before we know whether the rule will survive judicial scrutiny. And I might add that there are many reasons to question the legality of this unprecedented measure.

The Ratepayer Protection Act also gave State Governors the authority to waive the existing source rule’s provisions if they are determined to have a significant adverse effect either on ratepayers or on reliability. According to an analysis of the proposed rule by NERA, fully 43 States will experience double digit increases in electricity prices—and this is on top of rates that are already increasing due in part to other EPA regulations. Higher electric bills disproportionately hurt low income households and those on fixed incomes.

On reliability, NERC and others with expertise on reliability have warned of the potential adverse impact of the existing source provisions. The final rule may be even more problematic than the proposed version, especially now that EPA has chosen to discourage new natural gas facilities as well as coal in favor of less-reliable renewables like wind and solar.

Few if any of the concerns about the proposed existing source rule were addressed in the final version, and the reasons for the Ratepayer Protection Act are still applicable. And I might add that the new source rule also remains very problematic, as it will serve as a de facto ban on new coal generation. Today, with natural gas as cheap as it is, a ban on new coal may not seem so damaging, but circumstances may

change, and I believe the Nation will suffer future adverse consequences from not having new coal generation as an option.

In addition to the new and existing source final rules, I also have serious concerns with EPA's proposed "Federal Plan," which would impose a Federal emissions trading program on any State that does not get its own plan approved. Again, I welcome Acting Administrator McCabe and look forward to learning more about all three rules.

Mr. WHITFIELD. So with that, my time has expired and I would like to recognize at this time the gentleman from Illinois, Mr. Rush.

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

Mr. RUSH. 2016 is right around the corner, Mr. Chairman, and let us all buckle our seat with this wild ride to 2016. I want to thank you, Mr. Chairman, for holding today's hearing on the EPA's carbon rules. Certainly, to me, it feels like *deja vu* all over again.

I also want to thank Assistant Administrator Ms. McCabe for being here today. And as always, I look forward to your thoughtful, insightful, and expert testimony on the matter at hand.

Mr. Chairman, today we will examine EPA's carbon regulation for the exceedingly umpteenth time. At the very outset, I must emphatically commend the agency for its open, its honest responsiveness to stakeholders' concerns in issuing its final rule.

Mr. Chairman, since the last time Ms. McCabe testified before this subcommittee and after serious consideration of thousands of comments from various stakeholders, EPA has made significant changes to the Clean Power Plan.

In regards to timing, the compliance period was pushed back from 2020 to 2022. In the interim reduction goals can be achieved more gradually between 2022 and 2029, and States are provided additional flexibility for reducing their emission from year 2022 all the way up to the year 2030.

Additionally, Mr. Chairman, EPA's final rule provides States up to 3 years if necessary to submit a State plan and also propose a model rule that makes it easier for States to adopt interstate trading as many of them had requested.

No doubt, Mr. Chairman, in response to concerns voiced here repeatedly, EPA's final rule now requires States to consider reliability when developing their plans. It allows flexibility to include a variety of approaches to achieving their goals, and it provides a reliability safety valve for extraordinary circumstances. So, Mr. Chairman, after unprecedented public outreach and engagement, EPA was able to finalize a rule that is fair, that is flexible, and that demonstrates to the world that the U.S. is, indeed, serious in its commitment to lower its carbon imprint in order to address climate change.

And why are these rules so necessary and essential? Plainly speaking, Mr. Chairman, from the vast majority of the American people to the overwhelming majority of the world's climatologists and scientists, from the leaders of the world's most advanced nations to Pope Francis, it seems that almost everyone everywhere understands that climate change is real, and is posing an existential threat to the future of our home, this great planet that we were

given stewardship over. That is everyone except the majority party in this Congress.

Plainly speaking, Mr. Chairman, as Mother Nature continues to demonstrate annually year by year, extreme weather patterns and catastrophic events occurring more frequently in every region of our great Nation, climate change is not a hoax. Climate change is not a joke, and climate change is not something that this U.S. Government can continue to ignore or to take lightly, Mr. Chairman. Mr. Chairman, climate change is not a hoax. Let's take it seriously. It's a serious matter.

Plainly speaking, Mr. Chairman, while the majority party continues to put its collective heads in the sand and ignore the facts, devastating wildfires burn in the West, the Southeast experiencing thousand-year floods. The Midwest and Plain States see record drought and crop loss, and the American people are standing by anxiously awaiting for some leadership, some leadership on this very important issue from you, from me, from other elected officials, those of us who are members of this Congress.

Mr. Chairman, I applaud the President and the EPA for standing up to protect the environment on behalf of those families out there waiting for their Government to act.

Thank you, and I yield back the balance of my time.

Mr. WHITFIELD. Thank you, Mr. Rush.

At this time, the Chair recognizes the ranking member of the full committee, Mr. Pallone, for 5 minutes.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman.

I applaud EPA's efforts to finalize the Clean Power Plan, which is an historic and important step in our ongoing battle against the threat of unchecked climate change.

According to NOAA, 2014 was the warmest year ever recorded, and 9 of the 10 hottest years have occurred since 2000. In fact, this past summer was the hottest on record, and 2015 is well on its way to surpassing last year's record. Every corner of the earth is going to be affected.

Representing a coastal area that saw firsthand the damage done by Superstorm Sandy, I'm particular concerned about extreme weather events and sea level rise. We're already experiencing warmer and more frequent hot days, more frequent and heavier rainstorms, drier and longer droughts, and more extreme high sea levels. In the past week, North and South Carolina saw unprecedented levels of rain, 16 people have died, and early reports estimate billions of dollars in damage. And, sadly, extreme weather like this has become the new norm.

As President Obama recently said and I quote, "Climate change is no longer some far off problem. It's happening here, it's happening now. We cannot wait for some future generation to take action." To that end, EPA finalized a workable plan to reduce carbon emissions from power plants which are the largest uncontrolled source of manmade greenhouse gases in the U.S.

Overall, EPA engaged in an unprecedented level of outreach and public engagement on the Clean Power Plan. The final rule reflects extensive stakeholder input, including over 4.3 million public comments, a series of listening sessions held across the country, and scores of meetings with stakeholders across the spectrum.

As a result of the comments received on the proposal, EPA made a number of changes to the final Clean Power Plan to insure flexibility, affordability, reliability, and investment in clean energy technologies. And the Clean Power Plan is not a one-size-fits-all proposal for reducing emissions. It uses a flexible State-based approach that takes account of each individual State's unique capacity to reduce emissions from its electricity sector. And in the final rule, EPA made changes to the plan's building blocks to provide more flexibility for States when determining the best way to achieve their individual goals, while still providing compliance options and ample opportunity for the use of energy efficiency to reduce carbon pollution from power plants.

Now, EPA is not proposing the States act overnight. States have until 2030 to meet their final goals, and the plan's interim goals don't begin until 2022. Further, the final rule provides additional flexibility for States to determine their own individual compliance pathway. And EPA is encouraging States to make early emission reductions by creating a Clean Energy Incentive Program that will reward early investments in wind and solar generation, as well as demand-side energy efficiency programs implemented in low-income communities.

Ultimately, the Clean Power Plan represents a serious commitment to climate action, and will result in climate benefits of \$20 billion, and health benefits of \$14–34 billion. Increased levels of carbon dioxide in our atmosphere are threatening the health and well-being of all Americans, and this plan will protect public health by avoiding 3,600 premature deaths, 1,700 heart attacks, and 90,000 asthma attacks each year.

Let's not heed the absurd arguments on behalf of companies that profit from the status quo. We've already heard from some that EPA's plan is not legal, that it's unworkable, and that some States may refuse to participate, but as I've said before, those making such arguments aren't really interested in finding solutions to our carbon pollution problem. They're not interested in developing a plan to help us reduce emissions while still maintaining a safe, reasonably priced electricity system.

They're more than welcome to ignore the facts and reject any reasonable plan to address climate change, but let me tell you, history will not treat them kindly. History is on the side of those who want to act on climate change, those who believe in the power of American innovation, and our ability to successfully meet any challenge, and to look to the future rather than the past.

Frankly, we've already wasted enough time on legislation to just say no to climate action, and now Congress must move on. What we cannot do, as President Obama said, and I'll close, and I quote. He said is, "We cannot condemn our children to a planet beyond their capacity to repair."

I yield back, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

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Every corner of the Earth is going to be affected, but, representing a coastal area that saw firsthand the damage done by Superstorm Sandy, I am particularly concerned about extreme weather events and sea level rise.

We are already experiencing warmer and more frequent hot days, more frequent and heavier rainstorms, drier and longer droughts, and more extreme high sea levels. In the past week, North and South Carolina saw unprecedented levels of rain. Sixteen people have died, and billions of dollars of damage has occurred. Sadly, extreme weather like this has become the new norm.

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As I've said before, those making such arguments aren't really interested in finding solutions to our carbon pollution problem. They aren't interested in developing a plan to help us reduce emissions while still maintaining a safe, reasonably priced electricity system. They are more than welcome to ignore the facts and reject any reasonable plan to address climate change, but history will not treat them kindly. History is on the side of those who want to act on climate change; those who believe in the power of American innovation and our ability to successfully meet any challenge, and who look to the future rather than the past.

Frankly, we have already wasted enough time on legislation to "just say no" to climate action, and now Congress must move on. What we cannot do, as President Obama said, is "condemn our children to a planet beyond their capacity to repair."

Thank you.

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

OPENING STATEMENT OF HON. H. MORGAN GRIFFITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. GRIFFITH. Thank you very much, Mr. Chairman.

You know, it's interesting. To assist States in developing State plans, the EPA has proposed model trading rules. Let me read you from pages 42 and 43 of your proposed rule setting forth a Federal plan. EPA states, "The EPA strongly urges States to consider adopting one of the model trading rules which are designed to be referenced by States in their rulemaking. Use of the model trading rules by States would help insure consistency between and among the State programs which is useful for potential operation of a broad trading program that spans multi-State regions or operates on a national scale."

Now, what's interesting about that is, I'm also going to reference some quotes from the past, and not the distant past, the recent past. "There is no cap-and-trade scheme provided for under the Clean Air Act. For greenhouses gases, I should say, sir, what I do know is what—is that we are not planning any cap-and-trade regulations or standards." Former Administrator Lisa Jackson in response to Representative Steve Scalise, February 9, 2011, in this room.

Administrator Jackson and Assistant Administrator McCarthy have stated publicly, "The agency has no intention of pursuing a cap-and-trade program for greenhouse gases under the Clean Air Act. The agency reaffirms those statements here." August 3rd, 2011.

"Both former Administrator Jackson and I have said in the past that the EPA has no intention of pursuing a cap-and-trade program for greenhouse gases, and I continue to stand by those statements." May 15, 2013 in a letter to Chairman Upton.

"The Clean Power Plan is not a cap-and-trade program. It's not going to be designed like a cap-and-trade program. This is not an opportunity for us to impose a cap. That's not what it looks like." Administrator Gina McCarthy in response to Senator Heitkamp on March 14 in a panel in the video.

You know, the problem is, is that it looks like a cap-and-trade program. You call it a model trading plan. You say that if the States don't come up with an appropriate plan, the Federal Government will come in and help them develop a plan; perhaps a cap-and-trade-type plan.

I was elected in 2010. A 28-year incumbent went down because he voted for a cap-and-trade plan. You're not only showing disrespect to the Congress, disrespect to what I believe the Supreme Court told you in the Mercury Rule. You're also showing disrespect to the voters of this country that turned down an awful lot of folks. Cap and trade is not a policy this United States should follow, and so I would submit to you that you probably need to look someplace else. I don't think you have legal authority for this rule, as you know. That will be debated in the courts, but just like the Mercury Rule—which was found that you all had overreached and had to go

back to the drawing board—those jobs in my district are already gone before the Supreme Court could make a ruling.

With that, Mr. Chairman, I would yield to the gentleman from West Virginia, Mr. McKinley.

Mr. MCKINLEY. Thank you.

Mr. Chairman, I had the opportunity on Friday to take Congressman Welch from Vermont to an underground coal mine in West Virginia, and prior to that going underground we had a chance to sit down and talk with about 12 unemployed coal miners that have lost their job, and to look them in the eye to understand what can we do? What's happened? And, universally, Ms. McCabe, universally they said it's regulations. Regulations are what—we have had seven power plants in West Virginia here have been shut down, 45 percent of our coal miner workforce has been unemployed. And they were saying watch the regulations, so I just want to share with you, here is this list that's 20-some pages long—feet long of over 1,500 regulations that have been imposed under this administration on coal mines, and coal companies, and coal miners.

It's no wonder they can't find jobs. They're willing to go someplace else, but they can't sell their home. They're living in communities of 1,000 people and they'll go to another place to work someplace else, but they can't sell their home. That's their equity.

This administration has taken us in West Virginia from the fifth-best unemployment rate to the 51st unemployment rate in the Nation because of these 1,500 regulations. I think it's got to stop, and for anyone to testify before us and say this is fair, look them in the eye. Look them in the eye, that coal miner, and say it's fair that you just lost your job because of our regulations. I don't think that you can do that.

I yield back my time.

Mr. WHITFIELD. The gentleman yields back, and that concludes the opening statements.

So, Ms. McCabe, at this time you're recognized for 5 minutes for your opening statement. Thank you.

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

Ms. McCABE. Thank you very much, Chairman Whitfield, Ranking Member Rush, and members of the subcommittee. I really appreciate the opportunity to testify before you today on EPA's Carbon Pollution Regulations for New and Existing Power Plants.

My testimony will focus mostly on the regulations for existing plants, also known as the Clean Power Plan. On August 3rd, President Obama and EPA Administrator Gina McCarthy announced the final Clean Power Plan, a historic and important step in reducing carbon pollution from power plants that takes concrete action to address climate change, as well as final standards limiting carbon pollution from new, modified, and reconstructed power plants, and a proposal for a Federal plan and model rules that demonstrate clear options for how States can implement the Clean Power Plan in ways that maximize flexibility for power plants in achieving their carbon pollution obligations.

Shaped by a process of unprecedented outreach and public engagement that is still ongoing, the final Clean Power Plan is fair, flexible, and designed to strengthen the fast-growing trend toward cleaner and lower polluting American energy. It sets strong but achievable standards for power plants and reasonable goals for States to meet in cutting the carbon pollution that is driving climate change tailored to their specific mix of sources. It also shows the world that the United States is committed to leading global efforts to address climate change.

The final Clean Power Plan mirrors the way electricity already moves across the grid in this country. It sets standards that are fair and consistent across the country and that are based on what States and utilities are already doing to reduce CO₂ from power plants. And it gives States and utilities the time and a broad range of options they need to adopt strategies that work for them.

These features of the final rule along with tools like interstate trading and emissions averaging mean that States and power plants can achieve the standards while maintaining an ample and reliable electricity supply and keeping power affordable.

When the Clean Power Plan is fully in place in 2030, carbon pollution from the power sector will be 32 percent 2005 levels, and the transition to cleaner methods of generating electricity will better protect Americans from other harmful air pollution, too, meaning we will avoid thousands of premature deaths and suffer thousands fewer asthma attacks and hospitalizations in 2030 and every year beyond.

States and utilities told us they needed more time than the proposal gave them, and we responded. In the final rule, the compliance period does not start until 2022, the interim reductions are more gradual, States can determine their own glide path and any State can get up to 3 years to submit a plan.

We heard the concerns about reliability. We listened, and we consulted with the planning and reliability authorities, with FERC and the Department of Energy. The final Clean Power Plan reflects this input, and it includes several elements to assure that the plan requirements will not compromise system reliability. In addition, to provide an extra incentive for States to move forward with plan investments we're creating a Clean Energy Incentive Program that will recognize early progress.

Since issuing the final Clean Power Plan, EPA has continued to engage with States, territories, tribes, utilities, industry groups, community organizations, health and environmental groups, and others. To help States and stakeholders understand the Clean Power Plan and to further support States' efforts to create plans that suit their needs, EPA has developed a variety of tools and resources which are largely available on our Web site, and we remain committed to assisting States with development and implementation of their State plans.

We're convinced both by our analyses and our experiences that both the carbon pollution reduction called for under the Clean Power Plan will extend the trajectory of the last 40 years when we cut air pollution in this country by 70 percent while our economy has tripled.

I, again, thank the committee for inviting me to speak on the Agency's work to implement our Nation's environmental laws to protect public health and the environment, and I look forward to your questions.

[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**

EPA's CO₂ Regulations for New and Existing Power Plants

**Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
October 7, 2015**

Chairman Whitfield, Ranking Member Rush, members of the subcommittee: Thank you for the opportunity to testify today on EPA's carbon pollution regulations for new and existing power plants. My written testimony will focus mostly on the regulations for existing plants, also known as the Clean Power Plan.

On August 3, 2015, President Obama and EPA Administrator Gina McCarthy announced the final Clean Power Plan – an historic and important step in reducing carbon pollution from power plants that takes concrete action to address climate

change – as well as final standards limiting carbon pollution from new, modified, and reconstructed power plants and a proposal for a Federal Plan and Model Rules that demonstrate clear options for how states can implement the Clean Power Plan in ways that maximize flexibility for power plants in achieving their carbon pollution obligations.

Shaped by a process of unprecedented outreach and public engagement that is still ongoing, the final Clean Power Plan is fair, flexible and designed to strengthen the fast-growing trend toward cleaner and lower-polluting American energy. It sets strong but achievable standards for power plants, and reasonable goals for states to meet in cutting the carbon pollution that is driving climate change, tailored to their specific mix of sources. It also shows the world that the United States is committed to leading global efforts to address climate change.

The final Clean Power Plan mirrors the way electricity already moves across the grid. It sets standards that are fair, and consistent across the country - and that are based on what states and utilities are already doing to reduce CO₂ from power plants. And it gives states and utilities the time and broad range of options they need to adopt strategies that work for them.

These features of the final rule, along with tools like interstate trading and emissions averaging, mean states and power plants can achieve the standards while maintaining an ample and reliable electricity supply and keeping power affordable.

The transition to clean energy, driven by a combination of federal and state policies and economic opportunity created by the market, is happening faster than anticipated – even since we proposed the Clean Power Plan last year. This means carbon and air pollution are already decreasing, improving public health each and every year.

The Clean Power Plan adds to and accelerates this ongoing momentum, putting us on pace to cut this dangerous pollution to historically low levels, while driving the innovation that has always allowed America to grow our economy – and export clean technologies – while cutting pollution.

When the Clean Power Plan is fully in place in 2030, carbon pollution from the power sector will be 32 percent below 2005 levels, making sure that ongoing progress continues.

The transition to cleaner methods of generating electricity will better protect Americans from other harmful air pollution, too. By 2030, emissions of sulfur dioxide from power plants will be 90 percent lower than 2005 levels, and emissions of nitrogen oxides will be 72 percent lower. Because these pollutants can lead to more dangerous particle pollution and smog, the historically low levels mean we will avoid thousands of premature deaths and suffer thousands fewer asthma attacks and hospitalizations in 2030 and every year beyond.

The Clean Power Plan itself is thus projected to result in climate and health benefits of \$34 to \$54 billion.

EPA's unprecedented outreach effort, including hundreds of meetings with scores of stakeholders and state officials across the country and 4.3 million public comments helped shape the final rule, and it is better because of it. In fact, it's more readily achievable, and more affordable, too.

States and utilities told us they needed more time than the proposal gave them—and we responded. In the final rule, the compliance period does not kick in until 2022. That's an across-the-board two-year extension beyond the proposal's 2020

compliance date. To further address what some commenters called a “cliff,” we made the interim reductions more gradual between 2022 and 2029 and provided additional flexibility for states to determine their own glidepath of emissions reductions from 2022 to 2030 with a less stringent starting point. The final rule also gives any state that needs extra time up to three years to submit to EPA state plans.

Because states requested it, we also proposed a model rule they can adopt as their state plans. This makes it simple for states to adopt interstate trading – a feature for which many utilities and system operators advocated. But states don’t have to use our plan—they can cut carbon pollution in whatever way makes the most sense for them, including developing their own interstate trading program.

EPA is committed to acting to ensure that both state plans and any federal plan that may be needed will be in place in accordance with the rule. The EPA would finalize a federal plan for a given state only in the event that the state did not submit an approvable plan by the deadlines specified in the final Clean Power Plan and that the EPA took action either finding that the state had failed to submit a plan or disapproving a submitted plan

because it did not meet the requirements of the rule. Even then, states would remain free - and the EPA in fact would encourage states - to submit state plans that could replace the federal plan.

We heard the concerns about reliability. We listened and we participated in all of FERC's technical conferences, and we consulted with the planning and reliability authorities, FERC and the Department of Energy (DOE) as we considered the many comments we received on this issue. The final Clean Power Plan reflects this input and it includes several elements to assure that the plan requirements would not compromise system reliability. These features include a long lead time before the compliance period begins and a gradual glide path to 2030 which allows states to achieve compliance across an eight-year averaging period; a requirement that states consider reliability as they develop their state plans; a basic design that allows states and affected EGUs flexibility to include a large variety of approaches and measures to achieve the environmental goals in a way that is tailored to each state's and utility's energy resources and policies, including trading within and between states, and other multi-state approaches; and a reliability safety valve to address situations where, due to an unanticipated event or other extraordinary

circumstances, there is a conflict between the requirements imposed on an affected power plant and maintaining reliability.

In addition to the measures outlined in the rule, EPA, DOE, and FERC are coordinating efforts to monitor the implementation of the final rule to help preserve continued reliable electricity generation and transmission.

In addition, to provide an extra incentive for states to move forward with planned investments, we're creating a Clean Energy Incentive Program that will recognize early progress. This incentive program rewards early investments in wind and solar generation, as well as demand-side energy efficiency programs implemented in low-income communities.

Since issuing the final Clean Power Plan, EPA has continued to engage with states, territories, tribes, industry groups, community organizations, health and environmental groups, among others. States have asked for clarification and further information in several areas, including, for example, how to choose the best state plan approach for their particular circumstances, what different options states should consider in designing plans that allow for multi-state coordination or trading, and what is required

for an initial plan submittal. We have been answering questions and will continue to work with states, utilities, and other stakeholders to provide more information on each of these topics.

To help states and stakeholders understand the Clean Power Plan and to further support states' efforts to create plans that suit their needs, EPA has developed a variety of tools and resources, which are largely available on our website (<http://www.epa.gov/cleanpowerplan>), and we remain committed to assisting states with development and implementation of their state plans.

We are convinced by both our analyses and our experiences that the carbon pollution reduction called for under the Clean Power Plan will extend the trajectory of the last 40 years when we've cut air pollution 70 percent—all while our economy has tripled.

I again thank the Committee for inviting me to speak on the Agency's work to implement our nation's environmental laws to protect public health and the environment.

I look forward to your questions. Thank you.

Mr. WHITFIELD. Thank you, Ms. McCabe. And I recognize myself for 5 minutes of questions.

When do you expect the two rules to be published in the Federal Register?

Ms. MCCABE. Congressman, we're working with the Office of the Federal Register. They will make the decision about when to publish it. We expect it to be in the second half of October, and we're working with them to resolve all the little formatting things that is a routine part of getting a rule published in the Federal Register.

Mr. WHITFIELD. Now, did you finalize the rule in August? Is that right, those two rules?

Ms. MCCABE. That's right.

Mr. WHITFIELD. And you're working with the Office of the Federal Register.

Ms. MCCABE. Correct.

Mr. WHITFIELD. And who makes the decision on when it's published?

