

CLIMATE ACTION NOW ACT

APRIL 18, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 9]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 9) to direct the President to develop a plan for the United States to meet its nationally determined contribution under the Paris Agreement, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 9, the “Climate Action Now Act”, was introduced on March 27, 2019, by Rep. Kathy Castor (D–FL), and referred to the Committee on Foreign Affairs and the Committee on Energy and Commerce. H.R. 9, the “Climate Action Now Act”, directs the President to develop a plan for the United States to meet its nationally determined contribution (NDC) under the Paris Agreement, and it bars the President from using appropriated funds to take any action to advance the withdrawal of the United States from the Paris Agreement.

## BACKGROUND AND NEED FOR LEGISLATION

The United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), with the advice and consent of the Senate, in October 1992.<sup>1</sup> It was the first international treaty to acknowledge “that change in the Earth’s climate and its adverse effects are a common concern of humankind.” It also expressed concern “that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth’s surface and atmosphere and may adversely affect natural ecosystems and humankind.”<sup>2</sup> According to the UNFCCC, “[t]he ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve . . . stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>3</sup>

On December 12, 2015, in Paris, France, Parties to the UNFCCC reached an agreement designed to combat climate change by accelerating and intensifying the actions needed to strengthen the global response.<sup>4</sup> The Agreement was adopted under and intended to enhance the implementation of the UNFCCC. A key goal of the Paris Agreement is to limit global average temperature rise to well below two degrees Celsius (°C) above pre-industrial levels and pursue efforts to limit the increase to 1.5 °C. On September 3, 2016, the United States accepted the Paris Agreement, which ultimately entered into force on November 4, 2016.<sup>5</sup> To date, nearly 200 countries have joined the Paris Agreement.

The Paris Agreement established a framework in which all parties submit NDCs based on their individual domestic circumstances and priorities.<sup>6</sup> The Agreement does not impose specific emission reduction procedures or methods. The United States submitted its initial NDC on March 31, 2015, pledging to reduce greenhouse gas emissions 26–28 percent below 2005 levels by 2025.<sup>7</sup> This target re-

<sup>1</sup> Senate Ratification of the United Nations Framework Convention on Climate Change, U.S. Treaty No. 102–38 (Oct. 7, 1992) ([www.congress.gov/treaty-document/102nd-congress/38](http://www.congress.gov/treaty-document/102nd-congress/38)).

<sup>2</sup> United Nations, *United Nations Framework Convention on Climate Change* (1992).

<sup>3</sup> *Id.*

<sup>4</sup> United Nations Framework Convention on Climate Change, *The Paris Agreement* (2015).

<sup>5</sup> United Nations Framework Convention on Climate Change, Paris Agreement—Status of Ratification ([unfccc.int/process/the-paris-agreement/status-of-ratification](http://unfccc.int/process/the-paris-agreement/status-of-ratification)) (accessed Apr. 16, 2018).

<sup>6</sup> See note 4.

<sup>7</sup> United Nations Framework Convention on Climate Change, *United States of America First Nationally Determined Contribution* (Mar. 9, 2016) ([www4.unfccc.int/sites/ndcstaging/](http://www4.unfccc.int/sites/ndcstaging/)).

flects “opportunities under existing regulatory authorities to reduce emissions in 2025 of all greenhouse gases from all sources in every economic sector.”<sup>8</sup> Specific measures included in the U.S. NDC are: strengthening fuel economy standards for light-duty and heavy-duty vehicles;<sup>9</sup> determinations to establish improved energy efficiency codes for commercial and residential buildings;<sup>10</sup> strengthening energy efficiency standards for appliances and equipment;<sup>11</sup> approving alternatives to and reducing the use of hydrofluorocarbons;<sup>12</sup> establishing carbon pollution standards from new and existing power plants;<sup>13</sup> and establishing standards to reduce methane emissions from landfills<sup>14</sup> and oil and gas operations.<sup>15</sup>

The legal authorities for actions included in the U.S. NDC are derived from existing domestic laws, most of which are products of the Committee on Energy and Commerce that received broad bipartisan support from Congress.<sup>16</sup> These existing laws, regulations, and other domestic mandatory measures relevant to the achievement of the U.S. NDC target are subject to various transparency and public participation requirements, and also are subject to judicial review.<sup>17</sup>

PublishedDocuments/United%20States%20of%20America%20First/  
U.S.A.%20First%20NDC%20Submission.pdf).

<sup>8</sup>*Id.*

<sup>9</sup>Environmental Protection Agency and National Highway Traffic Safety Administration, *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 Fed. Reg. 62624 (Oct. 15, 2012); Environmental Protection Agency and National Highway Traffic Safety Administration, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2*, 81 Fed. Reg. 73478 (Oct. 25, 2016).