Ms. MCCABE. The Office of the Federal Register makes the decision. There's a routine set of steps that we do whenever we finalize a rule. We work on fixing any typos and all that sort of thing. We submit it to the Office of the Federal Register, and we work with them to resolve any issues that they have, but they make the final decision.

Mr. WHITFIELD. And how many pages in these rules?

Ms. MCCABE. There are several thousands of pages in the rules.

Mr. WHITFIELD. I mean, 2,000, 3,000, 4,000?

Ms. MCCABE. I think the 111(d) rule is about 1,500 pages, and the other rules are less than that.

Mr. WHITFIELD. Well, you know, it's important that they be published in the Federal Register because, as you know, lawsuits have already been filed, but they were filed before they were published.

Ms. MCCABE. Yes.

Mr. WHITFIELD. And if they're not published, then there's no standing to bring the suit. So, you think they'll be published in October?

Ms. MCCABE. Yes, I do.

Mr. WHITFIELD. This month?

Ms. MCCABE. Yes. We've moved this along very expeditiously given the size of the rule and the number of the rules.

Mr. WHITFIELD. Now, under the NAAQS rules, normally EPA gives States 3 years to come up with a plan. This 111(d) is unprecedented, never been used in this way before. You changed your legal opinions because prior to this, your lawyers have said we can't operate this way under 111(d). But why are you giving States only like 13 months to issue a final plan, when under the NAAQS rules you give them up to 3 years?

Ms. MCCABE. Yes.

Mr. WHITFIELD. This is more complicated.

Ms. MCCABE. No, they actually do have up to 3 years under the—

Mr. WHITFIELD. No, no, wait. You give them 1 year to submit the plan and then they have to come and ask permission for an additional 2 years. Is that correct?

Ms. MCCABE. The rule is clear that States can have up to 3 years to do their plan.

Mr. WHITFIELD. Do you have—OK. So, what is the magic of September 2016?

Ms. MCCABE. The rule says that by September of 2013, they either submit a plan. Some States indicated to us that they were well on their way and could meet an early deadline.

Mr. WHITFIELD. The rule says that they have to have the plan filed by September 2016.

Ms. MCCABE. Or an initial submittal that gives essentially a status report of the work that they're doing, and a request for additional time. And we'd made it clear—

Mr. WHITFIELD. And who makes the decision that that request will be granted?

Ms. MCCABE. The EPA will make that decision.

Mr. WHITFIELD. You make that decision.

Ms. MCCABE. We've been very clear of the elements that are required.

Mr. WHITFIELD. Are you required to give them an extension, or is that at your discretion?

Ms. MCCABE. If they meet the elements of an initial submittal, we will give them an extension. That's quite clear.

Mr. WHITFIELD. Now, let me ask you this. Under the new rule, all of us are still scratching our heads. You picked out these four sites. The Boundary Dam Facility in Canada appears to be the only coal project using CCS, carbon capture sequestration, that is actually producing electric power today, the only facility in the world. Is that your understanding?

Ms. MCCABE. I wouldn't want to speak to the whole world. That one has been operating for a year. As you know, of course, the technology is being used in other facilities.

Mr. WHITFIELD. Now, let me just say this. I want to note for the record, according to an August Department of Energy communication to a committee hearing record, DOE confirmed that this small Canadian project, 110 megawatts, has and is not likely to achieve the technology-readiness level that demonstrates a commercial scale power system with CCS can operate over the full range of expected conditions. No one expects to be able to meet this standard of 1400, what is it, 1400 pounds of carbon dioxide per megawatt hour. That's the standard. Right?

Ms. MCCABE. Well, if I could speak to that, Congressman, I'd like to, because you reference the standard itself. I think you know that the standard that we finalized in 111(b) is less strict than the standard that we proposed. That was based on our review of all the information that we—

Mr. WHITFIELD. Whether it's less strict or not, the final is 1,400 pounds of CO₂ per megawatt hour. Is that correct?

Ms. MCCABE. That's correct.

Mr. WHITFIELD. Now, you know the cleanest plant operating in the U.S. today is the Turk plant, Texarkana, Arkansas, built about 2 or 3 years ago. It's at 1,800 pounds, so there's no way to meet this standard.

My time has expired, so I'll recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. RUSH. Madam Assistant Administrator, the last time you were here, you and I spoke about the impact that the Clean Power Plan would have on minorities and low-income communities, and at that time you assured me that the EPA would take into account those disadvantaged communities before the final rule was issued. Has there been any outreach to disadvantaged communities by the EPA before the issuance of this rule? And does the EPA provide any guidance to States for how to make sure that their plans take into account the impact on minorities and low-income communities?

Ms. MCCABE. Yes, indeed, Congressman. I know this is a concern that you've asked us about before, so a couple of things I want to say in response.

First of all, we've had extensive outreach with community groups. We know, and you reflected in your opening remarks that the impacts of climate change and air pollution are severely felt by low-income and minority communities across the country. They're among the most vulnerable. They are also communities that we're concerned about in terms of keeping electric rates affordable, and keeping jobs in those communities, so we focused on that a lot.

So, we spent a lot of time listening to community groups and talking with States. We made clear in the final rule that States needed to pay attention to involving, providing opportunities for meaningful involvement for communities all across their States. We asked them to tell us how they were going to do that. We didn't micro manage and tell them exactly how to do it, but we have lots of tools available to help States do that.

We also indicated that we intend in future years after the rule is in place and working to go back and take a look at air pollution levels in those communities and make sure that the public health protections that this rule promises have been delivered in a fair way across our States, and truly protect those vulnerable communities.

Mr. RUSH. Other rules were supposed to invest in cleaner and more efficient energy measures such as the CPP proposes, and also provide help to the most vulnerable communities. Are there any incentives in the final rule for disadvantaged communities who might want to participate in a clean green economy? And can you give me an example, say Appalachia, how does Appalachia respond to the Clean Power Plan?

Ms. MCCABE. Yes. So, probably the best example of incentives that you asked about, Congressman, is the Clean Energy Incentive Program, which provides additional incentives for States that want to get going early and, in particular, invest in wind and solar, but also in energy efficiency programs in low-income communities. We felt that it was important to provide extra incentives to get those projects going early. And, of course, energy efficiency while not a basis for the rates that we set in the Clean Power Plan, is a very affordable, cost-effective, and positive means that States and utilities can build into their compliance plans.

Your question about coal country, you know, is a very, very serious and valid one. The final design of the Clean Power Plan is so flexible for States, especially in their ability to work regionally, and for the utilities to work regionally. That will provide the States the

ability to make sure that they're preserving and protecting the important things for their States. And we predict through this plan that coal will still be a very substantial source of energy in this country well into the future, and it's partly because of the flexible design of the rule.

Mr. RUSH. Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman. It's good to have you here, Ms. McCabe. We appreciate your courtesy of coming to talk to us.

I think it's a true statement that back in 1990 when we passed the Clean Air Act amendments, Chairman Upton and myself were the only two members of the committee currently that were also on the committee then. I don't think any of the senior Democrats were on the committee at that time, but if they were, I apologize. In any event, the full committee chairman was John Dingell of Michigan. He spent several years putting together the coalition of which I was a small part to move that bill through this committee, and through the Congress.

My recollection is that we spent an inordinate amount of time working on the acid rain title which implemented a nationwide emissions trading program for SO₂. There were numerous stakeholder meetings. I remember going to the White House to meet with President Bush and Governor Sununu. I remember numerous Congressional hearings. I mean, we spent a lot of time on that.

We spent no time on section 111(d) of the Clean Air Act, none. Do you have any records at EPA that indicate the Congress spent, I mean, any public time at all on this minor provision?

Ms. MCCABE. I really don't know, Congressman.

Mr. BARTON. Yes. Well, they didn't. I mean, I—now you're using, not you personally but your Agency is using section 111(d) to give the EPA basically total authority to create in a regulatory fashion a cap-and-trade program for carbon dioxide, which there was no intent in the Congress in the early '90s, no legislative record, no background at all. Your own attorneys at the EPA think it's uncertain. You know there's going to be a court case on this, and yet you're trying literally to create in a regulatory fashion what the Congress has refused to do in a legislative fashion. I think that's just wrong.

Can you tell this committee or this subcommittee where section 111(d) spells out clearly and specifically that the EPA has the authority to set mandatory emission limits, requirements that extend well beyond the actual sources being regulated?

Ms. MCCABE. Well, Congressman, I appreciate you asking this question because it's obviously on everybody's minds. So, the first thing that I want to make absolutely clear is that the Clean Power Plan does not set in place a cap-and-trade program.

Mr. BARTON. I beg the—how can you say that with a straight face?

Ms. MCCABE. Well, because that's what the rule sets. The rule sets—

Mr. BARTON. With all respect, ma'am, in the State of Texas we're going to have to shut down existing coal plants and build more wind power than the rest of the world has. If that's not a cap-and-trade program, what the heck is it?

Ms. MCCABE. Texas, by the way, is doing an awesome job in terms of wind power. It's incredible opportunities to do that.

The reason that I'm disagreeing with you respectfully, Congressman, is because the way the rule works is it establishes an emission rate of CO₂ emissions for coal and gas-fired power plants. That is the way section 111 has traditionally worked, and that's the way it's working here. So, that is the primary starting point, is that rate.

We then in the rule provide options and flexibilities largely in response to input and requests that we got from States and the utility industry to provide alternative ways for them to comply.

Mr. BARTON. Well, with all respect, my time is about to expire, but if this rule goes through, and I hope it doesn't, Texas has to build more wind generation than any other nation in the world currently has. Now that's a fact. And the problem is, even in Texas we can't make the wind blow when the EPA says it has to. I mean, it's simply not going to work.

I respect your integrity, I respect your commitment to what you do but, again, I was here in 1990. I voted for the Clean Air Act amendments. Your Agency is trying to do with it something that it was never intended to. We would have put it in, you can guarantee that John Dingell would have put it in if that's what the intent of the Congress was.

With that, Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman's time has expired. At this time, the Chair recognizes the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. PALLONE. Thank you, Mr. Chairman. And thank you, Ms. McCABE, for your testimony.

The Clean Power Plan is an important step in reducing emissions from power plants, the Nation's largest source of carbon pollution. And today we've heard about the actions that EPA has taken to create strong, fair, and flexible standards that will put us on the path to a clean energy future and help avoid the worst impacts of climate change.

However, despite the overwhelming scientific evidence and broad public support we continue to hear a litany of arguments from the GOP for why we shouldn't act, you know, climate change is a hoax. They say carbon dioxide is not a pollutant, EPA is a rogue agency with no authority to limit carbon pollution.

I'd like to give you an opportunity to respond to a few of these assertions. And first, you know, yes or no, is carbon dioxide a pollutant?

Ms. MCCABE. Yes, it is.

Mr. PALLONE. Can you briefly explain why EPA has the authority to address carbon pollution from power plants?

Ms. MCCABE. Well, the Clean Air Act directs EPA to address public health and environmental issues that result from air pollution. The Supreme Court has confirmed that. One key authority in the Clean Air Act that has been used many times to address air

pollution from industrial facilities is section 111, which directs us to look at the range of approaches that industries are using to control air pollution, in this case CO₂, and to set emission standards based on what's known as the Best System of Emission Reduction. That's things that the best companies are doing already, and to require that over time that's where everybody end up in terms of their emissions. So, that's where our authority comes from to do this rule.

Mr. PALLONE. All right. Is there any way we can reduce our emissions by enough to avoid the worst impacts of climate change without controlling carbon pollution from power plants?

Ms. MCCABE. Power plants are the largest stationary source of CO₂ in the country. They are substantial. We are taking steps to address CO₂ emissions from the mobile source sector and from other sectors, but this is a global problem, of course, and the U.S. cannot solve it alone. But for us to take meaningful steps we need to look at the power sector, as well as mobile sources.

Mr. PALLONE. I've also heard from my Republican colleagues that they say 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 from power plants. Could you explain how the Clean Power Plan will help protect public health and welfare?

Ms. MCCABE. Yes, and there's increasing science every day on these issues. CO₂ emissions are affecting the global climate and are leading to changes in the way our world responds to those levels in the atmosphere in a way that affects public health very directly. Temperatures get hotter, there are droughts, there are wildfires, there are unpredictable and more severe storms. These can lead to a number of public health issues related to respiratory issues when there's more ozone because of hot weather, when the allergen seasons are longer because of changes in vegetation, vectors change their habitats and the length of their seasons. All of these things can lead to significant public health issues, as well as the disruption that can occur in our communities as a result of more severe flooding, or drought, or other severe weather.

Mr. PALLONE. I know that in our previous hearings you've discussed the unprecedented outreach efforts undertaken by EPA to inform the development, to inform the public about the proposed rule. So, I just wanted to hear a little bit now about outreach on the final rule. Could you please briefly comment on EPA's outreach to both the interested stakeholders and the public, and how this engagement has been reflected in the final rule?

Ms. MCCABE. Yes, certainly. I mean, I have talked about the outreach that we did during the development of the rule, literally hundreds of meetings across the country. You referred to some of them yourself. We haven't stopped, so as soon as the rule was out we started engaging people. We've had numerous and continuing opportunities, especially with our State co-regulators as they're starting to really think about the choices that they want to make, so we have regular opportunities to meet with them. In fact, I was with a group of State air directors just this week, as were some of my staff, to talk about these issues.

We're continuing to engage with the public through webinars, and visits with them at appropriate venues that they might invite

us to. We have robust and ongoing relationships with the utility industry, and with all of the various agencies on the energy side that help make sure that utilities are moving forward in a way that's going to protect reliability, and help them plan ahead. So, all of that is well underway, very robust, and we intend to continue it.

Mr. PALLONE. Thank you very much. Thank you, Mr. Chairman.

Mr. WHITFIELD. The Chair recognizes the representative of the Houston Astros for 5 minutes, Mr. Olson.

Mr. OLSON. I thank the Chair.

I know all of us have former Chairman Dingell in our prayers. He is in the hospital with a heart issue, but he'll be fine. He was quoted in the paper yesterday saying, "Being old sucks." But please lift him up in your prayers.

My first question, Ms. McCabe, is when fully rolling, EPA wants existing coal plants to hit a standard of 1,305 pounds of CO₂ per megawatt hour. That is pretty aggressive. It's a nightmare for some States, and expensive for rate payers. But here's what I find more stunning: Your standard for new plants is 1,400 pounds per megawatt hour. In other words, your new rule says existing coal plants have to be even cleaner than a brand new one.

People I've talked to back home said they've never seen this. They know that it's harder and more expensive to retrofit a plant than to build a new one from scratch with the best controls.

Don't you agree that it's unusual to make these rules tougher for existing plants than new ones? Has EPA ever thought it's oK for newer to be dirtier?

Ms. MCCABE. I'm glad you asked that, Congressman, because I've heard that, and there's confusion about it, but there's a pretty straightforward answer to that, which is the difference between a standard for a new plant and a standard under 111(d).

For existing facilities, there are a variety of opportunities that the utilities have through the way they manage their fleets and the mix of fuels that they use, and moving towards cleaner energy, which they are doing to on average bring that carbon intensity down. And they have years to do it, and the averaging time for the standard is very long. It's measured in years or multiple years.

A new plant under the Clean Air Act, whether it's a power plant or some other kind of plant, in this case power plant, needs to meet that emission rate right away as soon as it's built, so if a plant started up in a year or two, they would be expected to meet that rate all the time on a much shorter term averaging time continuously. So, they work very differently in a way that if you think about it that way, makes a lot of sense.

Mr. OLSON. Ma'am, people back home respectfully disagree, but one other question which I'd like to ask with my remaining time is, according to IEA, current global emissions of carbon are somewhere around 36 billion tons per year, that ballpark. Others say it's closer to 40 billion tons per year. Either way, we know America is not the top source. As billions of people in developing countries get their first cars, their first light bulbs, it will keep rising.

EPA's analysis says the way to approach this rule, reduce carbon emissions by 232 million tons per year in the next decade. I'm just an old Naval aviator who did math on a knee board with a lead pencil in my airplane, but my rough math says if we hit that goal

tomorrow, we'd decrease carbon by .065 percent, or 0.58 percent. The world's exposure of carbon will dwarf our reductions. The main reason for this rule is climate change. Is that correct, yes or no, ma'am?

Ms. MCCABE. Yes.

Mr. OLSON. So, how do you think this rule will impact global temperature?

Ms. MCCABE. No one rule is going to address the problem of climate change, Congressman. This is going to take a global solution. The United States is one of the largest emitters of CO₂ in the world, and we have a responsibility to take the steps that we can take in order to help push in the direction of addressing this significant public health issue.

Mr. OLSON. How does it affect sea levels, ma'am, going up, down, I mean, how do you know?

Ms. MCCABE. Sea level is rising as a result of this global threat. This is a step that the United States is taking in order to contribute to addressing this global problem.

Mr. OLSON. One final question. Am I safe to assume that EPA could revisit this new source of rules in the future, and that rules on natural gas plants might get tougher like coal today, natural gas lumped in with coal in the future? Could that happen, possibly?

Ms. MCCABE. Well, under the Clean Air Act, EPA is required to revisit its technology rules on a regular basis. And we're also, as you know, I think looking at rules for the oil and gas industry, working with the industry on sensible ways to reduce emissions.

Mr. OLSON. I'm out of time. I close by saying Go Astros. I yield back.

Mr. WHITFIELD. The Chair recognizes the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. Thank you, Mr. Chairman. Mr. Chairman, I ask—actually, I implore my Republican colleagues to embrace carbon sequestration. I do this every time I get a chance to talk about it. The atmosphere is not a garbage dump, especially in the United States we need to be responsible for what we're putting into the air.

Now, we repeatedly have heard this morning about the manifestations of climate change. These are real, they're getting more severe. Soon enough these impacts are going to be severe enough that the public will demand that high carbon emitters such as coal-fired power plants be shut down, so ignoring the carbon emission problem until that day will condemn the coal industry to extinction. For your own sake, especially if you're a coal mine Republican, please embrace carbon sequestration.

Ms. McCabe, in California we've made significant strides toward increasing our use of renewable energies and cutting our greenhouse gas emissions. California passed legislation to reduce greenhouse gas emissions to 1990 levels by the year 2020, and Governor Brown recently set a goal of an additional 40 percent reduction in greenhouse gas emissions by the year 2030. So, when writing the Clean Power Plan, did the EPA look at early State actions as a model, as a potential model?

Ms. MCCABE. We certainly looked at everything that all States are doing, and California is one that is out ahead on this. There

are several other States that are moving forward on this, and that's our job under the Clean Air Act, is to look at what the industry is doing in its current operations, and where those technologies and approaches are good at reducing carbon emissions to make sure that that's what we build into the standard.

Mr. MCNERNEY. Good. Well, when creating the final rule did you insure that each State has the flexibility to implement the Clean Power Plan in a way that is most efficient and effective, and also insuring reliability?

Ms. MCCABE. We did. And, in fact, we provided a lot of flexibility and a lot of choice in the final rule to make sure that we could accommodate States like California that already had plans in place, and States that did not yet have plans in place, and also to accommodate the wide range of energy mix across the country from States that are significant coal users to States that are not. So, lots and lots of flexibility is built in.

Mr. MCNERNEY. Do you believe that the Clean Power rule has given China and India motive to produce their own carbon emission reduction plans?

Ms. MCCABE. I think that the United States going forward with this rule has been a significant factor in the international debate. In fact, as soon as we proposed the rule that was the topic of discussion in many international conversations. And I do believe it has been influential in the international commitments that we're seeing from other countries.

Mr. MCNERNEY. So even though the Clean Power Plan won't solve the carbon plan by itself, it's given significant impetus worldwide to help other countries reduce their carbon emissions and get the world to a better place in terms of the total carbon emissions that are being produced.

Ms. MCCABE. I believe so. It's shown real leadership from the United States.

Mr. MCNERNEY. Thank you. How does the final rule address States that may need more time to reach their carbon reduction goals?

Ms. MCCABE. So, we built more time into the rule in terms of the starting date. Through the comment period we heard more about that, about the starting date than about 2030, so we moved the starting date from 2020 to 2022, and also smoothed that glide path down from 2020 to 2022. And based on the information we had, we were pretty comfortable that that met the needs that we were hearing from the utility industry, in particular, about the time that they would need to make the investments that they would need to make.

Mr. MCNERNEY. And that takes into account the reliability issue. Reliability is certainly an issue I've heard from——

Ms. MCCABE. Yes.

Mr. MCNERNEY [continuing]. Utilities across the country. They need to make sure that they're not going to be put in a position where they lose power for their customers.

Ms. MCCABE. Oh, that's absolutely true. I mean, that was made in the context of reliability concerns, and so adding additional time was one key part of that. We did some other things, too, in the final rule to make sure we were paying attention to that, especially

in consultation with FERC. We included a reliability safety valve in case there's an unforeseen situation that folks were very keen to have us include. States also have the flexibility to come in part-way through the plan and say something's happened that we didn't expect. We need to adjust our plan. So, lots of things are built in to make sure that the reliability of the system is protected.

Mr. MCNERNEY. Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Ms. McCabe, one way to measure the impact of your rule is to look at what is expected energy mix would be without the rule using what is called a reference or base case, and then what the projected energy mix would be with the rule. Do you agree?

Ms. MCCABE. Those are the kinds of things that we would look at, sure.

Mr. SHIMKUS. Yes, you agree, that's how we do it.

Ms. MCCABE. Right.

Mr. SHIMKUS. Or that's how you should do it. When EPA proposed its rule on June 14, it projected a base case that said there would be an estimated 244 gigawatts of coal generation in 2020 under existing regulatory and economic conditions. Does that sound right to you?

Ms. MCCABE. You know, I——

Mr. SHIMKUS. It's right here. Say yes. I can show it to you.

Ms. MCCABE. OK.

Mr. SHIMKUS. Today, EPA says that the base case shows an estimated 208 gigawatts of coal generation capacity by 2020. My understanding is there have been no significant regulations or economic changes since your first estimate, so can you explain why EPA would eliminate 36 gigawatts of coal generation from its baseline?

Ms. MCCABE. So, we look to information that's put out by other agencies who follow these issues.

Mr. SHIMKUS. OK, 244 in June, 208 in August of '15. that's 72 power plants.

Ms. MCCABE. We know that there are trends in the industry that are moving away from the older coal——

Mr. SHIMKUS. 36 gigawatts of power.

Ms. MCCABE. And more gigawatts are coming——

Mr. SHIMKUS. OK, let me go to the next question. According to EPA's data when it eliminated all that coal generation from last year's baseline, 31 gigawatts, 70 power plants of coal capacity drop off in 2016 alone, 1 year. You're projecting 70 coal-fired power plants to drop generating in 1 year. Will you please explain why EPA in 1 year's time has eliminated that 31 gigawatts?

Ms. MCCABE. Congressman, we're not eliminating power plants. We're reflecting information that we have about what's——

Mr. SHIMKUS. Your baseline of the initial rule, you dropped off 31 gigawatts of generation in a year, 70 power plants.

Ms. MCCABE. But not all of that would be——

Mr. SHIMKUS. Could I ask you to give us a detailed explanation about this for the record?

Ms. MCCABE. We'd be happy to follow up with that.

Mr. SHIMKUS. OK. In total, EPA projects 214 gigawatts of coal capacity in 2016, while the Department of Energy's Information Agency, administration projections are 261 gigawatts. Can you explain why the Energy Information Agency says 261 gigawatts of power, coal-fired power, and you say 214?