<sup>10</sup>Energy Policy Act of 1992, Public Law 102–486; Energy Independence and Security Act of 2007, Public Law 110–140; *See, e.g.*, Department of Energy, *Final Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1–2016: Energy Standard for Buildings, Except Low-Rise Residential Buildings*, 83 Fed. Reg. 8463 (Feb. 27, 2018).

<sup>11</sup>Energy Policy Act of 1992, Public Law 102–486; Energy Independence and Security Act of 2007, Public Law 110–140; *See, e.g.*, Michael B. Gerrard and John C. Dernbach, *Legal Pathways to Deep Decarbonization in the United States: Summary and Key Recommendations*, Chapter 9 (2018).

<sup>12</sup>*See, e.g.*, Environmental Protection Agency, *Protection of Stratospheric Ozone: Rule 20*, 80 Fed. Reg. 42870 (Jul. 20, 2015); Environmental Protection Agency, *Protection of Stratospheric Ozone: Rule 21*, 81 Fed. Reg. 86778 (Dec. 1, 2016); Environmental Protection Agency, *Protection of Stratospheric Ozone: Determination 31 for Significant New Alternatives Policy Program*, 81 Fed. Reg. 32241 (May 23, 2016).

<sup>13</sup>Environmental Protection Agency, *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, 80 Fed. Reg. 64662 (Oct. 23, 2015); Environmental Protection Agency, *Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units*, 80 Fed. Reg. 64510 (Oct. 23, 2015).

<sup>14</sup>Environmental Protection Agency, *Standards of Performance for Municipal Solid Waste Landfills*, 81 Fed. Reg. 59332 (Aug. 29, 2016); Environmental Protection Agency, *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*, 81 Fed. Reg. 59276 (Aug. 29, 2016).

<sup>15</sup>Environmental Protection Agency, *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources*, 81 Fed. Reg. 35824 (Jun. 3, 2016).

<sup>16</sup>42 U.S.C. § 7401 et seq.; Energy Policy and Conservation Act, Public Law 94–163 (1975); Energy Conservation and Production Act, Public Law 94–385 (1976); National Climate Program Act, Public Law 95–367 (1978); National Energy Policy Conservation Act, Public Law 95–619 (1978); Global Climate Protection Act of 1987, Public Law 100–204; Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, Public Law 101–218; Energy Policy Act of 1992, Public Law 102–486; Energy Policy Act of 2005, Public Law 109–58; Energy Independence and Security Act of 2007, Public Law 110–140.

<sup>17</sup>Administrative Procedures Act, Public Law 79–404 (1946); Paperwork Reduction Act of 1980, Public Law 96–511; Regulatory Flexibility Act, Public Law 96–354 (1980); Congressional Review Act, Public Law 104–121 (1996); Unfunded Mandates Reform Act, Public Law 104–4; Exec. Order No. 12866, 58 Fed. Reg. 51735 (Oct. 4, 1993); Exec. Order No. 13563, 76 Fed. Reg. 3821 (Jan. 21, 2011); Exec. Order No. 13132, 64 Fed. Reg. 43255 (Aug. 4, 1999); Exec. Order No. 13175, 65 Fed. Reg. 67249 (Nov. 6, 2000); Exec. Order No. 13771, 82 Fed. Reg. 9339 (Jan. 30, 2017).

On June 1, 2017, President Trump announced his intention to withdraw the United States from the Paris Agreement.<sup>18</sup> Under the terms of the Agreement, the United States cannot give formal notice of withdrawal until November 4, 2019, with the withdrawal taking effect one year later. Since that announcement, the Trump Administration has withdrawn, revised, or slowed most of the emission-reducing actions included in the U.S. NDC and initiated by the Obama Administration. In virtually every case, the Administration's actions would put the United States on a path to further exacerbate climate change by increasing greenhouse gas and other pollution, while undermining the competitiveness of U.S. businesses and increasing consumer energy costs.<sup>19</sup> Testimony at the February 28, 2019, hearing indicated that the "current rollback of mitigation policies by the United States"<sup>20</sup> is contributing to the possibility of an average global temperature increase of approximately 3 °C by the end of the century, even with the ambitious global actions pledged under the Paris Agreement.