Ms. MCCABE. I'll be happy to get back with you on that, Congressman.

Mr. SHIMKUS. Thank you very much. For the record, I would appreciate that.

In March of 2015, EPA estimated 238 gigawatts of coal generation in its baseline, then just a few months later in August that number dropped to 214 gigawatts, in just a few months. Will you please explain why EPA according to its own documents eliminated between March and August of this year, 23 gigawatts of coal generation from its baseline. That would be about 46 power plants. What possibly could change in a few months time?

Ms. MCCABE. Again, Congressman, we'll be happy to provide a thorough explanation of—

Mr. SHIMKUS. For the record—

Ms. MCCABE [continuing]. All of those numbers for the record.

Mr. SHIMKUS. OK. Now, the last question. Would you agree that if EPA is underestimating coal power capacity in the baseline of this rule, the agency is significantly under-reporting the impacts of its rule on coal generation?

Ms. MCCABE. Congressman, we do our best to use the information available to us, and the modeling tools that are available to us.

Mr. SHIMKUS. OK, but part of this debate is going to be the cost to the individual, the companies, the rate increases. So, if you're underestimating by your 2014 June analysis and your 2015, and you drop off 70 coal-fired power plants, base-load going to my friend, Jerry McNerney's question, your final analysis you're going to under-report the impact because you have sliced major gigawatt production of coal in this country with no explanation that we can find in any of these documents.

Ms. MCCABE. I would point to the history of the Clean Air Act, where it has been proven time and time again that compliance comes in—

Mr. SHIMKUS. But that's when we had technology to meet it. There's no technology right now, as has been already identified, that's affordable and accessible to the industry, penalizing those existing generations, and make it more difficult for new generation. This is a disaster. We're trying to help you from yourselves, and if we don't get the real numbers, there's no way you can adequately defend this in the courts. And I yield back my time.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentlelady from California, Mrs. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Mr. Chairman, for holding this hearing. Ms. McCabe, thank you very much for your testimony.

Adapting to and mitigating climate change should be front and center in our discussions at every level of society and Government. As representatives who should be advocating for the best interests

of our constituents and future constituents, we should be jumping at the chance to pursue avenues to protect their health and well-being, and to insure that we provide a safe and vibrant world to live in. Fortunately, we seem to be having the same discussion over and over again mired in the same shortsighted rhetoric.

So my first question, we've heard the majority repeatedly claim that the Clean Power Plan will harm rate payers, and particularly disadvantaged and low-income individuals; however, both the EPA and independent organizations have demonstrated that increase use of renewables and energy efficiency will over time lead to significant decreases in the cost of electricity for American families. Could you elaborate on how the Clean Power Plan will impact cost to rate payers over the short, but also particularly over the long term?

Ms. MCCABE. Yes, thank you. And I appreciate your mentioning the long view, that's what we're about here. So, there are a couple of ways in which I would respond.

The first way is to look at the information that we got in response to our proposal about the costs of cleaner energy, and they are coming down. Solar energy, wind energy, those things are becoming more affordable which is why people are building them, even without our rule they're building them. So, we know that that's good for the system.

We did an analysis. Again, it's illustrative because States will design their own plans, utilities will figure out the best ways to comply, they always do, the cheapest ways to comply because they care about these issues, as well. And what we show is, especially because of the increased use of energy efficiency which lowers demand, lowers bills, that by 2030 we expect to see about a 7 percent drop in energy bills for households on average across the country.

Mrs. CAPPS. Thank you. I think you partially answered my second question, but to emphasize, can you speak to how we could accelerate the transition to renewables and energy efficiency? I mean, long term it isn't very appetizing to some people who are having trouble making it month to month. What are some ways we can help to speed up that process?

Ms. MCCABE. Well, one of the elements of the final Clean Power Plan that I mentioned already is the Clean Energy Incentive Fund. That's intended to be a signal from the Federal Government that we want to help support early adoption of energy efficiency programs, especially in low-income communities. But States and utilities have the ability now to front load those types of activities, and we certainly would encourage them to do that. We have a lot of information and expertise at our agency and there are many other organizations and companies that are working right now to invest in these sorts of energy-saving technologies.

Mrs. CAPPS. OK, thank you. Another topic or aspect to this: My colleagues often discuss the issue as a matter of dollars and cents, focusing only on the cost to polluters, while ignoring the benefits for customers, consumers. And that's partly because you can't really put a price tag on human well-being, but there are definite tangible economic benefits, wouldn't you say, both for employers and employees that come from having a healthier workforce.

Ms. MCCABE. Yes.

Mrs. CAPPS. EPA has projected the climate and health benefits of the Clean Power Plan to be between \$34–54 billion. Could you elaborate on this, or give us some specific examples of how cleaner air translates into more money in people's pockets?

Ms. McCABE. Absolutely. We know that that is the case. Cleaner air means healthier workforce, it means healthier children, it means fewer missed school days, fewer missed work days, it means less time at the hospital, less time at the doctor, fewer medical bills, fewer hospitalizations for those sort of things, and that's just the respiratory issues that result from polluted air and the climate change impacts on that.

There are, of course, other expenses and burdens that people bear as a result of climate change, especially when we see the droughts and the severe storms and flooding that are affecting people today.

Mrs. CAPPS. Right. I'm going to just put this out there, but there's not going to be time for you to answer it. We have in my home State of California been very proactive at reducing emission rates through our California Air Resources Board. Is there a way that the Clean Power Plan and other EPA actions like the Ozone Rule could produce similar results nationwide?

Ms. McCABE. Absolutely. I think we all can learn from one another, and we certainly can learn from the States that are moving forward with a lot of these programs.

Mrs. CAPPS. Thank you very much. I yield back.

Mr. WHITFIELD. The Chair recognizes the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman. I thought there were going to be some folks in between, but thank you again for your appearance with us.

I want to follow back up again with some of the earlier remarks. There was in Forbes Magazine had said that China and India, quoting, "China and India collectively consume about 60 percent of all the coal produced in the world, and that in the next 10 years Asia will be increasing their demands for coal by 31 percent." They're already at 60 percent, and they want to increase 30 percent. I find that incredible.

And then I want to follow back up again with the remark that you made to the Congressman from California. You said India may very well be following our lead by making these reductions, but yet the quote in this article says that "India has rejected any absolute cuts, and that it needs to emit more as it grows to beat poverty." So, I'm not sure that anyone is following what you think is happening around the world. It goes to that old adage, a leader that has no followers is merely a man taking a walk. And I think that's what you have here, is no one in the country. They may very well go if they did to Kyoto and elsewhere, Stockholm and make these agreements, but then they don't uphold them. So, I don't know that Paris is going to be any better with this. So, I'm looking back at the question more directly, what you're trying to propose, you're willing to sacrifice the economy of this country. When everyone else is going to continue to use coal, you're going to sacrifice our economy to this rule, and drive another dagger into the hearts of the coal fields of this country, and all across because the electricity.

I think it's curious, and I wanted to hear your explanation of why in the initial rule, for example, West Virginia was supposed to have a 20 percent reduction, but then when the final rule came out, it went to 37 percent. And North Dakota went from 11 percent to 45 percent, and Kentucky went from 18 to 41, and Wyoming 19 to 44. Are you trying to suggest that during your hearings in those respective States that the people actually said we want more stringent controls on our emissions in Kentucky, and Wyoming, and West Virginia?

I want to hear that answer, but I also want to add one more, backdrop information. I just got notice just here just a minute ago, that Patriot Coal has just now issued a warn notice to the miners in West Virginia that 2,000 more coal miners in West Virginia are going to lose their job in the next few days, and you all can sit there and just say we need—this is going to be good for our air, when other nations are polluting our atmosphere far greater than we are. So, can you tell me why you doubled and tripled the standards for—when they can't meet the first standard, why you've tripled it?

Ms. McCABE. Absolutely, Congressman. I'd be glad to address that. There's a lot in your question there. I'm not sure I'll get to respond to everything, but let me focus on the changes between the proposal and the final rule, especially as it relates to the States that you mentioned.

Mr. MCKINLEY. Yes.

Ms. McCABE. Yes, very fair question, and we've been having those discussions with State officials and utilities, and others since the final rule came out. In fact, I was meeting with some West Virginia officials just last week, and had this very discussion.

So, as we do rulemaking, we put out a proposal, we lay out our reasoning, our legal support, we lay out the information that we have, and then we put it out, and people comment on it, people give us additional information, people give us their different views. And as I've said, there was just an extraordinary amount of input on this rule.

Mr. MCKINLEY. But that led you to doubling down the penalties on West Virginia, Wyoming, Kentucky, all these other coal producing—you actually got testimony that we should double down the penalty?

Ms. McCABE. Congressman, I certainly object to the use of the word "penalty." That's not an appropriate term for this rule.

Mr. MCKINLEY. Well, I object to your use of the word "fair," when I'm talking about all these people losing their job.

Ms. McCABE. Can I explain why I used the word "fair?"

Mr. MCKINLEY. Good luck.

Ms. McCABE. OK. In the proposed rule, we took a very State-centric approach, and that led to a certain proposal which, in fact, set differential rates for the same type of plant across the country, so a coal rate in one State was significantly different than a coal rate in another State. And through—

Mr. MCKINLEY. OK. I want to hear what's fair when you shut down a coal-fired power plant and it destroys the fabric, the economic basis to run a school system in a county, when millions of dollars are lost. I want to talk, that's fair. Is that fair?

Mr. WHITFIELD. The gentleman's time has expired. At this time, the Chair recognizes the gentleman from Pennsylvania, Mr. Doyle, for 5 minutes.

Mr. DOYLE. Thank you, Mr. Chairman.

Administrator McCabe, when you appeared before this committee for previous hearings on the proposed rule, I had voiced my concern that only 6 percent of existing nuclear power in States would be counted towards developing a State's goal, while 100 percent of existing renewable power was credited. Now, in the final rule credits for both of those are gone. However, I understand that States will have the option to choose mass-based goal for compliance that would insure that we value all existing zero carbon resources within a State similarly. Is that correct?

Ms. MCCABE. Actually, whether a State chooses a mass-based approach or a rate-based approach, all new and increasing zero emitting generation whether it's renewable or nuclear can be part of a compliance—

Mr. DOYLE. New, but there's no credits for existing.

Ms. MCCABE. Well, we start in 2012, so anything that's new from that point on. The mix of generation from before 2012 has already led to a particular profile for—

Mr. DOYLE. Well, let me ask you this. If a State adopts a mass-based goal and implements stringent leakage mitigation policy.

Ms. MCCABE. Yes.

Mr. DOYLE. Do you believe nuclear plants will not be able to prematurely retire unless they're replaced by equivalent zero carbon power or energy efficient measures?

Ms. MCCABE. Well, Congressman, there's a lot more that goes into the economic viability of nuclear plants than this rule can address, so I really can't speak to—

Mr. DOYLE. Well, if the nuclear plant retires prematurely just for cost factor, you know, because it's priced—

Ms. MCCABE. Right.

Mr. DOYLE [continuing]. Out of the market and a State adopts a mass-based goal, will they have to replace that with zero—you know, will their only choice for replacement of that be zero carbon power?

Ms. MCCABE. It really depends on the State's situation and how they design their plan.

Mr. DOYLE. What happens if these nuclear plants retire in a State with a rate-based plan? What's the difference between nuclear plants retiring in a rate-based plan versus in a mass-based plan?

Ms. MCCABE. So, in a—this is probably a longer conversation. We'll be happy to follow-up with you, but in a mass-based plan what's counted is the emissions coming out of the smokestacks from the fossil fuel generation. In a rate-based plan, the State is allowed to take account of other types of generation and sort of discount that against the emission rate of the fossil generation. So, either way they can take credit for or count for zero generating facilities, whether nuclear or renewable.

Mr. DOYLE. Let me ask you another question. In my State in Pennsylvania, our Governor is not a Governor that's saying he won't comply. He's looking forward to working to come up with a

plan. My State is a net exporter of electricity. We could benefit from the option to submit multi-State plans.

Ms. MCCABE. Yes.

Mr. DOYLE. So, adopting a mass-based rather than a rate-based goal may facilitate the kind of a plan, but I've heard that this mass-based goal could handicap future economic growth as emission limits in total are capped. So, how do you respond to the concerns that some States have about that? Could these multi-State plans shift to accommodate new sources of power?

Ms. MCCABE. Yes, we believe that that can be fully accommodated. And your point about multi-State plans, the final rule is very flexible in terms of States working with one another either formally or informally. 111(d) of the Clean Power Plan does not constrain new growth, and so new power plants can be built in this country to meet new load growth, just as they always can.

In terms of a Clean Power Plan that is using a mass-based approach, we've given the States some guideposts to use to make sure that that plan is not artificially distorting the relationship between new generation and existing generation. We'd be happy to provide more information to you.

Mr. DOYLE. Yes, I'd appreciate that. And, finally, the formula for the first building block of the Clean Power Plan, EPA determined that States could reasonably improve coal fleet efficiency between 2.1 and 4.3 percent rather than the 6 percent across the board under the proposed rule.

Ms. MCCABE. Correct.

Mr. DOYLE. Can you elaborate on how the EPA determined this range for efficiency improvements in the final rule, and how the EPA reached different rates for different parts of the country?

Ms. MCCABE. Yes, that's a really good question. And, again, that came out of the response and the comments that we got. So, as you reflected, in the proposal we looked across the universe and came up with our 6 percent number as we thought was a reasonable national number, not that every single plant would be able to do that. The comments that we got back showed even more range of abilities, and what we did was we looked regionally across the country in the three interconnects, which are the three main sections of the power grid, and we found that when we looked at the data on an interconnect basis, we actually came up with slightly different capabilities, different capacities, because of the age of the fleet, and other characteristics of the regional fleet. So, that's how we got to those different rates. And to us, that made a lot of sense based on that input that we got.

Mr. DOYLE. Thank you, Mr. Chairman. Mr. Chairman, the Pittsburgh Pirates this evening, the team that I represent in Congress, are going to take the major leagues' best pitcher, Mr. Arrieta, and give him a massive beating tonight.

Mr. WHITFIELD. Yes, I should have introduced—

Mr. DOYLE. Let me say that for the record.

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

Mr. LATTA. Thanks, Mr. Chairman, and Administrator, thanks very much for being with us today.

Under 111(d) the States must file a State plan by September the 6th, 2016 unless it submits an extension request that is approved by the EPA. EPA has said that, "This approval of State extension requests is a ministerial action." Before rejecting a State's extension request will EPA allow for public notice and comment?

Ms. MCCABE. The requirements are very straightforward for what's required in the extension request, so we're not contemplating a formal notice and comment period, but we certainly will be in consultation with the State.

Mr. LATTA. OK. If the EPA then rejects a State's extension request, EPA believes it can issue a Federal plan for that State. In that case, will EPA allow for notice and comment before imposing a Federal plan?

Ms. MCCABE. Well, we have a proposed Federal plan out now that will be going through notice and comment, so if we are put in a position, which I hope we will not be, because I think States want to go forward with plans, if we're put in a position of finalizing a plan, we will have already gone through the proposal process, have gotten people's input on that proposed Federal plan.

Mr. LATTA. So, if I understand then, that you won't have a notice and comment period then if a State is disallowed. Is that correct?

Ms. MCCABE. If a State does not submit a plan, we would go forward and finalize a plan.

Mr. LATTA. OK. But in this case, though, if a State rejects—if the EPA rejects a State's plan, if it rejects it?

Ms. MCCABE. If we receive a plan from a State and our evaluation is that it doesn't meet the requirements of the rule, we would propose to disapprove it. We would not—

Mr. LATTA. OK. But in that case, though, are you still saying then there won't be a notice and comment period?

Ms. MCCABE. No, there would be.

Mr. LATTA. There would be.

Ms. MCCABE. There would be.

Mr. LATTA. OK. And how long would that be for?

Ms. MCCABE. It would be at least 30 days.

Mr. LATTA. OK.

Ms. MCCABE. That's generally—

Mr. LATTA. At least 30 days. Now, will you be in direct contact with the States, or—

Ms. MCCABE. Oh, absolutely.

Mr. LATTA. Ohio—my home State—the Ohio EPA has repeatedly asked EPA to consider investments made before 2012 to lower CO₂ emissions which especially affects the coal plants in my State. Would you explain why the original baseline date of 2005 was abandoned for the 2012?

Ms. MCCABE. Well, I need to correct the way you stated that last part. We've never had a baseline, we've never had a baseline of 2005. We've always had our starting point in this rule be 2012. This is a technology-based rule, so we always pick a year to start from to go forward, and 2012 was the year in the proposal, as well as in the final, where we had the most current, and complete and accurate data about the generation fleet, so that's why we started with that year.

Mr. LATTA. Let me ask, because of that, since we have in Ohio, until recently had about 70 percent of our energy is coal-fired. What factors did you consider for the State of Ohio when you were looking at that 2012 date? Did you look at the number of coal-fired plants we have, our manufacturers, our consumers? Did you take into, you know, the cost and expense that's going to incur out there? Could you explain a little bit on that?

Ms. McCABE. Yes, sure we did. 2012 is the year we use nationally. And as I say, that's because we want to have everybody starting from the same place. For each State, once we established a national uniform rate that was reasonable to expect in our view based on our review of the approaches that were available, we then took that emission rate and applied it to each State, which is why each State ends up with its target in the rule. So, a State like Ohio or like my home State of Indiana that has a lot of coal-fired generation, ends up with a significantly higher rate in the final plan than a State with less coal-fired generation.

Mr. LATTA. Well, you say in your testimony that this rule sets an achievable standard for power plants, but seeing as Ohio has achieved approximately 30 percent reduction in CO₂ emissions between 2005 and 2014 in its coal-fired power plants, doesn't your choice of a 2012 baseline mean power plants that are not coal-fired at that time then?

Ms. McCABE. Well, it treats all the States the same, so many States and utilities across the country have been moving towards cleaner energy. That's what our rule found to be the case, and that can continue. So, we took a snapshot in 2012 and said oK, going forward what's reasonable to achieve beyond where people are in 2012? And it—

Mr. LATTA. Well, let me just—I'm cutting you off because my time is running out here. Just real quick, because I know since Ohio was over 70 percent coal-fired, my recollection was since—I'm right next to Indiana. Wasn't your State about 90 percent coal-fired just a few years ago?

Ms. McCABE. 90 plus, I think it still is, Congressman.

Mr. LATTA. Do you think there's going to be a measurable impact on industries in the State of Indiana because of what's going to happen there, that you are over 90 percent in the State?

Ms. McCABE. I think that with the amount of time in the rule and with the options that are out there for cleaner energy, that we're going to be able to move forward, implement this, and it is not going to have significant impacts on the economy, that it's going to be positive.

Mr. LATTA. Thank you, Mr. Chair. I yield back.

Mr. WHITFIELD. The gentleman's time has expired. At this time, the Chair recognizes the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. CASTOR. Well, thank you, Mr. Chairman, for calling this hearing on the Clean Air Act and the Clean Power Plan.

The Clean Air Act is one of America's bedrock environmental protection laws, and it has been for over 40 years. I believe the Clean Air Act reflects our values. We value the air that we breathe, we are willing here in America to tackle significant environmental threats, and to tackle these threats EPA uses the best science, pub-

lic input, examines health impacts. And what we understand here in 2015 is that we've got to tackle one of the most critical modern challenges yet, the changing climate, and the very costly impacts of the changing climate.

I believe EPA has developed a flexible carbon pollution reduction plan that is good for consumers, it's good the environment, it's good for the public health, and it will be good for our economy. And I think, Ms. McCabe, that EPA is right to encourage and spur States to meet the challenges, and the rising costs of the changing climate.

Coming from the State of Florida, these costs are daunting looking ahead. You've detailed some of them relating to public health, but what I see on the horizon if we do not act: increases in property insurance in Florida, flood insurance—boy, that's really hitting home now, watching what's happening in South Carolina.

I was a county commissioner before I came to Congress. Storm water fees, the ability of local governments, what they're going to have to do to replace storm water and waste water facilities, beach renourishment costs are going to increase.

Another cost unless we act will be the failure to tap into these clean energy jobs and innovation. And I noticed in the Clean Power Plan you have—EPA has included a Clean Energy Incentive Program to reward early investments in renewable energy generation, specifically solar and wind during 2020–2021. Now, coming from Florida where we have huge potential for solar projects like other States do, I'm excited about what a program like this could mean for my State. Could you please elaborate on that initiative?

Ms. McCABE. Sure. And you're sure right that local government is really on the front lines of facing these issues. So, the Clean Energy Incentive Program was intended to do exactly what you said, which is we know that these projects are going forward. They're teed up, they're moving forward, the costs are coming down, especially because we moved the start date from 2020 to 2022. We didn't want to inadvertently put the brakes on any projects that were going forward anticipating the Clean Power Plan, so this program would allow States if they opt into it, they certainly don't have to, to bring forward some of their compliance plan, which the Federal Government will then match to encourage, to provide that little bit of extra incentive for solar projects, for wind projects, and for energy efficiency in low-income areas to get a head start and really get rolling.

Ms. CASTOR. I wondered, as well, the Union of Concerned Scientists recently issued a report as they do routinely, and they said that most States are already well on their way to complying with the Clean Power Plan. They released an analysis in mid-August. They said they find that 31 States are on track to be more than halfway to meeting their 2022 emission rate benchmark, and that 20 States are on track to be more than halfway toward meeting their final 2030 compliance targets. They said they see great movement because of renewable energy standards, energy efficiency initiatives, nuclear power in States, and transition to natural gas. Do you agree with their analysis that we've got 31 States on track to be more than halfway to 2020, and the other 20 States closing in on halfway of 2030 targets?

Ms. McCABE. I think what this is reflecting is exactly what we saw when we looked at the record, which is that States and utilities are moving forward to move to cleaner natural gas, to build new nuclear facilities, to invest in renewable and solar. That's the trend that we're seeing all across the country, that's what the rule is built on, that's what we're supposed to do in building the rule. So, without speaking to the exact numbers in the study, yes, that's exactly the idea, that these things are already underway.

Ms. CASTOR. Thank you, and I yield back my time.

Mr. WHITFIELD. The gentlelady yields back. At this time, the Chair recognizes the gentleman from Kansas, Mr. Pompeo, for 5 minutes.

Mr. POMPEO. Thank you, Mr. Chairman.

I want to get to the substance of this rule, but it's difficult to do if we can't expect the witness to fulfill commitments that they've made to this committee. In June of last year when you testified, I asked you a question, I asked you a question about how many times you and EPA had spoken with Mr. Podesta, who is now the chairman of the Hillary Clinton for President campaign. I asked you that question, you said you'd take it back and you'd get us an answer. We submitted a formal QFR asking you about meetings with the White House, and we got a letter back that said we had a lot of meetings, that we met with thousands of people. Ms. McCabe, how many times did you meet with Mr. Podesta?

Ms. McCABE. I don't know the answer to that.

Mr. POMPEO. So, still a year and two months later you haven't bothered to go back and look at your records to answer a legitimate question presented by this committee.

Ms. McCABE. Congressman, we do our best to respond to the questions that we get from you, and we'll certainly do that in the future.

Mr. POMPEO. So, the best you can do is tell this committee that you've met, when asked a direct question about the politics of this rule and who you met with, a simple administrative question, the best you can do is say we met with thousands of people. I have the letter, that's what it says. It's your response, it's the EPA's response.

Ms. McCABE. Without seeing my response, Congressman, I can't—

Mr. POMPEO. I'll read it to you.

Ms. McCABE [continuing]. What else we might have said in response to your question.

Mr. POMPEO. It says, "We reached out to thousands of people through hundreds of meetings, listening sessions, video conferences, phone calls, conference calls, and almost 2,000 emails." No mention of Mr. Podesta in the entire response, no mention of any officials from the White House in the entire response. You didn't answer the question, Ms. McCabe. It's a simple question.

Ms. McCABE. I will go back and talk with folks about how we responded to your question.

Mr. POMPEO. When you see the frustration and you hear Members of Congress talk about the EPA being out of control, can you understand when you won't answer simple questions why someone might conclude that you don't give a darn what Congress thinks?

Ms. MCCABE. Well, it's unfortunate if that's your view, because I think that we're all here to serve the public.

Mr. POMPEO. Not just my view, Ms. McCabe, it's the view that you expressed when you said we're not going to give you an answer, Mr. Pompeo. We're going to blow you off. Unacceptable, unacceptable.

You said today that if a State needs more time, it's a ministerial action, you'll give them an incremental 2 years. At the end of those 3 years, if the Governor of Kansas, this one or the next Governor, concludes that there'll be massive brownouts in Kansas as a result of complying with this rule, and writes you a letter to that effect, what will the response of the EPA be?

Ms. MCCABE. I can't speak to a future eventuality like that. We did ask the States—

Mr. POMPEO. No, no. You can answer it. This is a legal question, this is about the rule. The Governor says we can't comply, or we're going to have poor people freezing in the winter in Kansas if we comply with this rule. Tell me what the EPA's actions will be in response to what I'm sure you will view as noncompliance with the State's obligation under this rule? Tell me what the Environmental Protection Agency is going to do to those poor people in Kansas?

Ms. MCCABE. I cannot speak to a future action of the EPA based on facts that we'll need to look at very carefully.

Mr. POMPEO. All right. But you'll have the right to put a Federal plan in place.

Ms. MCCABE. We will go through a process to make a determination—

Mr. POMPEO. That's a yes or no question, Ms. McCabe. You'll have the right to put a Federal program in place. You might conclude not to do so, but you'd have the right to do so under this rule.

Ms. MCCABE. If a State submits a plan that we feel does not comply with the law, we have the authority. It's not a question of right, we have the authority and the responsibility under the Clean Air Act.

Mr. POMPEO. Right. So, you talked earlier about States cooperating. You said they're cooperating. I don't view it as cooperation. If someone comes up to me on the street and threatens my life, and I hand them my money, I just simply don't view that as cooperation. These Governors will be under enormous pressure. It's not about them cooperating, it's about the heavy hand of the EPA forcing them to make decisions that they believe are inconsistent with their duty to the State, and to protect the citizens of their States. But that's a far cry from cooperation, the word that you used three times so far this morning.

Ms. MCCABE. Well, I know from conversations that I've had and meetings that I've had with people that States are talking about working—

Mr. POMPEO. Because they know what's coming. Let me go down a—you said there were fewer missed school days. How many fewer missed school days per student per year will there be as a result of the Clean Power Plan?

Ms. MCCABE. Well, I'd be happy to get you the numbers that we put together, Congressman. No, really. I mean—

Mr. POMPEO. I'll look forward to it. I mean, this is the kind of data. If you're going to make assertions here to this committee today about fewer missed school days, and you said there will be shorter allergen seasons, it would seem to me, response of you to say this allergen season in a particular region will be shorter by 7 hours, 26 minutes, plus or minus whatever your science can determine. But you throw these things out without any foundation in the data set and expect us to accept that as a fait accompli. So, I'd just like to know how many fewer school days as a result of this. And I'll look forward to your letter.

Mr. POMPEO. Do you have a response? Sure.

Ms. MCCABE. I can answer that.

Mr. POMPEO. Sure.

Ms. MCCABE. Because we did put that information together.

Mr. POMPEO. Great. Tell me what it is.

Ms. MCCABE. I just didn't want to fish through a bunch of papers while I was listening to you. What we predicted is that in 2030 when the plan is in place, there would be 140,000 fewer missed school days.

Mr. POMPEO. Great, thank you very much. I'm way out of time. Thank you.

Mr. WHITFIELD. At this time, the Chair recognizes Mr. Loebsack of Iowa for 5 minutes.

Mr. LOEBSACK. Thank you, Mr. Chair. First, I do want to thank Administrator McCabe for testifying here today.

I may not take up the whole 5 minutes. I want to focus on the 2012 date that was already mentioned and go to my home State, Ms. McCabe. You know that over 28 percent of our electricity in Iowa is generated by wind power. We're the leader in the country. And I applaud the EPA, of course, for working to cut America's carbon pollution. I think it's a great idea, and we've got to move our energy and environmental policy into the 21st century. But in my State we've made a hell of a lot of progress over the years, and I just—I have a concern that starting this 2012, doesn't really recognize what States like Iowa have already done. Can you talk to me about that, you know? I mean, it's really difficult, you know, to sort of start it at a particular point when a place like Iowa has made so much progress, and then a number gets attached after 2012, and it just didn't seem to honor the commitment that folks in Iowa have already made up to this point.

Ms. MCCABE. Yes, I'm glad you asked that, Congressman. I think that there are a number of States who can legitimately make a similar claim and utilities where they have invested early. And the way this program works, it actually reflects the good work that States who have been forward-looking have already done because they have less far to go, ultimately, in getting to that 2030, because they're already well along the way. So, the way the Clean Power Plan works, since it takes into account each State's mix, current mix as of 2012, States that are further ahead were further ahead when we took that snapshot and projected into the future. So, there's lots of opportunity, and for those technologies to continue to be invested in, but States, some of them are well along the way. It's similar to what the Congresswoman cited before.

Mr. LOEBSACK. I've seen a 42 percent number attached to Iowa. I don't know if that's accurate or not, but that's going to be very difficult, of course, and we've already come a long way. If we had set that date back to 2010 or whatever the case might be, it would be a less onerous burden certainly on the State of Iowa. We all want clean energy, we all want to cut, you know, obviously carbon pollution. We all want to do those things, and Iowa is going to continue to do the right thing. The Governor there is just now putting together a team to try to come up with some kind of an energy plan, and I commend him for that. And we're going to do the right thing, we're going to keep doing it.

Ms. MCCABE. Yes.

Mr. LOEBSACK. But it just does seem a bit unfair to start it at that 2012 date and not recognize all the progress that was already made in a place like Iowa. And, hopefully, we'll be able to take advantage of the incentive program, as well. You know, we'll continue to work with you on that but, you know, I'm making a plea for some degree of flexibility in all this at this point.

Ms. MCCABE. Well, I think the fact that the final plan focuses much more than the proposal did on the regional nature of the power market, goes directly to your point, as well.

Mr. LOEBSACK. Right.

Ms. MCCABE. Because it allows the regions, the utilities and the regions to work together. And, again, States that are further ahead are further ahead, and will benefit from that investment that they've made.

Mr. LOEBSACK. Right. Well, we'll stay in touch going forward, and I just wanted to express the concern that I have about that date. And, hopefully, we'll have a little bit of flexibility that we'll see from you folks moving down the road. Thank you so much.

Ms. MCCABE. Thank you.

Mr. LOEBSACK. Thank you, and I yield back the rest.

Mr. WHITFIELD. The gentleman yields back. The Chair recognizes the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Ms. McCabe, I've heard some confusion here today. I read you some quotes out that said on four occasions over the last few years it said that you all weren't going to move towards a cap-and-trade program. I then read you something that indicated you are going to a cap-and-trade program, and then you told Congressman Barton that you weren't going to a cap-and-trade program. And I find that hard to understand. Is it your position that you all are not heading towards a cap-and-trade program?

Ms. MCCABE. This rule does not set up a cap-and-trade program, Congressman.

Mr. GRIFFITH. All right. I beg to differ. Let me go through some of the documents, and I guess we just have to start with your own documents. You know, when you take a look at it in the Environmental Protection Agency in the pre-plan that's out there and the summary, it says, "This proposal," talking about your plan, and I can be glad to give you a copy of this after I finish reading it. "This proposal presents two approaches to a Federal plan for States and other jurisdictions that do not submit an approvable plan to the EPA: a rate-based emissions trading program, and a mass-based

emissions trading program." Now that to me sounds like cap and trade of one form or another.

It goes on to say on page 43, "As discussed at length in the emission guidelines, electric generation units operate less as individual isolated entities, and more as multiple components of a large interconnected system designed to integrate a range of functions that insure an uninterrupted supply of affordable and reliable electricity, while also for the past several decades maintaining compliance with air pollution control programs. Since as a practical matter under both the emission guidelines and any Federal plan, emissions reductions must occur at the affected electric generation units, a broad scale emission trading program would be particularly effective in allowing the electric generation units to operate in a way that achieves pollution control without disturbing the overall system of which they are a part, and the critical functions that this system performs. In addition, consistency of requirements benefits the affected electric generation units, as well as the States, and the EPA in their role as administrators and implementers of a trading program. The EPA believes that there are," skip a line, and then, "The EPA believes there are compelling policy reasons that support the provisions of a proposed model trading rule at this time."

It goes on to talk about the public hearings that you had which you didn't have in my district, where you would have heard something completely different. As I told you before, I was elected on this issue, and a 28-year incumbent who agreed with you all isn't here because of this issue, cap and trade. And you go on to talk about, "There's strong interest in seeing a model State program," and then it goes on to say and I find this fascinating. "In addition, some States have indicated that they may prefer to rely on a Federal plan, either temporarily or permanently, rather than develop a plan of their own. This proposal of a model trading rule addresses these policy interests. The approach of proposing model trading rules that are identical in all key respects to proposed Federal plans that may be promulgated later is consistent with prior Clean Air Act Section 111(d)."

Now, I don't know in what kind of a universe or what English language you're looking at, but I just picked out some small parts here, and every time I turn around it's talking about this rule pushing on the States a trading plan similar to cap and trade, if not cap-and-trade-heavy, it's cap and trade of some form, and two different versions of it. And then it says, and I will—I interpret it differently. It says, "In addition, some States have indicated they may prefer to rely on a Federal plan." That's because they're not going to do it, because isn't it—am I correct that if a State says like we heard earlier that one of the States feared blackouts and people freezing in their homes, if they choose not to do it, you all are going to come in with your Federal trading program and do a Federal program. Isn't that correct, yes or no? It's a simple yes or no.

Ms. MCCABE. No, it's not, it's not a simple question to answer.

Mr. GRIFFITH. It is a simple question: Are you going to make the States do a trading program? If they don't comply with your Clean

Power Plan, are you coming in there and imposing a Federal trading plan on them, and the answer is either yes or no.

Ms. McCABE. We have not finalized a Federal plan. We have a proposal out there, so I cannot speak to what the—

Mr. GRIFFITH. OK. Under this proposal, wouldn't that be the natural and logical conclusion, for someone reasonable reading the English language that I just read to you out of your own document. Would that not be reasonable?

Ms. McCABE. We have proposed trading programs, a rate-based one, and a mass-based one, and I would commend you to the comment record, Congressman, where we got overwhelmingly inputs from States and utilities saying—

Mr. GRIFFITH. Where you—

Ms. McCABE [continuing]. The trading programs were effective and efficient, and they were using them, and it works.

Mr. GRIFFITH. And where you disenfranchised the people of Appalachia because you didn't come to talk to any of the coal-producing areas in Central Appalachia. You refused to come and have a hearing there. We asked you all to do it, you wouldn't do it, didn't have to be my district, could have been Mr. Johnson's district, or Mr. McKinley's district, or somebody else's district. You wouldn't do it. That's why your comments are going to support what you got, because you went out and found the people that agreed with you to go put your hearings in.

Mr. Chairman, I apologize. I am over my time. I yield back.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentleman from Texas, Mr. Green, who I guess represents part of Houston, as well, Astros.

Mr. GREEN. Yes.

Mr. WHITFIELD. OK, 5 minutes.

Mr. GREEN. I'm proud to be a co-fan with my good friend from the South with the Astros. But I want to thank the Chair and the ranking member for holding the hearing, and I want to thank Acting Administrator McCabe for coming. The EPA's Clean Power Plan has been subject to much debate. We're happy to have you here today.

Administrator, the EPA's Clean Power Plan changed significantly from the proposed rule to the final product. My understanding was the EPA wanted to be responsive to stakeholder feedback, including many concerns brought by the industry. The final rule included both reliability safety valve, and what looks like a reliability assurance mechanism. My question is, does the Memorandum of Understanding between DOE, EPA, and FERC function as the beginning of a reliability assurance mechanism? Can you explain what steps EPA took to insure that reliability before the implementation?

Ms. McCABE. Yes, that's a good question, Congressman. The Memorandum between the three agencies is really a continuation of the relationship that we've developed, our three agencies, to make sure that we're focused collectively on what's going on in the power industry as they're responding not just to EPA rules, but to the various trends in the industry, and moving forward, how it's going so that we're all on the same page, and in good communication.

The variety of things that we built into the Clean Power Plan that were directly responsive to the reliability issues that we heard were more time, more flexibility in the glide path, making sure that the States in developing their plans specifically address reliability which may involve, up to them, but may involve consulting with their reliability entities or with their PUCs, making sure that those conversations are happening.

The reliability safety valve that you mentioned is also something that we put in that was very important, the ability for States to adjust their plans. So, it's the whole package really that collectively addresses the reliability concerns.

Mr. GREEN. Both Congressman Olson and Congressman Doyle over the past two Congresses and I have worked on legislation to address the must-run orders. Through a strange twist in the law, the DOE told a power plant to run even in violation of the Clean Air Act, the operator could be civilly liable. Does CPP include your reliability safety valve that allows 90-day must-run orders in the event of an emergency? Would an operator face potential litigation for following those orders?

Ms. MCCABE. We actually think it's very unlikely that an operator would be put in that position because of the flexibility in the plan, and how States can set up their plans. But in the event that an operator was put in that position, that's the purpose of the reliability safety valve, to give them the ability to go forward without being worried about being in violation of the Clean Air Act.

Mr. GREEN. EPA stated that Federal implementation has not been finalized. EPA is deciding between rate-based or mass-based Federal implementation plan. The final rule indicated a 90-day comment period. How many comments has the agency received thus far?

Ms. MCCABE. We actually—that comment period will start when the Federal Register publishes the rule, which we expect to be later this month, so we haven't gotten any formal comments yet.

Mr. GREEN. Does the agency anticipate extending the comment period? I guess will that depend on the amount of comments you receive?

Ms. MCCABE. If we get those requests, Congressman, we'll take a look at them and decide. We wanted to start out with quite a lengthy comment period to make sure that people had time to put their thoughts together.

Mr. GREEN. The final rule changed the way EPA views nuclear power. Can you explain further how existing or under construction nuclear could be counted?

Ms. MCCABE. Yes. So, any under construction or upgraded nuclear power since 2012 can be included by a State as part of its compliance plan, just like any—it's treated just the same as any other zero emitting generation, which was a lot of the feedback that we got from folks.

Mr. GREEN. OK. Well, in Texas we have invested significant amounts in wind power, and I'd like to see the same done with solar. How does EPA envision the Clean Energy Incentives Program encouraging new construction of solar?

Ms. MCCABE. It allows States, if they choose, to sort of front load by providing some extra incentive to those projects. And in order

to make that an incentive, the Federal Government will match the investment that the State would put in in terms of compliance allowances or credits, however they choose to do it.

Mr. GREEN. My last 20 seconds, how does EPA envision the Clean Energy Incentive Program encouraging new construction? The EPA wants to establish a credit reserve, and will run into problems of verification, authenticity issues before, but how is EPA going to do that?

Ms. MCCABE. So, we proposed an approach for people to have accountability systems. It's very important, as you recognize, that everybody be following a good set of rules, and there's a lot of information out there because of the renewable energy markets that already exist. So, we'll work with all of that information and get a set of guidelines out there for people that everybody's comfortable with.

Mr. GREEN. OK. Thank you, Mr. Chairman.

Mr. WHITFIELD. The Chair recognizes the gentleman from Texas, Mr. Flores, for 5 minutes.

Mr. FLORES. Thank you, Mr. Chairman. I appreciate the opportunity to have this important hearing today. Thank you for being here, Ms. McCabe.

States have to file, if they want an extension to produce plan, they've got to file before 2016. Correct?

Ms. MCCABE. In September of 2016. Yes, sir.

Mr. FLORES. OK. If the Texas legislature doesn't meet until 2017, how are they supposed to file a plan in 2016?

Ms. MCCABE. Well, every State is different, but in many States it's the environmental agency or on behalf—the Governor through the environmental agency that has the responsibility for filing the plan.

Mr. FLORES. But the representatives of people really don't have any input into it, because the legislature doesn't meet. Did cap and trade pass Congress?

Ms. MCCABE. Well—

Mr. FLORES. No, it didn't.

Ms. MCCABE. For acid rain, it did. This is not a cap-and-trade rule, Congressman.

Mr. FLORES. Well, I think, Mr. Griffith, if you look at pages 1174 and 1775 of the rulemaking, it's pretty clear that Mr. Griffith was right. He was on to something. EPA is going to have cap and trade in this, and we both know that that's the direction you're trying to go.

Let's talk about new natural gas EGUs for a minute. Do those improve the emissions profile of the country?

Ms. MCCABE. Sure they do. Yes, that's clean energy.

Mr. FLORES. OK. Does EPA support the construction of new natural gas EGUs?

Ms. MCCABE. We support the move towards cleaner energy. Natural gas is a very important part of our diverse energy mix.

Mr. FLORES. OK. On page 346 of the 111(d) rule, it says in the second full paragraph, the EPA says, "Unlike emission reductions achieved through the use of any of the building blocks, emission reduction is achieved through the use of," and I'm going to put parenthetically here, "natural gas combined cycle plants require the

construction of additional CO₂ emitting generating capacity, a consequence that is inconsistent with the long-term need to continue reducing CO₂ emissions beyond the reduction that will be achieved by the rule.” So, can you explain what that means?

Ms. MCCABE. I think what that’s reflecting is that natural gas is a fossil fuel. It does have CO₂ emissions, and there’s a range of options that this country has to make sure that we’re always moving towards a cleaner energy supply. Natural gas and some coal is part of that, but there are also even cleaner types of energy that we want to encourage.

Mr. FLORES. So, does the EPA support or oppose the construction of natural gas EGUs?

Ms. MCCABE. We do not oppose the construction of clean energy in this country.

Mr. FLORES. OK, thank you. Because solar is not going to produce base load, wind is not going to produce base load power, but natural gas EGUs do produce base load power, as coal does, as nuclear, but you’re not giving any credits for nuclear power.

This is going to be fully implemented by 2030 according to your present plan. What will the emissions reduction be across the Nation for CO₂ in the year 2050 versus today?

Ms. MCCABE. I don’t have that number. We’d be glad to get some information back to you on that.

Mr. FLORES. Yes, that would be good. I mean, you give us these metrics about 140,000 fewer lost school days, and a shorter allergy season. You know, it seems to me like you start with what’s the sort of the headline number, we’re going to have experts that said reduction. It seemed like that that would be a number that would be on top of your mind.

In order to get to this 2030 standard, how much of the technology exists today to get to that standard?

Ms. MCCABE. All of it.

Mr. FLORES. All of it, every bit of it.

Ms. MCCABE. Yes, sir.

Mr. FLORES. OK. What’s the mean cost per reduced ton of CO₂ emissions to get there?

Ms. MCCABE. I don’t have that number off the top of my head.

Mr. FLORES. That would be a really good number to have.

Ms. MCCABE. Sure.

Mr. FLORES. So, when we have—let’s roll back out to 2050 again. So, what’s the change in the mean temperature going to be around the world?

Ms. MCCABE. Again, we’d be happy to provide you more information about the specific metrics.

Mr. FLORES. OK. And what’s the change in sea levels going to be?

Ms. MCCABE. Again, that’s something—

Mr. FLORES. But we talk about school days, but the whole thing here—all the arguments I’ve heard, particularly from the other side of the aisle, about how this is going to make the world a better, happier place.

Ms. MCCABE. Yes.

Mr. FLORES. But you don’t have the information we need, so I’d really like to know.

So the other thing that would be nice to know, what's the economic impact of reduced reliability? I mean, you've heard the States say that there's going to be reduced reliability. The only people in this room that say we're going to have improved reliability are the folks in the EPA.

Ms. McCABE. Respectfully, I disagree with that. There are many people who weighed in on the climate plan that have taken just the opposite view and gave us advice about how to make sure that our rule would not impair reliability.

Mr. FLORES. Well, I can tell you in the winter of 2013, and this plan had been in effect in Texas where we had a record cold snap, there would have been a lot of school days missed because there was no power for schools because a big chunk of the coal-powered plants would have been offline because of this. And I'm at the end of my time, I yield back.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair. And thank you, Assistant Administrator McCabe, for joining us today. Thank you for your patience and your responses, which are very much governed by civility, so I appreciate that.

The Clean Power Plan has the goal of reducing carbon emissions by 32 percent below 2005 levels by 2030. States will have 15 years to achieve those goals under this plan. This is definitely achievable, in my opinion. New York's experience demonstrates that it, indeed, is possible. Since 2005, New York and the other States participating in the Regional Greenhouse Gas Initiative, or REGGI, have seen a decrease in carbon emissions of more than 45 percent. And we have not sacrificed economic growth or reliability to achieve those given reductions. And according to several reports done by an independent group, New York's auction proceeds generated over \$1 billion in savings for New Yorkers, so this can be done. So, I look at a charge of 32 percent over 15 years, and look at a record achieved of 45 percent over 10 years in contrast.

Ms. McCabe, one of the current statements the opposition to the Clean Power Plan is making is that the rule mandates an emissions trading scheme. As I read it, there is no mandate to use emissions trading as the way to meet the standard. Is that correct?

Ms. McCABE. That's correct.

Mr. TONKO. And as I understand it, it was utilities and system operators who advocated for including this compliance option in the final rule, not just State governments that were already participating in these systems. Is that correct?

Ms. McCABE. Yes, we heard from many utilities that this was a preferred way that they're already operating.

Mr. TONKO. What reasons did the utilities and system operators offer in support of including this option?

Ms. McCABE. Well, trading has been shown through the acid rain program and a number of other programs to be the most flexible way for operators to manage their assets. Many utility companies operate in multiple States. They have a range of assets, they may have coal, they may have renewables, they may have gas, and having a system where they can average, they can trade back and

forth, it just makes sense. They're going to have more ability to make the investments where they are the most cost-effective, and not make them in places where they won't. And then they can use the system to average over. And if they can trade with other companies, it just broadens the capacity for the system to find the cheapest and most cost-effective technologies and approaches.

Mr. TONKO. Was it just about that cost, or was reliability also a consideration?

Ms. MCCABE. Reliability is—the more flexible and open the system is, the easier it is for companies to feel confident that they have play in the system, and they'll be able to meet the load needs.

Mr. TONKO. Thank you. I also want to express my appreciation for the agency's efforts at outreach, outreach to State governments, and to the wide range of stakeholders in this effort.

One of the things that the original proposal did not include was a reliability safety valve. This was something mentioned by a number of witnesses at our hearings on the original proposal. The final rule does include a safety valve, and I heard you exchanging with Representative Green a few moments ago. Can you further develop or describe for us how that would work?