Furthermore, new scientific analyses indicate that the window for meaningful climate action is shrinking faster than previously expected, and the effects will be far greater and felt more intensely by every part of the country. On November 23, 2018, the U.S. Global Change Research Program released its Fourth National Climate Assessment (NCA) describing the impacts of climate change on the United States.<sup>21</sup> The NCA warned that, in the absence of climate action, average global temperatures could rise by at least 3 °C by 2100. The report also projected that inaction will lead to significant economic and other damages in the coming decades. The NCA was released shortly after the Intergovernmental Panel on Climate Change (IPCC) released its special report warning that without more aggressive action to reduce greenhouse gas pollution, the world would likely exceed the 1.5 °C threshold, committing us to ever more serious effects of global warming.<sup>22</sup>

In response, H.R. 9 would take an important step to ensure the United States is on track to make the emissions reductions needed to avoid catastrophic climate change. The purpose of H.R. 9 is to ensure the United States does not withdraw from the Paris Agreement and honors its NDC. It directs the President to develop a plan to achieve the greenhouse gas pollution reductions in our NDC and provide the plan to the public and to Congress. Consistent with the Paris Agreement, H.R. 9 is technology neutral, and does not mandate or prohibit the use of any specific technology for achieving the necessary emissions reductions. Further, H.R. 9 does not tie the President to the specific components of the U.S. NDC

<sup>18</sup>The White House, *Statement by President Trump on the Paris Climate Accord* (Jun. 1, 2017).

<sup>19</sup>See, e.g., Environmental Protection Agency, *Regulatory Impact Analysis for the Review of the Clean Power Plan: Proposal* (October 2017); Environmental Protection Agency, *Regulatory Impact Analysis for the Proposed Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing Regulations; Revisions to New Source Review Program* (Aug. 2018); Environmental Protection Agency and National Highway Traffic Safety Administration, *Preliminary Regulatory Impact Analysis: The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Year 2021–2026 Passenger Cars and Light Trucks* (Oct. 2018).

<sup>20</sup>House Committee on Energy and Commerce, *Hearing on "We'll Always Have Paris: Filling the Leadership Void Caused by Federal Inaction on Climate Change"* (Testimony of Andrew Light, World Resources Institute), 116th Cong. (Feb. 28, 2019).

<sup>21</sup>U.S. Global Change Research Program, *Fourth National Climate Assessment* (Nov. 2018).

<sup>22</sup>Intergovernmental Panel on Climate Change (IPCC), *Special Report on Global Warming of 1.5°C* (Oct. 2018).

prepared by the previous Administration; rather, section 4 gives the President the opportunity to develop his own plan to meet emission reduction targets. The goal of the plan provided for in section 4 is consistent with the goals of long-standing U.S. policy<sup>23</sup> and existing domestic laws governing energy conservation, public health, and environmental protection. It is also consistent with the goals of the Paris Agreement.

#### COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—

(1) the following hearing was used to develop or consider H.R. 9:

The Subcommittee on Environment and Climate Change held a hearing on February 28, 2019, entitled “We’ll Always Have Paris: Filling the Leadership Void Caused by Federal Inaction on Climate Change.” The Subcommittee received testimony from:

- Andrew Light, Distinguished Senior Fellow, World Resources Institute;
- Carla Frisch, Principal, Rocky Mountain Institute;
- Nathan Hultman, Director, Center for Global Sustainability, Associate Professor, University of Maryland School of Public Policy;
- Samuel Thernstrom, Chief Executive Officer, Energy Innovation Reform Project (2) the following related hearing was held:

The Subcommittee on Environment and Climate Change held a hearing on April 2, 2019, entitled “Lessons from Across the Nation: State and Local Action to Combat Climate Change.” The Subcommittee received testimony from:

- The Honorable Jay Inslee, Governor of the State of Washington;
- The Honorable Jacqueline Biskupski, Mayor of the City of Salt Lake City, Utah;
- The Honorable James Brainard, Mayor of the City of Carmel, Indiana;
- The Honorable Daniel C. Camp III, Chairman of the Beaver County Board of Commissioners, Beaver County, Pennsylvania;
- The Honorable Jerry F. Morales, Mayor of the City of Midland, Texas.

#### COMMITTEE CONSIDERATION

H.R. 9, the “Climate Action Now Act”, was introduced in the House of Representatives on March 27, 2019, by Rep. Kathy Castor (D-FL), and referred to the Committee on Foreign Affairs and the Committee on Energy and Commerce. The full Committee on Energy and Commerce met in open markup session, pursuant to notice, on April 4, 2019, to consider H.R. 9. At the conclusion of consideration and markup of the bill, the Committee agreed to a motion by Mr. Pallone, Chairman of the Committee, to order H.R. 9 favorably reported to the House, without amendment.

<sup>23</sup> See, e.g., Global Climate Protection Act of 1987, Public Law 100–204; Energy Policy Act of 1992, Public Law 102–486.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were six record votes taken on H.R. 9, including a motion by Mr. Pallone ordering H.R. 9 favorably reported to the House, without amendment. The motion on final passage of the bill was approved by a record vote of 29 yeas to 19 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

**COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 21**

**BILL:** H.R. 9, the “Climate Action Now Act”

**AMENDMENT:** An amendment, offered by Mr. Shimkus of Illinois, No. 1, to add a new section 6 to the bill to require the Secretary of Energy to certify that U.S. electricity rates and gasoline prices will not increase due to the Paris Agreement before the bill can take effect.