Ms. MCCABE. Yes. So, as I mentioned, States can certainly design plans that will minimize the chance that an operator will be put in the position of having to choose between complying with a must-run order and violating the Clean Air Act. But if that should occur, what the reliability safety valve does, is it allows that plant to continue running. In fact, our expectation is that if a plant gets a must-run order in an emergency situation, it will run. And it sets up a period of 90 days for the company to take a breath, do what they need to do, and figure out whether there's a problem with the State plan, whether this is a situation that's going to resolve itself, and what it needs to do long term. So, for that safety valve period of time, they can do what they need to do, relax, and figure out the next steps.

Mr. TONKO. Thank you. I believe the final rule addresses a number of the concerns raised and provides an achievable, affordable path for reducing emissions. And, you know, it's been stated time and time again that there are many concerns about climate change in this Nation, and for our world. And I believe that the leadership that we can all provide will inspire responses around the world to make certain that we, in fact, will have a global response to what is a critical situation that faces not only this generation, but the many to follow. So, thank you very much, again, for our appearance here.

Ms. MCCABE. Thank you.

Mr. WHITFIELD. At this time, the Chair recognizes the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman.

Assistant Administrator McCabe, I'm incensed and I think the American people are incensed, and I'm certain that the people that I represent in Eastern and Southeastern Ohio are incensed at the logic that's being used by the EPA as it addresses the concerns around employment. The logic that seems to be applied to coal regions of the country where we've got communities of 1,000, 1,500 people that are all coal miners, and such, that they can just plant

seeds like a seasonal garden and all of a sudden industries and new job opportunities might crop up. The logic that the EPA is using in their rationale, I certainly understand it because every time a new Government regulation by the EPA comes out, new offices are stood up, employees are hired, and the Washington bureaucracy grows ad nauseam. It happens like that at the expense of the American taxpayer.

I'm concerned about that, and if you look at page 47 of the Clean Power Plan, and the heading that reads, "Addressing Employment Concern," on page 47 your agency states, "The EPA encourages States in designing their State plans to consider the effect of their plans on employment and overall economic development to assure that the opportunities for economic growth and jobs that the plans offer are realized. To the extent possible, States should try to assure that communities that can be expected to experience job losses can also take advantage of the opportunities for job growth or otherwise transition to healthy, sustainable economic growth."

You're obviously not familiar with Appalachia, Ohio, and rural America, and how these rules will affect places like that. So, I'm trying to understand what you mean by economic development. You're asking States to prematurely retire and replace existing plants with new energy infrastructure, and then claim this as a net benefit for jobs and economic growth. This is like breaking a window and then claiming the spending on the replacing of that window as a net benefit. So, what would the EPA do if a State chooses to show it could use the funds that the EPA wants it to spend on replacing perfectly good and reliable energy infrastructure by putting those funds toward a more productive economic use?

Ms. McCABE. Congressman, our job under the Clean Air Act is to implement the Clean Air Act, and we believe that we put forward—

Mr. JOHNSON. I've heard that, Assistant Administrator McCabe. That incenses me even more. You work for the President of the United States, who was elected by the American people with a mandate to care for all of the American people. For the EPA to blindly like a mule going down a furrow say that we don't have to look to the right and the left, and our job is to keep the air clean, or job is not to consider the economic viability of the communities that we're affecting, that is not only irresponsible, it is incomprehensible that an agency in the United States Federal Government would do that to its own people. So, I'm not even going to engage in that dialogue because it doesn't make any sense.

Ms. McCABE. Could I reply?

Mr. JOHNSON. I'll give you—

Ms. McCABE. I wasn't able to get very many words out.

Mr. JOHNSON. Quickly.

Ms. McCABE. The President and the administration absolutely cares about these issues. That's a key reason why he put forward the Power Plus Plan, which is specifically targeted at the transitions that are happening in coal country, and—

Mr. JOHNSON. All right. Let me ask you a specific question. If that's what the President really believes, and that's what Administrator McCarthy really believes, and if that's what you really believe, tell me what you're going to do in Beallsville, Ohio, when you

shut down that coal mining operation that employs about 1,500 people. Tell me what you're going to do to establish a new industry there and create economic growth.

Ms. MCCABE. These are the conversations that—

Mr. JOHNSON. No, it's not a conversation. It's not a conversation that needs to be had. A conversation is not going to put food on the table, clothes on the kids, pay for school supplies. A conversation is not going to solve this problem. And I don't understand how you folks in the administration do not see the devastating impacts that it's going to wreak on—you know, I'm totally off my questions, Mr. Chairman, but I'm just so incensed by the answers to these questions. And I've extended my time, and I apologize. I yield back.

Mr. WHITFIELD. The gentleman's time has expired. At this time, the Chair recognizes the gentleman from Vermont, Mr. Welch, for 5 minutes.

Mr. WELCH. Well, I want to in a way take up where Mr. Johnson was speaking. I had a chance to go to West Virginia and go into a coal mine with Mr. McKinley, and I'll tell you, it was a really powerful experience. Those folks work hard, as you know, and we don't have coal in Vermont, but we have electricity, and those coal miners, many from the UMW, they kept the lights on for us, kept our farms humming, kept the factories going. And there is dislocation. It happens to be the case that I am a strong supporter of efforts to clean our air and to move away from fossil fuels, but that trip really brought home to me that there is an impact on real people who are proud, who are hard-working, who approach things in a patriotic and team-oriented way, and are doing good work.

And what I think this whole committee has to do, not just the administration, is get behind some legislation that my friend, Mr. McKinley, is sponsoring. Two things, in particular. One, a lot of folks who have paid into their health care and the retirement benefits are in jeopardy of having them be lost, and Mr. McKinley and others have legislation that would protect that. And I strongly support it, and I hope a lot of my colleagues, whatever side of the debate they are on on the Clean Air rule, support Mr. McKinley in that.

And the second is, there is that kind of economic dislocation that my colleagues who are from coal country are acutely aware of. And it's amazing to meet those coal miners, and I saw Mr. McKinley in his heartfelt relationship with them in real world understanding. One very vivid example, we were there on Friday. Friday night the big custom down there is to go to the high school football games. They used to have—in this region they used to have eight high schools, now they have three. So, it's really, really tough.

So, I'm a supporter. I think that climate change is a real issue, and some of my colleagues disagree. But there in my view can't be any disagreement about the reality that there is dislocation. These are good people, and somehow, some way we've got to help them, and Mr. McKinley has two ways to do it.

But it also suggests to me that to the extent that you in doing your job at EPA can also have some flexibility, I think it's worthy of as much consideration as possible because while we have to make this transition, in my view, we also have to mitigate the real world consequences of what's happening.

So, I appreciate you being here, I appreciate the work that you're doing. I say to my colleagues that this is not just an EPA issue, because whatever impact is occurring because of rules, there are also market forces that are very much at work. The price of natural gas is a big factor, efficiency which is a good tool is reducing the demand in some cases from what it would be. So, this is a kind of all-of-the-above approach that we have to take.

And I just want to end by saying thank you for the work you do, but I also want to say to my colleagues from coal country that you've got some allies on our side who want to be there to help you help those extraordinary people who have kept the lights on in Vermont, kept our farms running, kept our factories operating. So, thank you.

Mr. WHITFIELD. The gentleman yields back. At this time, the Chair recognizes the gentleman from Mississippi, Mr. Harper, for 5 minutes.

Mr. HARPER. Thank you, Mr. Chairman. Ms. McCabe, thank you.

You know, I come from a State where we rely heavily on electric co-ops to help keep lights on. I've been in close contact with them as the Clean Power Plan has been discussed, and I would like to share just one of their concerns today, if I may.

South Mississippi Electric. One of South Mississippi Electric's biggest concerns is the drastic and unproven shift to renewables in the final version of the Clean Power Plan that would require that 21 percent of SMEs generation come from renewables by 2030. If I could put that in perspective, SME just executed a power purchase agreement for all of the output of a 52 megawatt solar facility being constructed in Lamar County, Mississippi. The capital cost associated with this one solar facility is \$102 million with a 30 percent tax credit. The output of the facility will total less than 1 percent of SME's total generation in a year. Therefore, to meet the 2030 emissions rate, over 21 of these facilities would be required at a cost in excess of \$2 billion. To put that further in perspective, SME currently has just over \$2 billion in assets that have been accumulated over about a 50-year time frame, and under this rule it would double in a mere decade.

So my question for you is, how will people in my State be able to afford costs associated with the dramatic shift from fossil generation to renewable energy generation set forth in the Clean Power Plan?

Ms. MCCABE. Yes. We've spent a lot of time with co-ops, and they have some particular concerns that they've raised to us. I think the important thing to think about in response to that question is that the way the Clean Power Plan, no individual company needs to do it on its own, no individual State needs to do it on its own. The regional approach, ability to average and trade allows people to make appropriate choices so that the most cost-effective and achievable—

Mr. HARPER. Trade as in cap and trade?

Ms. MCCABE. Trading as in trading. Trading as in trading.

Mr. HARPER. OK.

Ms. MCCABE. Which is a perfectly reasonable approach to use whether you're in a rate-based approach, or whether a State chooses to go with a mass-based approach.

Mr. HARPER. Here's what it appears. It appears that the President and the Environmental Protection Agency have, in effect, declared war on affordable energy for families in my State and throughout the country. And I want to remind you, and I know you know it, is what then Candidate Obama said in 2008. And I just want to repeat what he said, because we've addressed this on concerns on coal plants, as well. He said, "So, if somebody wants to build," and this is President Obama when he was running in '08. "So, if somebody wants to build a coal-powered plant, they can. It's just that it will bankrupt them because they're going to be charged a huge sum for all that greenhouse gas that's been emitted." Further, he said, "Under my plan of a cap-and-trade system, electricity rates would necessarily skyrocket, even regardless of what I say about whether coal is good or bad, because I'm capping greenhouse gases, coal-powered plants, you know, natural gas, you name it, whatever the plants were, whatever the industry was, they would have to retrofit their operations. That will cost money. They will pass that money on to consumers, pass that cost on."

So, when you were asked earlier by Mr. Pompeo about meetings that you would have had that were political meetings within the administration, have you ever had a political meeting with anyone in the administration, not the number, but have you ever had any?

Ms. MCCABE. We certainly meet with staff from the White House on major rulemakings that we do.

Mr. HARPER. I'm just curious, have you ever discussed this with President Obama himself?

Ms. MCCABE. I've had the pleasure of meeting the President only a couple of times.

Mr. HARPER. Was this discussed?

Ms. MCCABE. No.

Mr. HARPER. My remaining time that I have, I'm going to yield to Mr. Griffith from Virginia.

Mr. GRIFFITH. Thank you very much. The overarching policy of the Clean Power Plan is to limit the amount of carbon that an individual State can put out. Isn't that correct?

Ms. MCCABE. The overarching approach of the rule is to set emission rates for power plants that—

Mr. GRIFFITH. And certain limit on the emissions.

Ms. MCCABE. The amount of carbon they emit per megawatt hour.

Mr. GRIFFITH. And isn't another word of saying that a cap?

Ms. MCCABE. No, it is not.

Mr. GRIFFITH. All right. We're going to disagree on that. I will say this: I appreciate very much Mr. Welch's comments, appreciate his help. We are having problems. I also agree with Mr. Johnson, it's not something you just have a conversation on. I've got a county where they fight over flat land because there's only about three pieces of it in the whole county that don't already have something built on them, or in a floodway, so it's not something you just easily say we're going to be able to create jobs.

And with that, Mr. Chairman, I yield back.

Mr. WHITFIELD. At this time, the Chair recognizes the gentleman from Kentucky, Mr. Yarmuth, for 5 minutes.

Mr. YARMUTH. Thank you very much, Mr. Chairman. Ms. McCabe, thank you for being here, and I want to thank you in advance—well, thank you initially for the responsiveness you’ve had both to our State officials in Kentucky, but also to me personally and our office. We certainly appreciate the goals of this plan.

Before I get to the question I have, I have to set the record straight, or at least revisit history a little bit about cap and trade, because I was here in 2009 when we passed Waxman-Markey in the House. No, it didn’t pass the Senate, it didn’t get 60 votes. It had a majority of Senators for it, but when Waxman-Markey was introduced, those of us who were from States where a significant majority of our power was produced by coal couldn’t support the initial plan because it was going to cost our consumers a lot of money. So, a group of us led by Rick Boucher, who’s the incumbent that Mr. Griffith defeated, went to our leadership and said, “We can’t support this, and you need our votes in order to do it.” And what we were able to do was change Waxman-Markey in a way that made it very, very reasonable for our States to comply, was not going to have an undue impact on our consumers. As a matter of fact, when I surveyed our businesses and our utility company, they said it would have minimal impact. It might raise rates 15 percent over 10 years if the users did nothing else, and it would also create tens of thousands of new jobs in Kentucky. So, the reason we did that was because we didn’t want to be here today, because we didn’t want EPA to have a plan that might unduly impact our States.

We had no way of guaranteeing that that wouldn’t happen, and we knew that because of the Supreme Court decision and so forth, the obligation of EPA was to regulate carbon emissions. So, that’s where we were. We’re here today because Republicans stopped Waxman-Markey. That’s why we’re here. So, if they have a complaint about that, they can blame themselves.

Now to my question, and this relates to the line of questioning that Mr. McKinley raised earlier. Kentucky is one of those States, as he mentioned, that in the initial plan we were supposed to reduce our emissions by 18 percent. We felt comfortable with that. We thought that was doable. In the final plan, we’re up—it wasn’t 41. I think we’re closer to 30, but still it’s a significant increase. And I understand the rationale for doing that, the way the utilities deliver power is not commensurate with a State-specific target. But what I am concerned about is that with this increase, while the projections for long-term cost-savings seem attractive, there’s the possibility of short term price increases to rate payers, and certainly, if I were not in the United States Congress, I would say I’m all for the plan. I’m for clean air, I’m a tree hugger, you know. I’m fine, but I do have responsibilities to my constituents to make sure that this doesn’t unduly impact them.

So, my fear is that if in our regional network, whatever that region might be, in our mix, that the way that the ultimate resolution of this, or accomplishment of this goal is something that Kentucky’s utilities bear the brunt of, and that our prices rise disproportionately to those other areas in our region that are affected by this mix. So, my question is, is there any analysis, or is there any consideration in your Agency about how we would, if we’re

going to spread the responsibility over regions, how we might spread the increased costs so that one State doesn't have their rates go up 30, 40, 50 percent, and another State doesn't have their rates go up at all?

Ms. McCABE. Well, our analysis doesn't show that even if you look at smaller regions than the whole country or the interconnect that there would be a wide range of increases. But I think everybody's concerned about this, everybody wants to protect against that. And now that the plan is out and people are starting to dig in and think about, there's a lot of discussion going on about how to manage this in a way that would avoid that situation. So, the reliability entities are talking, the States are talking to find those ways to make sure that that doesn't happen.

Mr. YARMUTH. OK. Well, I appreciate that. I look forward to being a part of those conversations.

Ms. McCABE. Absolutely.

Mr. YARMUTH. And once again, I thank you for your consideration in our dealings together. And thank you for appearing today. I yield back.

Ms. McCABE. Thank you, Congressman.

Mr. WHITFIELD. The Chair recognizes the gentleman from Missouri, Mr. Long, for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman. And, Ms. McCabe, in terms of complexity, the rules contain hundreds of pages regarding variations in State plans and emissions trading. For example, you could turn to page 65 of the proposed Federal plan/model trading rule, beginning at the top of the page EPA states, and I quote, "In the final emissions guidelines the EPA also discussed a concern that CO₂ emissions reductions would be eroded in situations where an effective EGU in a rate-based State counts the megawatt hours for measures located in a mass-based State, but the generation from that measure acts solely to serve load in the mass-based State. In that scenario, expected CO₂ emissions reduction actions in the rate-based State are foregone as a result of counting the megawatt hours that resulted in CO₂ emissions reductions in a mass-based State." Can you decipher that for me?

Ms. McCABE. I think you're reflecting that there is some complexity in this rule. It's partly because of the choices and the flexibility that we provided in response to people's requests on it, but that's reflecting particular situations where States have been asking how do we deal with one another because power does flow across State borders.

Mr. LONG. Well, what does that have to do with standards of performance of a power plant? I mean, how does that relate to the States trying to work together? How does this relate?

Ms. McCABE. It's all about the flexibility, and it's reflection that the power sector works as an integrated system. So, a system that demanded that each individual unit meet a specific rate would be more costly, would be more difficult, would have more reliability implications than a system that affords a lot of flexibility across the system, recognizing the way it actually works.

Mr. LONG. OK, I've got another question here, and this has been reflected today by other members that have used coal to supply a lot of their electricity. But in my home State of Missouri, we rely

on coal for 83 percent of our energy generation, and I know that's not true on the east coast and the west coast, but in Missouri it is, and that's what the folks I represent are concerned about.

The Clean Power Plan places a huge burden on coal-fired power plants, and this rule also restricts, and I don't understand this, the construction of new natural gas plants as a compliance measure. Could you explain to me why the EPA restricts the construction of natural gas-fired power plants as a compliance measure?

Ms. MCCABE. So, new generation to meet new load is subject to its own set of rules. This particular rule which addresses existing facilities is intended to manage that existing fleet of power plants and bring those emissions down. So, there's some provisions in there to make sure that that's what the rule is focused on, and those plans are actually delivering the reductions from that existing fleet.

Mr. LONG. I still don't understand the restriction on new construction of natural gas-fired plants.

Ms. MCCABE. Well, we'd be happy to follow-up with you or your staff and walk through it a little bit in more detail, Congressman.

Mr. LONG. OK. My staff is here today, so if we can do that, that would be greatly appreciated.

And the final rule's interim and final goals for Missouri are even more stringent than the proposed rule's. What factors did the EPA consider when reaching this adjustment?

Ms. MCCABE. So, in the final rule there was adjustment across the board, across all States, and some of the States' targets went up, and some of them went down. It's a reflection of a couple of things. One is that, as I mentioned earlier today, in the final rule we set a uniform emission rate for all coal plants across the country. That's not the way the proposal was designed. And another key feature was information that we got from commenters, from States, and utilities, and others really suggesting that the appropriate way to look at this was on a regional basis because that's the way the power system worked. So, when you look at it across a regional basis, States have, and utilities in those States have, more opportunities to invest in renewables and cleaner energy than if they were restricted to looking within their State borders, which is an artificial boundary when it comes to the way the industry works.

Mr. LONG. OK, so we end up with more stringent rules in flyover countries, so we're used to that.

Mr. Chairman, I yield back. Thank you.

Mr. WHITFIELD. The Chair at this time recognizes the gentleman from New York, Mr. Engel, for 5 minutes.

Mr. ENGEL. Thank you, Mr. Chairman, and I appreciate your courtesy very much. Hello, Administrator. It's good to see you again. Last time we spoke, the Clean Power Plan was still a proposed rule, and now it's been finalized. And I really just want to applaud you for your commitment to this important issue. So, thank you.

Ms. MCCABE. Thank you.

Mr. ENGEL. We know the U.S. emits more carbon pollution than any nation except China, and existing power plants are the country's largest single source of carbon pollution. And before now, most power plants could emit unlimited amounts of carbon dioxide, and

those emissions have significant health impacts. They've threatened the lives and well-being of all people across America.

I say this because my district has some of the highest rates of asthma in the United States. I'm from New York City, from the Bronx, and death rates from asthma in the Bronx are about three times higher than the national average, and hospitalization rates are about five times higher. And the EPA estimates that the climate and public health benefits of the Clean Power Plan will range between \$34–54 billion in 2030, and it will help avoid between 1,500 and 3,600 premature deaths, and 90,000 asthma attacks in children in the year 2030 alone. So, I believe that the Clean Power Plan is important because of the public health benefits associated with reductions in domestic emissions, and also because it signals to the international community that the U.S. is serious about reigning in its contribution to global greenhouse gas pollution.

So, let me ask you this. When President Obama entered office, he set out to reduce our greenhouse gas emissions 17 percent below 2005 levels by the year 2020. The intended nationally determined contribution that we submitted to the U.N. Framework Convention on Climate Change says that we plan to reduce our emissions by 26 to 28 percent below 2005 levels by 2025. Do you think we'll hit those targets, and would we hit them without the Clean Power Plan? And how does implementation of the Clean Power Plan impact the international climate negotiations coming up in Paris in December?

Ms. MCCABE. Well, the Clean Power Plan along with a number of the other programs that we have underway across the Federal Government are critical to the United States meeting that ambitious goal that we've set for ourselves, and it would be extremely difficult to get to those targets without the reductions from the power sector, which as you said is the largest stationary source of emissions in the country. So, it's really important.

And as I mentioned earlier this morning, putting the Clean Power Plan out even in proposal really changed the debate internationally, and showed that the U.S. is really serious about doing this in a way that really counted, and would really result in reduced emissions. So, we think it has been hugely beneficial.

Mr. ENGEL. Thank you. I certainly agree with you. And let me ask you this question. Since 1990, a vast majority of the new electric generation capacity in the United States has been built to burn natural gas, the second largest source of new capacity has been wind power which creates no air pollution at all, as we all know.

I understand that with State flexibility built into the Clean Power Plan it's impossible to know the precise mix of fuels that will result, but do you anticipate the Clean Power Plan changing the fuel trends that we've seen emerging over the last 25 years? And if so, how?

Ms. MCCABE. What we see is that the Clean Power Plan will continue and enhance the momentum that you've already reflected, which is moving towards greater reliance on natural gas, and greater reliance on renewables, recognizing that you need a diverse supply, and you need a variety of sources to provide base-load power, and increased use of renewables, which is becoming more and more affordable. So, we see a greater percentage becoming re-

newables of all sorts, a greater percentage becoming natural gas reliant over the period of time of this Clean Power Plan.

Mr. ENGEL. Well, thank you very much. I'm happy to hear that, and keep up your good work. We really appreciate it. And thank you, Mr. Chairman.

Ms. MCCABE. Thank you, Congressman.

Mr. WHITFIELD. Well, that concludes the hearing. I have one additional question, and you may or may not have an additional question, Mr. Rush. But, Ms. McCabe, we will be electing a new Governor in Kentucky next month. The Democratic candidate who is currently attorney general, is one of those that filed the lawsuit against EPA. Of course, the lawsuit was dismissed for lack of standing because the rule has not been published in the Register yet, but he's indicated that he will not be submitting a State implementation plan. The Republican candidate for Governor said if he wins, he would not submit a State implementation plan. My question is, what would be the earliest if that occurred that EPA could impose a Federal plan?

Ms. MCCABE. So, the rule requires that, by September 6th of 2016, the State either submit a plan or a request for an extension. If the State does not submit something on September 6th, EPA would then look to the steps that it needs to take in order to fulfill our responsibilities under the Clean Air Act. So, that would be the first event that could trigger our consideration.

Mr. WHITFIELD. So, what do you think it would be, like 30 days after September 6th?

Ms. MCCABE. I really couldn't speak to the timing, Congressman.

Mr. WHITFIELD. I mean, you don't have any idea?

Ms. MCCABE. Well, I think we will work to—

Mr. WHITFIELD. Would it be a year, or would it be 30 days?

Ms. MCCABE. I think we will look to work with those States and move in a prompt manner, but as to a specific calendar, I don't have one.

Mr. WHITFIELD. Do you have any questions?

Mr. RUSH. No, I don't have any.

Mr. WHITFIELD. All right. That concludes today's hearing. Thank you very much.

Ms. MCCABE. Thank you.

Mr. RUSH. Mr. Chairman?

Mr. WHITFIELD. Yes.

Mr. RUSH. I would like to ask unanimous consent to entering two letters entered in the record, one being a letter from the Medical and Health Community Organization supporting the Clean Power Plan. This is numerous organizations, community health organizations. And two, the letter from the American Lung Association urging the EPA to adopt strong standards to reduce carbon pollution from existing power plants.

Mr. WHITFIELD. Without objection, and the record will remain open for 10 days. That concludes today's hearing.

[Whereupon, at 12:37 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

PREPARED STATEMENT OF HON. FRED UPTON

It has been nearly 5 years since a Democratically controlled Congress last rejected cap-and-trade legislation. At the time, the American people recognized cap and trade for what it was—a massive, economy-wide energy tax—and Congress wisely listened to them. And since that time, neither the House nor the Senate has made a serious effort to revive this discredited approach. But now, the Obama administration is attempting to regulate where it failed to legislate with EPA issuing final rules to regulate carbon dioxide from new and existing fossil fuel-fired plants.

These two rules, which exceed 3,000 pages, as well as the proposed Federal plan that imposes a cap-and-trade scheme on States that don't have their own approved plans, raise all the same issues we had with the legislative version. And since it is being done through the regulatory route, it also raises questions about the legal authority to impose such sweeping measures on the States under Clean Air Act provisions never intended for this purpose.

I didn't support the legislative version of cap and trade, and I don't feel any better about today's regulatory equivalent. This is especially true given the predicted double-digit impact on electricity prices for most States, according to a study conducted by NERA, as well as the risks to reliability.

In my home State of Michigan, 54 percent of electricity generated comes from coal, and electricity rates are expected to increase 12 percent between 2020–2029. And access to affordable and reliable electricity can be a matter of life or death in the winter months. Additionally, manufacturing States like mine need low energy costs in order to remain globally competitive. And for all of the costs of these rules, the payoff is a change in future global temperatures that will be no more than a few hundredths of a degree by 2100 based on EPA's prior modeling.

The threat of being subject to a Federal plan is putting States between a rock and a hard place—either devote significant State resources to develop a State plan in response to a rule that is likely to be struck down by the courts, or become subject to mandatory Federal controls in less than a year after the rule's publication.

As it is, electricity rates have risen in recent years, and other EPA regulations have been a contributor. The rules we're examining today will further add to this burden that disproportionately hurts low-income households and will continue to threaten grid reliability across the country. At a time when our fragile economic recovery is teetering on the edge amidst global market volatility, EPA's regulations on their own do significant damage—but cumulatively they will break the camels back.

It is important that Congress, who is charged with writing laws, continues to demand answers on behalf of those impacted by the new and existing rules, especially now that EPA is beginning the process of implementing their provisions.

American Academy of Pediatrics • American Heart Association
American Lung Association • American Public Health Association
American Thoracic Society • Center for Climate Change and Health
Health Care Climate Council • Health Care Without Harm
Public Health Institute • Trust for America's Health

December 1, 2014

Administrator Gina McCarthy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units
EPA Docket ID No. EPA-HQ-OAR-2013-0602

Dear Administrator McCarthy:

As representatives of the medical and public health community, our organizations wish to share our joint comments on the U.S. Environmental Protection Agency's proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources, commonly referred to as the Clean Power Plan.

Climate change poses grave threats to public health. To protect our communities and the public, the United States must significantly reduce carbon pollution from the largest source, which are existing power plants. Our organizations support EPA's overall approach with the Clean Power Plan, but urge EPA to strengthen the final plan to provide greater protection to public health.

Climate change poses serious threats to human health

The changing climate threatens the health of Americans alive now and in future generations. Growing evidence over the past few years has demonstrated the multiple, profound risks that imperil the lives and health of millions. Consequently, the nation has a short window to act to reduce those threats.

On November 2nd, the Intergovernmental Panel on Climate Change issued its most recent policy assessment of current observations and analyses about the changing climate. The IPCC found:

"Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and ecosystems. Limiting climate change would require substantial and sustained reductions in greenhouse gas emissions which, together with adaptation, can limit climate change risks." ¹

This is only the latest report to make clear the essential need to adopt and maintain the strongest possible measures to reduce carbon and other greenhouse gases that endanger the long-term health of all people.

The *United States Third National Climate Assessment* issued in May 2014 provided the most recent summary of the research outlining these risks to the United States.² This review echoed reports

previously produced by several of our organizations: the American Academy of Pediatrics technical report in 2007 on "Global Climate Change and Children's Health"³; Trust for America's Health, *Health Problems Heat Up: Climate Change and the Public's Health*, in October 2009⁴; the Asthma and Allergy Foundation of America's *Extreme Allergies and Global Warming*, issued with the National Wildlife Foundation in 2010⁵; the American Public Health Association's *Climate Change: Mastering the Public Health Role*, in April 2011⁶; and the American Thoracic Society's workshop on Climate Change and Human Health published in 2012⁷. All these reviews arrived at similar conclusions, summarized below.

Ground-level ozone is likely to be worse in some locations. Ozone levels in the eastern states rose significantly during the hottest year on record in the United States in 2012.⁸ Higher temperatures increase the likelihood that the precursor gases will react to form ground-level ozone, making it harder to protect people from this most widespread air pollutant. Researchers repeatedly found that the risk of premature death increased with higher levels of ozone.⁹ Ozone causes asthma attacks and respiratory distress, and may increase cardiovascular harm, risk of harm to the central nervous system and the risk of low birth weight in newborns.¹⁰

Wildfires and drought conditions give rise to smoke and dust storms spreading miles from their source. This past year has showcased the risks from wildfire smoke from blazes in the West. As of September, California had reported nearly 5,000 wildfires in 2014—1,000 *more than usual*—before fire season had even begun, as the *Los Angeles Times* noted.¹¹ In one example, particulate matter in the smoke from those fires covered Sacramento to Reno in a code purple particulate matter alert on September 21, 2014.¹² (Code Purple is the designation for "Very Unhealthy" air signifying that everyone may experience more serious health effects.)

Drought-driven dust storms also produce high levels of particulate matter. The impact of dust storms in recent years, such as one in Oklahoma in 2012 that shut down Interstate 35, demonstrate their power to threaten health in multiple ways.¹³

Even short-term exposure to such levels of particulate matter, short-term increases in particle pollution have been linked to premature death from respiratory and cardiovascular causes, including strokes^{14, 15, 16, 17}; increased mortality in infants and young children¹⁸; increased numbers of heart attacks, especially among the elderly and in people with heart conditions;¹⁹ increased hospitalization for cardiovascular disease, including strokes and congestive heart failure^{20, 21, 22}; increased hospitalization for asthma among children;^{23, 24, 25} and increased severity of asthma attacks in children.²⁶

Wildfire smoke contains more toxic pollutants than just particulate matter; the smoke mixture includes carbon monoxide, nitrogen oxides, volatile organic compounds and carcinogens as well.²⁷

These examples show that these changes erect new hurdles to our ability to protect health from air pollution. As EPA noted in its 2009 report on the impacts of global climate change on ground-level ozone, modeling for future pollution levels shows the complexity of the problem, with one compelling outcome: climate change had "the potential to make U.S. air quality management more difficult."²⁸

Extreme weather threatens health. Many cities across the U.S., such as Chicago and Milwaukee have experienced increased death rates from episodic heat waves in recent years.²⁹ Hotter temperatures can increase the risk of heat stroke and heat exhaustion and can increase the risk of hospitalization for cardiovascular and respiratory diseases.³⁰

Increased risk of dangerous hurricanes threatens not only damage and death from the wind, but disruption in communities that suffer the hurricanes. As Hurricane Katrina and Sandy showed, the disruption can last for years. Hospitals, clinics, medical care and public health services may be blocked from serving their patients and communities as resources are diverted to emergency response or too damaged to provide those services. Patients find themselves in emergency shelters or relocated to new homes far away from their previous medical caregivers.

According to the most recent assessments³¹, the nation has experienced increased heavy rainfall and flooding since 1991. Flooding causes premature deaths, often through drowning, but the aftermath of flooding expands the burden. Water damage leaves behind lingering risks including dampness and mold, chemicals and sewage spread through flood waters, and contaminated debris in flooded homes, schools, hospitals and other community facilities.³²

Allergens and risk of vector-borne diseases will increase. Warmer weather leads to shifting growing seasons that change flowering time and pollen development and can expand the habitat for allergen-rich plant species. Higher concentrations and longer growing seasons increase the exposure to allergens that trigger asthma and other respiratory and allergic responses.³³ In the U.S., spread of diseases such as Lyme, West Nile Virus, and Rocky Mountain spotted fever, is linked to complex differences in weather, hosts and human behavior that can be profoundly affected by changes in climate.³⁴

Food and water supplies face uncertain challenges. The ongoing drought in the West, particularly in California, exemplifies the risks to supplying adequate water and food supplies to the nation.³⁵ As the water levels continue to drop, farmers confront more challenges growing food to supply the rest of the nation and the world. Certain communities, such as Alaska Natives, may suffer shortages of fresh water and food they have historically hunted or fished.³⁶

Stress will complicate response and mental health issues. Mental health problems increase after disasters, such as seen after Hurricane Katrina. Moreover, even people with no history of mental health problems, including children, will risk increased stress from responding to and accommodating these severe changes. Among the expected impacts from these stresses are: post-traumatic stress disorder; depression and anxiety; increases in violence; and strains due to relocation.³⁷

Millions of Americans suffer greater vulnerability to these threats. Many people face greater risk or exposure, as documented in the large air pollution science assessments EPA has repeatedly completed. Children court special risks because their bodies are growing and because they are so active.³⁸ Older adults are more likely to die during high heat events.³⁹ People with chronic respiratory diseases like asthma and chronic obstructive pulmonary disease, people with cardiovascular diseases and people with diabetes also risk greater harm from increased pollution.⁴⁰

Poorer people and some racial and ethnic groups are among those who often confront higher exposure to pollutants and who may experience greater responses to such pollution. Many studies have explored the differences in harm from air pollution to racial or ethnic groups and people who are in a low socioeconomic position, have less education, or live nearer to major sources.⁴¹

Poorer people, people of color, older people and disabled people will have a harder time responding to the threats, especially if electricity is lost or relocation or evacuation is required.⁴² Hurricane Katrina demonstrated that many people in these groups had difficulty evacuating and relocating after a major

weather event.⁴³ Native American tribal communities may face threats to food supplies and difficulty relocating due to tribal land locations.⁴⁴

Even healthy adults can be affected by increased air pollution especially if their work requires them to be outdoors, as the study of lifeguards in Galveston, Texas demonstrated.⁴⁵

To protect health, the United States needs to reduce carbon pollution from existing power plants.

Reducing carbon pollution essential step to reduce the burden of climate change, but the benefits go far outside the impact on the climate.

Lifesaving benefits to public health can begin immediately. In addition to reducing the longer-term risks from climate change, steps to cut carbon pollution will cut other toxic emissions as well. Estimated reductions include: 54,000 to 56,000 tons of PM_{2.5}; 424,000 to 471,000 tons of sulfur dioxide; and 407,000 to 428,000 tons of nitrogen dioxide. Those pollutants directly form particulate matter and ozone that cause widespread harm and premature death as described earlier.⁴⁶

Based on those reductions, EPA estimated that implementing the Clean Power Plan could avoid 2,700 to 6,600 premature deaths in 2030. In 2030, children would suffer 140,000 to 150,000 fewer asthma attacks. People with cardiovascular disease would have 340 to 3,300 fewer heart attacks. Hospital admissions for cardiovascular and respiratory conditions would drop, with 2,700 to 2,800 fewer admissions in 2030.⁴⁷

It is important to remember that the modeling actually minimizes the real-world benefits of these reductions. The EPA's use of established BenMAP modeling is appropriate to make these estimates, but the predictions focus on findings from certain studies looking at specific outcomes. The BenMAP model cannot estimate the impact on other, also demonstrated, benefits. For example, although the World Health Organization has determined that particulate matter causes lung cancer, science currently lacks appropriate modeling to estimate how many fewer cases of lung cancer would occur in 2030 with the reductions in particulate matter.⁴⁸

A separate, major study confirms that co-benefits from reducing carbon pollution are real, but that doing too little may prove harmful. Strong limits on carbon pollution from existing power plants could improve air quality and prevent an estimated 3,500 (780 to 6,100, 95% CI) premature deaths in 2020 along with other significant benefits to human health, according to an analysis released in September by researchers from Harvard University, Syracuse University, and Boston University. That report, *Health Co-Benefits of Carbon Standards for Existing Power Plants*, evaluated alternative approaches for reducing carbon pollution from power plants, and showed that limits must be strong, flexible and enforceable to achieve the greatest health benefits for the American people.⁴⁹

The study compared "business as usual" conditions with three alternatives for limiting carbon from power plants. Results showed that a strong, enforceable and flexible approach to reducing carbon pollution would reduce emissions of other harmful pollutants of sulfur dioxide and nitrogen oxides by about 775,000 tons each year. In addition to reducing premature deaths, the strongest options avoided 530 to 1500 hospital admissions for cardiovascular and respiratory diseases in 2020. As a result of lower emissions, all of the lower 48 U.S. states would experience cleaner air.⁵⁰

In another critical finding, this modeling showed that steps to do less had significant limitations and, in fact, probably harmful consequences. The model that limited actions to improving the efficiency of existing plants, sometimes called the “inside the fence” option, did decrease the annual in CO₂ emissions slightly (by 2.2 percent) from the 2020 reference case. However, the likelihood that these more efficient plants would be dispatched more often resulted in an estimated annual 3 percent *increase* in sulfur dioxide emissions. This estimated sulfur dioxide increase actually led the forecast for an increase in annual premature deaths and heart attacks, using this more limited approach.⁵¹

EPA’s overall Clean Power Plan provides excellent approach.

The Clean Power Plan’s core flexibility encourages innovation and tailoring. We appreciate EPA’s commitment to allow the states to have flexibility to use multiple tools and to innovate in their approaches to cut carbon emissions. The Plan encourages innovation and the use of cleaner energy sources for electricity generation. The Plan encourages strategies to improve energy efficiency, which could decrease the need to burn fossil fuels. Many of our organizations, particularly those with state chapters, intend to support the states adopting plans and systems that will provide the greatest reduction in carbon emissions to protect public health.

Requirements for permanent, enforceable, measurable, verifiable emission reductions are crucial. We also appreciate the EPA’s commitment to require that the states demonstrate “that each emissions standard is quantifiable, non-duplicative, permanent, verifiable, and enforceable” (79 FR 34838). States will have difficulty assessing, without verifiable measures, whether the actions they took have the expected impact. Unless compliance measures can be measured and verified, the potential exists for them to be ineffective, costing time and resources that could be spent in more effective measures.

The EPA must be clear that the final standards must be enforceable not just by EPA, but by citizens, including by nonprofits and non-governmental organizations as well as governments. To protect our members and patients, many of our organizations have had historically significant roles in ensuring that the Clean Air Act is defended and enforced. We support ensuring in the language that these measures are enforceable.

Greater reduction in carbon emissions are needed.

The United States emits more carbon pollution than any other single nation except China.⁵² We need to show greater leadership to fight climate change, as the threats to the lives and health of our citizens will not end with the current generation or even in the current century without profound action. The Clean Power Plan contains excellent tools to tackle that challenge, but the goals are too limited to effectively respond to the problem.

The EPA should set more aggressive compliance dates without reducing targets. Our organizations agree with the EPA that states need time to phase in some measures. However, the EPA proposal offers an excessively long period for phase in compared to other similar major rules. We urge EPA to shorten the time for putting these measures in place, but *without* reducing the required reductions as the EPA suggested as an option. The President announced November 11th a commitment to reduce the nation’s net greenhouse gas emissions up to 28 percent below 2005 levels by 2025. To accomplish that goal, this plan must require more reductions from the existing electric sector.

All state plans must be complete by 2018, so the states would have twelve years to meet their goals in 2030. Five years would be reasonable and provide more time to implement than other large measures adopted by the EPA in the past, including the NOx SIP call and the Mercury and Air Toxics Standards. However, our organizations do not support setting weaker standards to accommodate that shorter timeframe. The EPA should revise the compliance schedule to ensure states start reducing emissions as soon as possible, and move the completion date to no later than 2025 without reducing the targets.

The targets need to recognize that states can and should do more to reduce carbon emissions. The EPA based the reductions on the agency's calculations of what each state could do. However, some states report that they are already doing more in some categories than EPA has proposed as a target. The EPA need to set standards that push states to do

Recognize that some alternative energy sources have serious impacts on health as well. Our organizations are concerned about expanding biomass as an acceptable alternative energy source because of the impacts to health from the emissions. Biomass combustion currently uses feed stocks that have proven harm to human health: wood products, agricultural residues or forest wastes, and potentially highly toxic feed stocks, such as construction and demolition waste. If biomass is combusted, state-of-the-art pollution controls must be required.

Conclusion

Our organizations have long recognized that climate change poses a major threat to the health of our patients and to the public. We are pleased that the Obama Administration has begun to take these critical steps to move the nation toward long-needed steps to reduce those threats. We appreciate the abundant opportunity to provide comment and weigh in on these issues.

Our organizations urge EPA to take advantage of this rare opportunity to provide the greater protection that is needed with an even stronger Clean Power Plan.

Sincerely,

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American Academy of Pediatrics

Thomas W. Ferkol, MD
President
American Thoracic Society

Sue Nelson
Vice President of Federal Advocacy
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Jeff Levi, PhD
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Health Care Climate Council
Representing 11 leading US Health Systems

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December 1, 2014

The Honorable Gina McCarthy
 Administrator
 U.S. Environmental Protection Agency
 EPA Docket Center Mailcode 28221T
 1200 Pennsylvania Avenue, NW.
 Washington, DC 20460



Attention Docket ID No. OAR-2013-0602

Dear Administrator McCarthy:

As public health and medical professionals, we write to urge the U.S. Environmental Protection Agency to adopt strong, enforceable standards to reduce carbon pollution from existing electric power plants. We support strong standards that will provide the greatest protection for our patients and our communities from the impacts of climate change and from all of the harmful emissions of these plants. These common sense clean air safeguards will improve the quality of our air, protect public health and help move our country toward cleaner energy technologies that won't make people sick or cut short our patients' lives.

The health impacts of climate change are too often overlooked. As highlighted in the recent National Climate Assessment, people all across America experience these effects now, ranging from increased air pollution, to heat-related illnesses, extreme weather events, such as drought and dust storms, excessive rain and flooding, and the spread of infectious diseases.

Who is most at risk? Many of the people we treat every day face considerable risks – including children, the elderly, people with respiratory and cardiovascular diseases, people with low incomes, and many ethnic and minority communities. Their vulnerability comes from multiple factors. Their age, health, developmental stage, and other stresses of their lives make their bodies more susceptible to the pollution they breathe or the extreme weather and diseases their communities experience. Where people live or how they earn a living can also lead to greater exposure or risk. From families who live with a power plant smokestack in their backyard to farm workers, police officers and fishermen who work outdoors each day, we see every day the people who face the greatest exposure to these threats.

Not only do these changes affect their health, they challenge our ability to respond to them. These impacts to public health require more response from the medical and public health community which is already stretched and under-resourced. Communities facing damage caused by extreme weather conditions will face special challenges, and more and more of the nation may face those emergencies.

Reducing carbon pollution from power plants will help us fight climate change. Cutting carbon pollution will also cut direct emissions of dangerous pollutants, including sulfur dioxide, nitrogen oxides, fine particulate matter and mercury, and will reduce ozone and particulate

matter pollution. Reducing these pollutants will prevent thousands of premature deaths, asthma attacks, heart attacks, hospital admissions and emergency department visits. EPA estimates that the proposed carbon pollution limits will prevent up to 150,000 asthma attacks and up to 6,600 premature deaths annually when fully implemented.

To protect our patients and our communities, EPA must act now. We call on the EPA to set strict, enforceable limits on carbon pollution from power plants and ensure that the air we breathe is healthy. The final rule must provide the strongest possible carbon pollution standards to protect our patients and our communities from the damaging health effects of pollution from power plants. The health of our nation demands nothing less.

Signed,

Alaska

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Alabama

Selena Coleman, MPH

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Note: This list includes 631 credentialed health and medical professionals from 49 states, the District of Columbia and Puerto Rico. Please contact: Lyndsay.Moseley@lung.org with questions.



Congressional Record

PROCEEDINGS AND DEBATES OF THE 114th CONGRESS, FIRST SESSION

Vol. 161

WASHINGTON, TUESDAY, SEPTEMBER 15, 2015

No. 132

House of Representatives

The House met at 3 p.m. and was called to order by the Speaker pro tempore (Mr. ROONEY of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 15, 2015.
I hereby appoint the Honorable THOMAS J. ROONEY to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Creator God, we give You thanks for giving us another day.

In this moment of prayer, please bless the Members of the people's House as they meet with their respective constituents. We acknowledge that many of our citizens observe a new year, a celebration of Your creation of man and woman.

May we all do our part in Your creation, preserving all You have given us for the benefit of all Your children, bringing into reality peace and justice, especially among those whose life experience is devoid of these things.

And as the Members return in the coming days, grant them a surfeit of wisdom, patience, and goodwill as they face the most pressing issues of these days. May their efforts issue forth in solutions benefiting all and neglecting none.

May all that is done be for Your greater honor and glory.
Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the

last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until noon tomorrow for morning-hour debate.

There was no objection.
Thereupon (at 3 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 16, 2015, at noon for morning-hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

2722. A letter from the Acting Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's affirmation of interim rule as final rule — Gypsy Moth Generally Infested Areas; Additions in Minnesota, Virginia, West Virginia, and Wisconsin (Docket No.: APHIS-2014-0023) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Agriculture.

2723. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility (Docket

et ID: FEMA-2015-0001) [Internal Agency Docket No.: FEMA-8395] received September 2, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Financial Services.

2724. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility (Stafford County, NH, et al.) (Docket ID: FEMA-2015-0001) [Internal Agency Docket No.: FEMA-8397] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Financial Services.

2725. A letter from the Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule — Federal Housing Administration (FHA): Standardizing Method of Payment for FHA Insurance Claims (Docket No.: FR-5805-P-02) (RIN: 2502-AJ26) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Financial Services.

2726. A letter from the General Counsel, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits received September 2, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Education and the Workforce.

2727. A letter from the Deputy Director, ODEM, Department of Health and Human Services, transmitting the Department's final rule — National Institute on Minority Health and Health Disparities Research Endowments (Docket No.: NIH-2007-0031) (RIN: 0925-AA01) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2728. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Motor Vehicle Inspection and Maintenance and Associated Revisions (EPA-R08-OAR-2014-0370; FRL-9630-71-Region 8) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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CONGRESSIONAL RECORD—HOUSE

September 15, 2015

2729. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Significant New Use Rule on Substituted Cyclohexane; Removal [EPA-HQ-OPP-2015-0220; FRL-9932-66] (RIN: 2070-AB27) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2730. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Air Plan Approval; Wisconsin: Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO₂, and 2010 SO₂ NAAQS [EPA-R05-OAR-2014-0704; FRL-9933-62-Region 5] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2731. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's direct final rule — Air Plan Approval; Indiana, SO₂ Revision for Walsh and Kelly [EPA-R08-OAR-2015-0980; FRL-9933-65-Region 5] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2732. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Tetraethylene Glycol; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2015-0214; FRL-9933-56] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2733. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Cyprodinil; Pesticide Tolerances [EPA-HQ-OPP-2014-0906; FRL-9930-49] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2734. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Propylene glycol monomethyl ether; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2015-0143; FRL-9932-06] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2735. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Oxathiazepinone; Pesticide Tolerances [EPA-HQ-OPP-2014-0114; FRL-9931-18] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2736. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's direct final rule — Approval and Promulgation of Implementation Plans; Arizona, Phased Discontinuation of Stage II Vapor Recovery Program [EPA-R09-OAR-2014-0256; FRL-9927-14-Region 9] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2737. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Georgia: Changes to Georgia Fuel Rule and Other Miscellaneous Rules [EPA-R04-OAR-2015-0151; FRL-

9933-32-Region 4] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2738. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's direct final rule — Revisions to the California State Implementation Plan, Feather River Air Quality Management District; Correction [EPA-R09-OAR-2015-0164; FRL-9933-50-Region 9] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2739. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's direct final rule — Approval and Promulgation of State Implementation Plans; Alaska; Transportation Conformity State Implementation Plan [EPA-R10-OAR-2015-0447; FRL-9933-43-Region 10] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2740. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Attainment Demonstration for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Determination of Attainment of the 1997 Ozone Standard [EPA-R08-OAR-2012-0098; FRL-9931-78-Region 6] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2741. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's direct final rule — Approval and Promulgation of Implementation Plans; Texas; Infrastructure Requirements for the 1997 Ozone and the 1997 and 2006 PM_{2.5} NAAQS [EPA-R08-OAR-2013-0808; FRL-9932-50-Region 6] received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2742. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's major final rule — Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units [EPA-HQ-OAR-2013-0602; FRL-9930-55-OAR] (RIN: 2060-AR33) received September 11, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2743. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; Correction [EPA-HQ-OAR-2011-0817; FRL-9933-76-OAR] (RIN: 2060-AQ38) received September 11, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2744. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Nonattainment New Source Review and Prevention of Significant Deterioration Program [EPA-R01-OAR-2014-0796; EPA-R01-OAR-2014-0862; A-1-FRL-9933-92-Region 1] received September 11, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2745. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units [EPA-HQ-OAR-2013-0406; EPA-HQ-OAR-2013-0603; FRL-9930-56-OAR] (RIN: 2060-AQ31) received September 11, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Energy and Commerce.

2746. A letter from the Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting the Department's report entitled "United States Tobacco Product Exports That Do Not Conform to Tobacco Product Standards", pursuant to Sec. 801(p)(1) of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

2747. A letter from the Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting the Department's report entitled "Patient Navigator Outreach and Chronic Disease Prevention Program, Fiscal Years 2008-2012", pursuant to Pub. L. 109-18, the Patient Navigator Outreach and Chronic Disease Prevention Act and amended by Pub. L. 111-148, the Affordable Care Act; to the Committee on Energy and Commerce.

2748. A letter from the Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting the Department's report entitled "Premarket Approval of Pediatric Uses of Devices — FY 2013", pursuant to Sec. 302 of the Food and Drug Administration Amendments Act, and Sec. 515(a)(2) of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

2749. A letter from the Assistant Secretary of Commerce for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule — Update to List of Countries Where Persons in the United States May Request Department of Defense Assistance in Obtaining Priority Delivery of Contracts [Docket No.: 150720623-5623-01] (RIN: 0694-AG68) received September 2, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Foreign Affairs.

2750. A letter from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule — Addition of Certain Persons to the Entity List [Docket No.: 150804505-5505-01] (RIN: 0694-AG68) received September 4, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Foreign Affairs.

2751. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to License Exception Availability for Consumer Communications Deceives and Licensing Policy for Civil Telecommunications-related Items Such as Infrastructure Regarding Sudan; Correction [Docket No.: 150720623-5623-01] (RIN: 0694-AG68) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Foreign Affairs.

2752. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Venezuela that was declared in Executive Order 13692 of March 8, 2015, as required by Sec. 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and

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Sec. 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c); to the Committee on Foreign Affairs.

2753. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003, as required by Sec. 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and Sec. 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003; to the Committee on Foreign Affairs.

2754. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Ukraine that was declared in Executive Order 13669 of March 8, 2014, as required by Sec. 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and Sec. 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c); to the Committee on Foreign Affairs.

2755. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Default Investment Fund received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2756. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Criminal Restitution Orders received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2757. A letter from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting the Administration's summary presentation of final rules — Federal Acquisition Regulation; Federal Acquisition Circular 2005-94; Introduction [Docket No.: FAR 2015-0051, Sequence No.: 4] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2758. A letter from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; EPEAT Items [FAC 2005-94; FAR Case 2013-016, Item 1; Docket 2013-0015, Sequence 1] (RIN: 9000-AM71) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2759. A letter from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting the Administration's guide — Federal Acquisition Regulation; Federal Acquisition Circular 2005-94; Small Entity Compliance Guide [Docket No.: FAR 2015-0051, Sequence No.: 4] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2760. A letter from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-94; Item II; Docket No.: 2015-0052, Sequence No.: 3] received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Oversight and Government Reform.

2761. A letter from the Secretary, Department of the Interior, transmitting the Department's draft and section-by-section analysis of a bill entitled, the "National Park Service Centennial Act"; to the Committee on Natural Resources.

2762. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment [Docket No.: 140819687-5583-02] (RIN: 0648-R040) received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Natural Resources.

2763. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's temporary rule — Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska [Docket No.: 140819791-4998-02] (RIN: 0648-XE099) received August 31, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Natural Resources.

2764. A letter from the Deputy Assistant Administrator for Operations, NOAA Fisheries Service, Office of Protected Resources, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training and Testing Activities in the Mariana Islands Training and Testing Study Area [Docket No.: 140211133-5621-01] (RIN: 0648-BD09) received August 28, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Natural Resources.

2765. A letter from the Secretary, Judicial Conference of the United States, transmitting a Judicial Conference determination that former United States District Judge Mark E. Fuller (M.D. Ala.) has engaged in conduct for which consideration of impeachment may be warranted, pursuant to 28 U.S.C. 352(b)(1); to the Committee on the Judiciary.

2766. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone, James River; Newport News, VA [Docket No.: USCG-2015-0701] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2767. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone, Indian River Bay; Millsboro, Delaware [Docket No.: USCG-2015-0563] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2768. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone [Docket No.: USCG-2015-0546] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2769. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Special Local Regulations; Marine Events held in the Sector Long Island Sound Captain of the Port Zone [Docket No.: USCG-2015-0705] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2770. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone; Carly's Crossing; Outer Harbor, Gallagher Beach, Buffalo, NY [Docket No.: USCG-2015-0717] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2771. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone; Whiskey Island Paddleboard Festival and Race; Lake Erie, Cleveland, OH [Docket No.: USCG-2015-0716] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2772. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone, Swin Around Charleston; Charleston, SC [Docket No.: USCG-2015-0276] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2773. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Suncoast Super Boat Grand Prix; Gulf of Mexico, Sarasota, FL [Docket No.: USCG-2015-0218] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2774. A letter from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting the Department's temporary final rule — Safety Zone; TriMet Tillamook Crossing Bridge Fireworks Display, Willamette River, Portland, OR [Docket No.: USCG-2015-0510] (RIN: 1625-AA00) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2775. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; British Aerospace Regional Aircraft Airplanes [Docket No.: FAA-2015-3048; Directorate Identifier 2015-CE-015-AD; Amendment 39-18230; AD 2015-16-05] (RIN: 2120-AA64) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

2776. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; British Aerospace Regional Aircraft Airplanes [Docket No.: FAA-2015-1744; Directorate Identifier 2015-CE-016-AD; Amendment 39-18231; AD 2015-16-06] (RIN: 2120-AA64) received September 8, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Transportation and Infrastructure.

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2777. A letter from the Assistant Administrator for Procurement, Office of Procurement, National Aeronautics and Space Administration, transmitting the Administration's interim rule — NASA Federal Acquisition Regulation Supplement: NASA Capitalization Threshold (NFS Case 2015-N004) (RIN: 2700-AE23) received September 2, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Science, Space, and Technology.

2778. A letter from the Chief Impact Analyst, Office of Regulation Policy, Office of the General Counsel (O2REG), Department of Veterans Affairs, transmitting the Department's final rule — Animals on VA Property (RIN: 2900-A038) received September 2, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Veterans' Affairs.

2779. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's IRB only rule — Application of the Cooperative and Small Employer Charity Pension Flexibility Act (Notice 2015-58) received September 1, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Ways and Means.

2780. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's IRB only rule — Examination of returns and claims for refund, credit, or abatement; determination of tax liability (Rev. Proc. 2015-42) received September 1, 2015, pursuant to 5 U.S.C. 801(a)(1)(A); Added by Public Law 104-121, Sec. 251; to the Committee on Ways and Means.

2781. A letter from the Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting the Department's Report to Congress on "Small Rural Hospital Improvement Grant Program for Fiscal Year 2013", pursuant to Sec. 1820(g)(3)(F)(ii)(I) of the Social Security Act; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FRANKS of Arizona (for himself, Mr. FINCH, Mr. COLLINS of Georgia, Mr. NEUBAUER, Mr. HUIZENGA of Michigan, Mr. PARENTHOLD, Mr. GROTHMAN, Mr. BLACKBURN, Mr. LOUDERMILK, Mr. SHIMKUS, Mr. ADERHOLT, Mr. HUDSON, Mr. FITZGERALD, Mr. SPENCER, Mr. GOSAR, Mr. SMITH of Texas, Mr. BRADY of Texas, Mr. WESTMORELAND, Mr. SESSIONS, Mr. SAM JOHNSON of Texas, Mr. CHABOT, Mr. KELLY of Mississippi, Mr. ROUZER, Mr. WAGNER, Mr. CARTER of Georgia, Mr. MULLIN, Mr. BOUSTANY, Mr. ROE of Tennessee, Mr. CRAMER, Mr. SALMON, Mr. MOONEY of West Virginia, Mrs. LOVE, Mr. GIBBS, Mr. KING of Iowa, Mr. OLSON, Mr. CARTER of Texas, Mr. PITTS, Mr. MILLER of Florida, Mr. FLORES, Mr. MEADOWS, Mr. JOHNSON of Ohio, Mr. FRACER, Mrs. BLACK, Mr. MURPHY of Pennsylvania, Mr. STUTZMAN, Mr. KELLY of Pennsylvania, Mr. FLEMING, Mr. ROTHFUS, Mr. JOYCE, Mr. HUBSKAMP, Mr. BABIN, Mr. DESANTIS, Mr. GUTHRIE, Mr. FORTENBERRY, Mr. SMITH of Nebraska, Mr. ROONEY of Florida, Mr. CONAWAY, Mrs. LUMMIS, Mr. GOWDY, Mr. YOHIO, Mr. BILIRAKIS, Mr. LAB-

RADOR, Mr. THOMPSON of Pennsylvania, Mrs. HARTZLER, Mr. SCALISE, Mr. POMPER, Mr. KNIGHT, Mr. AUSTIN, Mr. SCOTT of Georgia, Mr. YODER, Mr. NEWHOUSE, Mr. SMITH of New Jersey, Mr. CHAFFETZ, Mr. LAMBORN, Mr. LONG, Mr. ROKITA, Mr. JODY B. HICE of Georgia, Mr. BARLETTA, Mr. LIPINSKI, Mr. LUETKEMEYER, Mr. RATCLIFFE, Mr. MESSER, Mr. DUNCAN of Tennessee, and Mr. ABRAHAM);

H.R. 3504. A bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion; to the Committee on the Judiciary.

By Mr. THOMPSON of Mississippi: H.R. 3505. A bill to amend the Homeland Security Act of 2002 to improve the management and administration of the security clearance processes throughout the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. ENGEL: H.R. 3506. A bill to enable State and local promotion of natural gas, flexible fuel, and high-efficiency motor vehicle fleets; to the Committee on Energy and Commerce.

By Mr. GROTHMAN: H.R. 3507. A bill to designate the facility of the United States Postal Service located at 99 West 2nd Street in Fond du Lac, Wisconsin, as the "Lieutenant Colonel James 'Maggie' Megellas Post Office"; to the Committee on Oversight and Government Reform.

By Mr. HARRIS (for himself, Mr. MOONEY of West Virginia, and Mr. BEYER):

H.R. 3508. A bill to amend the Internal Revenue Code of 1986 to allow an annual elective surcharge in lieu of estate tax, and for other purposes; to the Committee on Ways and Means.

By Ms. LOFGREN (for herself, Ms. ESHOO, Mr. MASSIE, and Mr. WOODALL):

H.R. 3509. A bill to authorize any office of the Federal Government which owns or operates a parking area for the use of its employees to install, construct, operate, and maintain a battery recharging station in the area, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. RICHMOND: H.R. 3510. A bill to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to develop a cybersecurity strategy for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mrs. LOWEY (for herself and Mr. CRENSHAW):

H. Res. 419. A resolution recognizing the importance of frontline health workers toward accelerating progress on global health and saving the lives of women and children, and for other purposes; to the Committee on Foreign Affairs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. FRANKS of Arizona: H.R. 3504. Congress has the power to enact this legislation pursuant to the following:

Congress has authority to extend protection to born-alive abortion survivors under the Supreme Court's Commerce Clause precedents and under the Constitution's grants of powers to Congress under the Equal Protection, Due Process, and Enforcement Clauses of the Fourteenth Amendment.

By Mr. THOMPSON of Mississippi: H.R. 3505. Congress has the power to enact this legislation pursuant to the following: The U.S. Constitution including Article 1, Section 8.

By Mr. ENGEL: H.R. 3506. Congress has the power to enact this legislation pursuant to the following:

The bill is enacted pursuant to the power granted to Congress under the following provisions of the United States Constitution: Article I, Section 1; Article I, Section 8, Clause 1; Article I, Section 8, Clause 2; and Article I, Section 8, Clause 18.

By Mr. GROTHMAN: H.R. 3507. Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 7.

By Mr. HARRIS: H.R. 3508.

Congress has the power to enact this legislation pursuant to the following: Clause 1 of Section 8 of Article 1 of the Constitution of the United States.

By Ms. LOFGREN: H.R. 3509. Congress has the power to enact this legislation pursuant to the following: Article I, section 8 of the Constitution of the United States.

By Mr. RICHMOND: H.R. 3510.

Congress has the power to enact this legislation pursuant to the following: This bill is introduced pursuant to the powers granted to Congress under the General Welfare Clause (Art. 1 Sec. 8 Cl. 1), the Commerce Clause (Art. 1 Sec. 8 Cl. 3), and the Necessary and Proper Clause (Art. 1 Sec. 8 Cl. 18).

Further, this statement of constitutional authority is made for the sole purpose of compliance with clause 7 of Rule XII of the Rules of the House of Representatives and shall have no bearing on judicial review of the accompanying bill.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 25: Mr. EMMER of Minnesota.
H.R. 140: Mr. WESTMORELAND.
H.R. 285: Mr. VAN HOLLEN.
H.R. 307: Ms. NORTON.
H.R. 410: Mr. BEYER.
H.R. 470: Mr. GRAVES of Georgia.
H.R. 546: Mr. NEWHOUSE.
H.R. 684: Ms. BASS.
H.R. 682: Mr. BISHOP of Michigan and Mr. GOODLATTE.
H.R. 702: Mr. PERRY and Mrs. COMSTOCK.
H.R. 721: Ms. STEFANIK, Mr. COSTA, Mr. ZELDIN, and Mr. LAMBORN.
H.R. 818: Mr. SANFORD and Mr. ROONEY of Florida.
H.R. 820: Mr. PERLMUTTER, Mr. GIBSON, and Mr. VAN HOLLEN.
H.R. 918: Mr. LAMBORN.
H.R. 959: Mr. HECK of Nevada and Mr. STIVERS.
H.R. 973: Ms. ROYBAL-ALLARD, Ms. DELAUNO, Mr. BUCHANON, and Mrs. TORRES.
H.R. 985: Mr. LAMBORN and Mr. TIPPON.

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S6807

S. 501. An act to make technical corrections to the Navajo water rights settlement in the State of New Mexico, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 487. An act to allow the Miami Tribe of Oklahoma to lease or transfer certain lands.

H.R. 959. An act to authorize the Secretary of the Interior to conduct a special resource study of the Medgar Evers House, located in Jackson, Mississippi, and for other purposes.

H.R. 1214. An act to amend the Small Tracts Act to expand the authority of the Secretary of Agriculture to sell or exchange small parcels of National Forest System land to enhance the management of the National Forest System, to resolve minor encroachments, and for other purposes.

H.R. 1289. An act to authorize the Secretary of the Interior to acquire approximately 44 acres of land in Martinez, California, and for other purposes.

H.R. 1854. An act to require a land conveyance involving the Elkhorn Ranch and the White River National Forest in the State of Colorado, and for other purposes.

H.R. 1999. An act to provide for the consideration and submission of site and design proposals for the National Liberty Memorial approved for establishment in the District of Columbia.

H.R. 2223. An act to authorize, direct, expedite, and facilitate a land exchange in El Paso and Teller Counties, Colorado, and for other purposes.

H.R. 2791. An act to require that certain Federal lands be held in trust by the United States for the benefit of certain Indian tribes in Oregon, and for other purposes.

ENROLLED BILL SIGNED

The President pro tempore (Mr. HATCH) announced that on today, September 17, 2015, he had signed the following enrolled bill, previously signed by the Speaker of the House:

H.R. 720. An act to improve intergovernmental planning for and communication during security incidents at domestic airports, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 487. An act to allow the Miami Tribe of Oklahoma to lease or transfer certain lands; to the Committee on Indian Affairs.

H.R. 959. An act to authorize the Secretary of the Interior to conduct a special resource study of the Medgar Evers House, located in Jackson, Mississippi, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1214. An act to amend the Small Tracts Act to expand the authority of the Secretary of Agriculture to sell or exchange small parcels of National Forest System land to enhance the management of the National Forest System, to resolve minor encroachments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1289. An act to authorize the Secretary of the Interior to acquire approximately 44 acres of land in Martinez, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1854. An act to require a land conveyance involving the Elkhorn Ranch and the

White River National Forest in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1949. An act to provide for the consideration and submission of site and design proposals for the National Liberty Memorial approved for establishment in the District of Columbia; to the Committee on Energy and Natural Resources.

H.R. 2223. An act to authorize, direct, expedite, and facilitate a land exchange in El Paso and Teller Counties, Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2915. A communication from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting, pursuant to law, notification of the Department's intent to close the Defense commissary store at Sugar Grove, West Virginia; to the Committee on Armed Services.

EC-2916. A communication from the Assistant Director, Senior Executive Management Office, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of Defense (International Security Affairs), Department of Defense, received in the Office of the President of the Senate on September 10, 2015; to the Committee on Armed Services.

EC-2917. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of two (2) officers authorized to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777, to the Committee on Armed Services.

EC-2918. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of ten (10) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777, to the Committee on Armed Services.

EC-2919. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, the quarterly exception Selected Acquisition Reports (SARs) as of June 30, 2015 (OSS-2015-1119); to the Committee on Armed Services.

EC-2920. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Venezuela that was originally declared in Executive Order 13692 of March 8, 2015; to the Committee on Banking, Housing, and Urban Affairs.

EC-2921. A copy of a complaint as required by section 409(a)(2) of the Bipartisan Campaign Reform Act of 2002 relative to the case of Republican Party of Louisiana, Jefferson Parish Republican Parish Executive Committee, and Orleans Parish Republican Executive Committee v. FEC; to the Committee on Rules and Administration.

EC-2922. A communication from the Deputy Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Special Regulations, Areas of the National Park System, Lake Meredith National Recreation

Area, Off-Road Motor Vehicles" (RIN1024-AD86) received in the Office of the President of the Senate on September 9, 2015; to the Committee on Energy and Natural Resources.

EC-2923. A communication from the Deputy Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania Regulatory Program" ((SATS No. PA-159-FOR) (Docket No. OSM-2010-0017)) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Energy and Natural Resources.

EC-2924. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Kansas Regional Haze State Implementation Plan Revision and 2014 Five-Year Progress Report" (FRL No. 9533-94-Region 7) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Environment and Public Works.

EC-2925. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Missouri; Control of NO_x Emissions From Large Stationary Internal Combustion Engines" (FRL No. 9534-00-Region 7) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Environment and Public Works.

EC-2926. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Louisiana: Final Authorization of State Hazardous Waste Management Program Revision" (FRL No. 9533-79-Region 6) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Environment and Public Works.

EC-2927. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; Correction" ((RIN2060-AQ93) (FRL No. 9533-76-OAR)) received during adjournment of the Senate in the Office of the President of the Senate on September 11, 2015; to the Committee on Environment and Public Works.

EC-2928. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire: Nonattainment New Source Review and Prevention of Significant Deterioration Program" (FRL No. 9533-92-Region 1) received during adjournment of the Senate in the Office of the President of the Senate on September 11, 2015; to the Committee on Environment and Public Works.

EC-2929. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" ((RIN2060-AR33) (FRL No. 9530-65-OAR)) received during adjournment of the Senate in the Office of the President of the Senate on September 11, 2015; to the Committee on Environment and Public Works.

EC-2930. A communication from the Director of the Regulatory Management Division,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units" ((RIN2060-AQ01) (FRL No. 9830-66-OAR)) received during adjournment of the Senate in the Office of the President of the Senate on September 11, 2015; to the Committee on Environment and Public Works.

EC-2931. A communication from the Certifying Officer, Bureau of the Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Offset of Tax Refund Payments to Collect Certain Debts Owed to States" ((RIN1530-AA02) (31 CFR Part 285.8)) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2932. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedures for Requesting a Waiver of the Electronic Filing Requirements for Form 9855-SSA and Form 5500-E2" (Rev. Proc. 2015-47) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2933. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Clarification of the Coordination of the Transfer Pricing Rules with Other Code Provisions" ((RIN1545-BM72) (TD 9738)) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2934. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "No-Rule on Certain Section 355 Transaction" (Rev. Proc. 2015-43) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2935. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure Applying the Controlled Group Rules to Certain Fund of Funds" (Rev. Proc. 2015-45) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2936. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Companion Notice to Rev. Proc. 2015-43 Announcing Issues Under Study and Requesting Comments" (Notice 2015-59) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2937. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Controlled Group Regulation Examples" ((RIN1545-BK96) (TD 9737)) received in the Office of the President of the Senate on September 15, 2015; to the Committee on Finance.

EC-2938. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Minimum Required Pension Contributions" ((RIN1545-BH71) (TD 9732)) received in the Office of the President of the Senate on Sep-

tember 15, 2015; to the Committee on Finance.

EC-2939. A communication from the Acting Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS-2015-1476); to the Committee on Foreign Relations.

EC-2940. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS-2015-1479); to the Committee on Foreign Relations.

EC-2941. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to revoking the designation of a group designated as a Foreign Terrorist Organization (OSS-2015-1480); to the Committee on Foreign Relations.

EC-2942. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to sections 36(c) and 36(d) of the Arms Export Control Act (DDTC 15-091); to the Committee on Foreign Relations.

EC-2943. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to sections 36(c) and 36(d) of the Arms Export Control Act (DDTC 15-022); to the Committee on Foreign Relations.

EC-2944. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Board's budget request for fiscal year 2017; to the Committee on Health, Education, Labor, and Pensions.

EC-2945. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Office of Inspector General's budget request for fiscal year 2017; to the Committee on Homeland Security and Governmental Affairs.

EC-2946. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 21-148, "Fiscal Year 2016 Budget Support Act of 2015"; to the Committee on Homeland Security and Governmental Affairs.

EC-2947. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the Board's 2015 Annual Report for fiscal year 2014; to the Committee on Health, Education, Labor, and Pensions.

EC-2948. A communication from the Chief Impact Analyst, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Copayments for Medications in 2015" (RIN2000-AP15) received during adjournment of the Senate in the Office of the President of the Senate on September 14, 2015; to the Committee on Veterans' Affairs.

EC-2949. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones; Cleveland Dragon Boat Festival and Head of the Cuyahoga, Cuyahoga River, Cleveland, OH" ((RIN1605-AA00) (Docket No. USCG-2014-0082)) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2950. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

"Fisheries Off West Coast States: Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions No. 7 Through No. 13" (RIN0648-XE020) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2951. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States: Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions No. 14 and No. 15" (RIN0648-XE054) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2952. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for Gulf of Mexico Greater Amberjack" (RIN0648-XE028) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2953. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Season Limit Adjustments for the Common Pool Fishery" (RIN0648-XD994) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2954. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

"International Fisheries: Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2015" (RIN0648-BF00) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2955. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "International Fisheries: Western and Central Pacific Fisheries for Highly Migratory Species; Purse Seine Fishing Restrictions During Closure Periods" (RIN0648-BF23) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2956. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Large Coastal and Small Coastal Atlantic Shark Management Measures: Final Rule" (RIN0648-BA17) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2957. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Omnibus Amendment to Simplify Vessel Baselines"

September 17, 2015

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S6809

(RIN0648-BB40) received in the Office of the President of the Senate on September 10, 2015; to the Committee on Commerce, Science, and Transportation.

EC-2958. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8. Correction" (RIN0648-BD81) received in the Office of the President of the Senate on September 9, 2015; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1170. A bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research, and for other purposes (Rept. No. 114-144).

By Mr. ROBERTS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

H.R. 2651. A bill to amend the Agricultural Marketing Act of 1946 to extend the livestock mandatory price reporting requirements, and for other purposes.

By Mr. GRASSLEY, from the Committee on the Judiciary, without amendment:

S. 32. A bill to provide the Department of Justice with additional tools to target extrajudicial drug trafficking activity, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. GRASSLEY for the Committee on the Judiciary:

Wilhelmina Marie Wright, of Minnesota, to be United States District Judge for the District of Minnesota.

John Michael Vazquez, of New Jersey, to be United States District Judge for the District of New Jersey.

Paula Xinis, of Maryland, to be United States District Judge for the District of Maryland.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HELLER (for himself, Mr. HEINRICH, Mr. HATCH, Mr. BARRASSO, Mr. BLUNT, Mr. CRAPO, Mr. ROBERTS, Mr. BURR, Mr. SCOTT, Ms. AYOTTE, Ms. MURKOWSKI, Mr. INHOFE, Mr. BOOZMAN, Ms. COLLINS, Mr. LANKFORD, and Mr. SULLIVAN):

S. 2045. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 2046. A bill to authorize the Federal Energy Regulatory Commission to issue an order continuing a stay of a hydroelectric license for the Mahoney Lake hydroelectric project in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. AYOTTE:

S. 2047. A bill to terminate the independent third-party program for sectors of the Northeast Multispecies Fishery unless the program is fully funded by the National Oceanic and Atmospheric Administration and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. HIRONO (for herself and Mr. BOOZMAN):

S. 2048. A bill to amend title 38, United States Code, to extend authorities relating to homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN:

S. 2049. A bill to establish in the Department of Veterans Affairs a continuing medical education program for non-Department medical professionals who treat veterans and family members of veterans to increase knowledge and recognition of medical conditions common to veterans and family members of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. HEITKAMP:

S. 2050. A bill to provide for the establishment of a mechanism to allow borrowers of private education loans to refinance their loans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARPER:

S. 2051. A bill to improve, sustain, and transform the United States Postal Service; to the Committee on Homeland Security and Governmental Affairs.

By Ms. KLOBUCHAR (for herself and Mr. FRANKEN):

S. 2052. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. VITTER (for himself, Ms. BALDWIN, and Mr. Kaine):

S. 2053. A bill to require the Secretary of Energy to award grants to expand programs in maritime and energy workforce technical training, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANDERS:

S. 2054. A bill to improve Federal sentencing and corrections practices, and for other purposes; to the Committee on the Judiciary.

By Mr. BURR (for himself and Mr. CASEY):

S. 2055. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to national health security; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself and Ms. CANTWELL):

S. 2056. A bill to provide for the establishment of the National Volcano Early Warning and Monitoring System; to the Committee on Energy and Natural Resources.

By Mr. BOOZMAN (for himself, Mr. LEAHY, and Mr. PERDUE):

S. 2057. A bill providing for additional space for the protection and preservation of national collections held by the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. BURR (for himself and Mr. TILLIS):

S. 2058. A bill to require the Secretary of Commerce to maintain and operate at least one Doppler weather radar site within 55 miles of each city in the United States that has a population of more than 700,000 individuals, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself and Mr. CARDIN):

S. 2059. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 2060. A bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. ERNST (for herself, Mr. ALEXANDER, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mrs. CAPITO, Mr. COATS, Mr. COCHRAN, Mr. CORNYN, Mr. COTTON, Mr. CRAPO, Mr. CRUZ, Mr. DAINES, Mr. ENZI, Mrs. FISCHER, Mr. FLAKE, Mr. GARDNER, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mr. ISAKSON, Mr. JOHNSON, Mr. LANKFORD, Mr. LEE, Mr. MCCAIN, Mr. MORAN, Ms. MURKOWSKI, Mr. PAUL, Mr. PERDUE, Mr. RIECH, Mr. ROBERTS, Mr. ROUNDS, Mr. RUBIO, Mr. SASSIE, Mr. SCOTT, Mr. SESSIONS, Mr. SHIRLEY, Mr. THUNE, Mr. TILLIS, Mr. TOWNEY, Mr. VITTER, Mr. WICKER, Mr. SULLIVAN, and Mr. MCCONNELL):

S.J. Res. 22. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of "waters of the United States" under the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Ms. MIKULSKI, Ms. AYOTTE, Ms. BALDWIN, Mrs. BOXER, Mrs. CAPITO, Mrs. ERNST, Mrs. FEINSTEIN, Mrs. FISCHER, Mrs. GILLIBRAND, Ms. HEITKAMP, Ms. HIRONO, Mrs. MCCASKILL, Ms. MURKOWSKI, Mrs. MURRAY, Mrs. SHAHEEN, Ms. STABENOW, Ms. WARREN, Mr. PERDUE, Mr. MURPHY, Mr. KIRK, Mr. TESTER, Mr. FLAKE, Mr. REED, Mr. DONNELLY, Mr. GRASSLEY, Mr. BLUMENTHAL, Mr. ISAKSON, Mr. WARNER, Mr. LEAHY, Mr. FRANKEN, Ms. CANTWELL, Mr. RUBIO, Mr. HEINRICH, Ms. KLOBUCHAR, Mr. COONS, Mr. THUNE, Mr. MARKLEY, and Mr. GARDNER):

S. Res. 257. A resolution congratulating Captain Kristen Griest and First Lieutenant Shaye Haver on their graduation from Ranger School; to the Committee on Armed Services.

By Mrs. MURRAY (for herself, Mr. ALEXANDER, Ms. MIKULSKI, Ms. COLLINS, Mr. REED, Mr. DONNELLY, and Mr. PETERS):

S. Res. 258. A resolution designating the week of September 20 through 26, 2015, as

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (2021) 225-2927
Minority (2021) 225-3841
November 2, 2015

The Honorable Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Acting Assistant Administrator McCabe:

Thank you for appearing before the Subcommittee on Energy and Power on Wednesday, October 7, 2015, to testify at the hearing entitled "EPA's CO2 Regulations for New and Existing Power Plants."

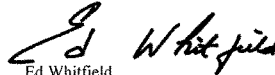
Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose 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 November 16, 2015. Your responses should be mailed to Will Batson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Will.Batson@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 Rush, Ranking Member, Subcommittee on Energy and Power

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 22 2015

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Environment and Public Works
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of November 2, 2015, to Acting Assistant Administrator Janet McCabe requesting responses to Questions for the Record following the October 7, 2015, hearing before the Subcommittee on Energy and Power titled, "EPA's CO2 Regulations for New and Existing 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 Kevin Bailey at bailey.kevin@epa.gov or (202) 564 2998.

Sincerely,

Nichole Distefano
Associate Administrator

Questions for the Record
House Energy and Commerce, Subcommittee on Energy and Power
Hearing Titled: EPA's CO2 Regulations for New and Existing Power Plants
October 7, 2015

Janet McCabe, Acting Assistant Administrator

The Honorable Ed Whitfield

1. Under the 111 (d) Rule for existing power plants, States must file a State Plan by September 6, 2016 unless it submits an extension request that is approved by EPA. What specifically must be included in such an extension request in order to be approved by the agency?

In a memorandum dated October 22, 2015, the EPA outlined the modest requirements for such an extension request; the memorandum is available at <http://www3.epa.gov/airquality/cpptoolbox/cpp-initial-subm-memo.pdf>. However, on February 9 2016, the Supreme Court granted a motion to stay the Clean Power Plan. As a result of that action, states are not currently required to submit a state plan or a request for extension by September 6, 2016.

The Honorable John Shimkus

1. Do you agree that if EPA is underestimating coal power capacity in the baseline of its 111 (d) rule for existing power plants, the agency may be under-reporting the impacts of its rule on coal generation?

A. If so, why and if not, why not?

The EPA uses the best available science and information to understand and estimate the effects of its significant rules. The Regulatory Impact Analysis (RIA) accompanying the Clean Power Plan includes an extensive discussion of the baseline on which the EPA relied in developing the RIA, as well as of the effects of implementation of the CPP on coal-fired generation. More information about these effects is available in the final Regulatory Impact Analysis available at <http://www.epa.gov/cleanpowerplan/clean-power-plan-final-rule-regulatory-impact-analysis>.

2. In the final 111 (d) rule, EPA dramatically increased its estimates for renewable energy development under Building Block 3, and the final renewable energy generation level in 2030 is more than twice the level in the proposed rule.

A. Please provide a detailed explanation for the record of the assumptions that EPA used to support its projections in the final rule of such a large scale growth of renewables.

B. Please provide a detailed explanation of why EPA projects such a large scale increase while the U.S. Energy Information Administration's estimates for the same time period are significantly lower.

The EPA discussed the quantification of Building Block 3, including changes from the proposed Clean Power Plan and projections from the Energy Information Administration, the National Renewable Energy Laboratory, and other sources in Chapter V of the final Clean Power Plan (80 Fed. Reg. 64,717 et seq.) and Chapter 4 of the Greenhouse Gas Mitigation Measures Technical Support Document (available at <http://www.epa.gov/sites/production/files/2015-11/documents/tsd-cpp-ghg-mitigation-measures.pdf>).

The Honorable Joc Barton

1. Is there anything stopping the EPA from taking a progressively even broader view of its authority under the Clean Air Act if the Supreme Court does not strike down your "outside the fence" approach when the various challenges ultimately make their way to the Court? For example, if this approach is validated, couldn't the EPA seek to reduce emissions from oil and gas refineries by taking steps to artificially deflate the demand for gasoline?

The EPA explained in section XVIII(B)(2) of the Legal Memorandum Accompanying Clean Power Plan for Certain Issues why the rationale for the Best System of Emission Reduction (BSER) in the final Clean Power Plan would not apply broadly to other industries, such as refineries, due to certain unique characteristics of the power supply industry. It specifically discusses measures to reduce consumer gasoline consumption. The Legal Memorandum is available at <http://www.epa.gov/sites/production/files/2015-11/documents/cpp-legal-memo.pdf>.

2. Am I correct in reading your RIA that approximately half of the economic benefits you claim come from this rule do not even come from reducing CO₂, but from reducing other pollutants below levels required by the NAAQS? In other words, if the NAAQS are supposedly set at levels that are the absolute minimum necessary to protect human health, how can you then turn around and claim a health benefit from reducing them even further? If you are claiming benefits for reductions below NAAQS levels, shouldn't you be lowering the NAAQS proportionately?

The EPA discussed in Chapter 4 of the Regulatory Impact Analysis accompanying the final Clean Power Plan (available at <http://www.epa.gov/cleanpowerplan/clean-power-plan-final-rule-regulatory-impact-analysis>) as well as in the most recent RIAs accompanying the PM NAAQS (available at http://www3.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_ria.html) and ozone NAAQS (available at <http://www3.epa.gov/ozonepollution/pdfs/20151001ria.pdf>) the way in which the best available science demonstrates that reductions in air pollution bring health benefits, even when those reductions result in ambient concentrations of NAAQS pollutants below the National Ambient Air Quality Standards themselves. The NAAQS are not set to a zero-risk level, but rather at a level that, in the judgment of the Administrator, is requisite to protect public health and welfare with an adequate margin of safety. Fine particle pollution is not a threshold pollutant, and we anticipate health benefits for reductions even at concentrations below the NAAQS.

3. How does it make sense to set an emission standard that is lower for an existing plant than the one you are setting for new plants?

This question is discussed in Section XI of the 111(b) preamble and in the "Legal Memorandum Accompanying Clean Power Plan for Certain Issues" (<https://www.epa.gov/sites/production/files/2015-11/documents/cpp-legal-memo.pdf>). This question is the subject of pending litigation in the D.C. Circuit and EPA will be addressing the question in the brief that EPA is currently scheduled to file on March 28, 2016.

The Honorable Rence Ellmers

1. By EPA's signing of the final 111 (d) rule, are we to assume that disagreement with the Natural Resources Defense Council and Earthjustice who submitted legal briefs to the federal court stating that "the text of § 111 (d)(1)(A) makes clear that EPA may not set standards for a pollutant that is 'emitted from a source category which is regulated under section 112'?"

The EPA discussed its legal authority for the final Clean Power Plan, including the meaning of Clean Air Act Section 111(d)(1)(A), in Chapter 4 of the preamble to the final Clean Power Plan (80 Fed. Reg. 64,710 et seq.). Further, EPA's legal authority for the CPP is the topic of pending litigation in the D.C. Circuit and EPA will be addressing that issue in the brief that EPA is currently scheduled to file on March 28, 2016.

2. Do you agree with the Natural Resources Defense Council and Earthjustice who submitted legal briefs to the federal court stating that Chevron deference should not be afforded to the EPA in applying 111 (d) because there is no statutory ambiguity? More specifically, on January 12, 2007 these groups submitted legal briefs to the DC Circuit Court of Appeals and stated that the EPA of "manufacture[d]" ambiguity in Section 111 (d) in order to claim Chevron deference.

The EPA discussed its legal authority for the final Clean Power Plan, including ambiguity in Clean Air Act Section 111(d), in Chapter 4 of the preamble to the final Clean Power Plan (80 Fed. Reg. 64,710 et seq.). Further, EPA's legal authority for the CPP is the topic of pending litigation in the D.C. Circuit and EPA will be addressing that issue in the brief that EPA is currently scheduled to file on March 28, 2016.

3. Why has your agency consistently opposed attempts to seek judicial review prior to forcing states to develop complex rules in light of Administrator McCarthy's admission that this federalized power plan will not have any significant impact on global warming?

The final Clean Power Plan would reduce power sector carbon pollution by 32 percent below 2005 levels in 2030 – that's 870 million tons less carbon pollution. The EPA firmly believes the Clean Power Plan will be upheld in court when the merits are considered because the rule rests on strong scientific and legal foundations.

4. Your agency has routinely opposed states from intervening in lawsuits filed by environmental groups against the EPA - in effect blocking the states from having any input into the sue-and-settle strategies employed by special interest groups. Many states have already committed to challenging this rule in federal court when the final rule is published in the federal register. Will your agency oppose the states' legal standing despite the fundamental impact this rule will have on states?

The EPA does not routinely oppose states' intervention in lawsuits filed by environmental groups against the agency. The EPA did not oppose states' standing in their challenge to the CPP. On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule. The EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.

5. Many states will be filing a challenge to this rule and will be asking for stay of this rule. The final rule acknowledges that 1) GHG reductions have already occurred - in fact North Carolina has seen a reduction in GHG emissions of almost 25%, 2) thanks to the natural gas revolution GHG emissions reductions will continue to occur, and 3) this rule will have no significant impact on climate change I will assume that you agree with your staff and therefore will not oppose the state's request to stay the rule until judicial review is completed.

On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule. The EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.

The Honorable Adam Kinzinger

1. In its Clean Power Plan, the EPA is imposing mandatory reductions in carbon dioxide emissions for certain states, 42% in Illinois, for example. What happens if a state determines that energy prices for ratepayers are going to significantly increase because of these reductions? Is the emissions goal fixed or are they are circumstances in which a state can adjust its goals?

The final Clean Power Plan sets strong but reasonable and achievable benchmarks for power plant carbon emissions, thus providing national consistency, accountability and fair goals for emissions reductions. The final Clean Power Plan provides guidelines for the development, submittal and implementation of state plans that implement the interim and final CO2 emission performance rates. The flexibility of the rule allows states to reduce costs to consumers, minimize stranded assets and spur private investments in renewable energy and energy efficiency technologies and businesses. States can tailor their plans to meet their respective energy, environmental and economic needs and goals, and those of their local communities.

2. Existing plants will need to be shut down in many states to meet the mandatory carbon dioxide emissions reductions. What happens if a state determines these reductions and shutting down existing plants is going to threaten reliability?

A. The EPA has developed a "safety valve" that can apply in emergency situations; does this safety valve relieve a state of its requirement to meet certain carbon dioxide emissions?

The final Clean Power Plan sets strong but reasonable and achievable benchmarks for power plant carbon emissions, thus providing national consistency, accountability and fair goals for emissions reductions. As discussed in Chapter 8 of the final Clean Power Plan (80 Fed. Reg. 64,874 et seq.), both the extensive flexibility built into the final Clean Power Plan and multiple reliability-focused tools provided to states will ensure the continued reliability of the electricity system. Chapter 8 includes a detailed discussion of reliability-focused tools, including the reliability safety valve.

3. The final rule includes revisions regarding nuclear power compared to the proposed rule. For example, the new rule clarifies that states can use "power uprates" at existing nuclear power plants as a way to meet these target CO₂ emission reductions. There were other changes to the final rule regarding nuclear power as well; however, at a September Subcommittee hearing NRC Chairman Burns told the Subcommittee that EPA had not consulted with the NRC on nuclear components of the Clean Power Plan. To your knowledge, did the EPA consult with the NRC about the nuclear aspects of this plan before the rule was finalized?

A. Do you know how many requests for power uprates are pending before the Commission, how long it normally takes to get those approved, or the total megawatts that are technically or economically feasible with our existing nuclear plants?

B. Does the EPA plan to consult the NRC going forward on these issues? Especially since applications for new reactors, power uprates, and license renewals all must be reviewed and approved by the NRC?

The NRC participated in interagency review of the final Clean Power Plan. All comments were considered and many changes and improvements were made as a result of the process. We defer questions regarding the Commission's operations to the NRC.

4. During the formulation of this plan, what kind of research or consideration was put into the number of indirect jobs that will be lost as a result of plant closure and increased electricity prices for small businesses and manufacturers? For example, a recent study in Illinois found that if three existing plants were to close it would result in 2,500 direct jobs, 4,431 indirect jobs, and \$1.8 billion in reduced economic activity.

The EPA used the best available science and information, as well as the information provided in the more than 4.3 million public comments, to estimate the economic effects and shifts in employment that could result from implementation of the final Clean Power Plan. More discussion of that is available in Chapter 9 of the final Clean Power Plan (80 Fed. Reg. 64,928) and in the Regulatory Impact Analysis accompanying the final Clean Power Plan (available at <http://www.epa.gov/cleanpowerplan/clean-power-plan-final-rule-regulatory-impact-analysis>).

The Honorable John Shimkus

1. Please provide a detailed explanation for the record why, for its 111 (d) rule, EPA estimated 244 gigawatts of coal generation capacity by 2020 in its June 2014 RIA baseline and an estimated 208 gigawatts of coal generation capacity by 2020 in the August 2015 RIA baseline.
2. Please provide a detailed explanation for the record why, for its 111(d) rule, EPA projects 214 gigawatts of coal capacity in 2016, while the Department of Energy's Energy Information Administration projections are about 261 gigawatts for 2016.
3. Please provide a detailed explanation for the record why in March of 2015 EPA estimated 238 gigawatts of coal generation in its baseline for 2016 and why in August 2015 the agency reported 214 gigawatts in 2016 for baseline coal generation.

The EPA discussed the assumptions underlying each of these projections in the Regulatory Impact Analysis accompanying the final Clean Power Plan, available at <http://www.epa.gov/cleanpowerplan/clean-power-plan-final-rule-regulatory-impact-analysis>. This Regulatory Impact Analysis was developed after carefully considering the more than 4.3 million public comments received on the proposed Clean Power Plan, including many which urged changes to our projections of coal capacity and generation as well as additional information from a variety of sources, including the Energy Information Administration.

The Honorable Mike Pompeo

1. The EPA's response to my June 2014 question for the record asking for specific information relating to meetings between EPA and White House personnel concerning the agency's proposed rule for existing power plants, referred to by the agency as its "Clean Power Plan," was completely unsatisfactory and failed to provide any of the information requested. (See Feb. 11, 2015 EPA Response to Questions for the Record available at <http://docs.house.gov/meetings/IF/IF03/20140619/102346/HHRG-113-IF03-W stateMcCabeJ-20140619-SD003.pdf>, at p. 14). You promised to take our request back and get specific answers. For each meeting between EPA and White House personnel concerning the "Clean Power Plan," please provide the following information:
 - A. Date;
 - B. Location;
 - C. Attendees;
 - D. Specific subject matter of the meeting;
 - E. Whether there were any associated letters or memoranda prepared in connection with the meeting; and
 - F. Whether John Podesta attended the meeting, and if so, his role in connection with the Meeting

Consistent with E.O. 12866, the proposed rule and final rule underwent interagency review prior to their releases. 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 proposed and

draft final Clean Power Plan.

Since the President has made addressing climate change a priority, the Clean Power Plan might have come up at a variety of meetings, involving staff from multiple agencies. Locations, attendees, and other details of the meetings in question varied, in part depending on whether the meetings were initiated by the EPA or by others. There is no comprehensive list of all those who participated in these meetings.

The Honorable Bill Flores

I. The Clean Power Plan will be fully implemented by 2030 according to your present plan. What will be the emissions reduction across the nation for Carbon Dioxide in the year 2050 versus today?

The EPA did not project reductions in carbon pollution due to the Clean Power Plan in 2050.

The Honorable Billy Long

I. In Missouri, we rely on coal for 83 percent of our energy generation. The Clean Power Plan places a huge burden on coal-fired power plants, and this rule also restricts the construction of new natural gas plants as a compliance measure. Could you explain why the EPA restricts the construction of new natural gas-fired power plants as a compliance measure?

The final Clean Power Plan sets strong but reasonable and achievable emissions guidelines for power plant carbon dioxide emissions, thus providing national consistency, accountability and fair goals for emissions reductions. The final Clean Power Plan, which addresses existing sources, gives states the option of allowing new natural gas plants to help towards compliance, but does not require that states do so. This option is further discussed in Chapter 8 of the final Clean Power Plan (80 Fed. Reg. 64,826 et seq.).