**DISPOSITION:** NOT AGREED TO by a roll call vote of 24 yeas to 29 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel				Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O’Halleran		X					

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**COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 22**

**BILL:** H.R. 9, the “Climate Action Now Act”

**AMENDMENT:** An amendment, offered by Mr. Carter of Georgia, No. 2, to section 4 of the bill adding a requirement for the President to describe, as part of the required plan, how the use of hydropower will contribute to emission reductions.

**DISPOSITION:** **NOT AGREED TO** by a roll call vote of 23 yeas to 29 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess			
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey				Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O’Halleran		X					

**COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 23**

**BILL:** H.R. 9, the “Climate Action Now Act”

**AMENDMENT:** An amendment, offered by Mr. Mullin of Oklahoma, No. 3, to add a new section 6 to the bill to require the Secretary of Energy to certify that China and Russia have each committed to emission reductions equal to the U.S. emission reduction commitments before the Act can take effect.

**DISPOSITION:** NOT AGREED TO by a roll call vote of 22 yeas to 28 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo				Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long			
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte			
Rep. Kuster							
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O’Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 24

**BILL:** H.R. 9, the “Climate Action Now Act”

**AMENDMENT:** An amendment, offered by Mrs. Rodgers of Washington, No. 4, to section 4 adding a requirement for the President to describe, as part of the required plan, how the use of hydropower will contribute to emission reductions.

**DISPOSITION:** NOT AGREED TO by a roll call vote of 22 yeas to 29 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo				Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger			
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long			
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loebsack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

**COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 25**

**BILL:** H.R. 9, the “Climate Action Now Act”

**AMENDMENT:** An amendment, offered by Mr. Johnson of Ohio, No. 6, to section 4 adding a requirement for the President to describe, as part of the required plan, how the domestic use of natural gas and export of liquified natural gas will contribute to emission reductions.

**DISPOSITION:** NOT AGREED TO by a roll call vote of 19 yeas to 29 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo				Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess			
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger			
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long			
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks			
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O’Halleran		X					

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**COMMITTEE ON ENERGY AND COMMERCE – 116<sup>th</sup> CONGRESS  
ROLL CALL VOTE # 26**

**BILL:** H.R. 9, the “Climate Action Now Act”

**MOTION:** A motion by Mr. Pallone of New Jersey to order H.R. 9 favorably reported to the House, without amendment (Final Passage).

**DISPOSITION:** **AGREED TO** by a roll call vote of 29 yeas to 19 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo				Rep. Shimkus		X	
Rep. Engel	X			Rep. Burgess			
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger			
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis			
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long			
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks			
Rep. Kennedy	X			Rep. Mullin		X	
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O’Halloran	X						

04/04/2019

## OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portion of the report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 15, 2019.*

Hon. FRANK PALLONE, JR.,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 9, the Climate Action Now Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Stephen Rabent and Sunita D'Monte.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

<b>H.R. 9, Climate Action Now Act</b>			
As ordered reported by the House Committee on Energy and Commerce on April 4, 2019			
Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	1	n.e.
Pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
n.e. = not estimated.			

H.R. 9 would prohibit funds from being authorized to be appropriated, obligated, or expended to take actions to withdraw the United States from the United Nations Framework Convention on Climate Change's 21st Conference of Parties in Paris, France (known as the Paris Agreement). CBO estimates that the prohibition would have no significant effect on the federal budget because the costs to implement the withdrawal under the Paris Agreement would be negligible.<sup>1</sup>

H.R. 9 also would require the President to develop a public plan for the United States to meet certain targets for greenhouse gas emissions as agreed to under the Paris Agreement and how the United States will confirm other parties to the Paris Agreement are fulfilling their targets. That plan would be updated annually. H.R. 9 does not require the United States to implement the plan nor prescribe the scope or level of detail required in the plan.

The costs to implement those provisions of H.R. 9 could vary significantly depending on the level of effort federal agencies would devote to prepare the required plan. Agencies could adapt previously developed plans to fulfill the bill's requirements, such as those previously produced by the Department of State or Environmental Protection Agency in recent years. On the other hand, agencies may produce new plans that provide specific actions, policy recommendations, and regulatory and legislative proposals that also would fulfill the bill's requirements. Based on information from the Administration, CBO estimates that agencies would expend minimal efforts to prepare the required plan at a cost of \$1 million over the 2019–2024 period; such spending would be subject to the availability of appropriated funds.

On April 15, CBO transmitted a cost estimate for H.R. 9, the Climate Action Now Act, as ordered reported by the House Committee on Energy and Commerce on April 4, 2019. The two bills are similar and CBO's estimates of the budgetary effects are the same.

The CBO staff contacts for this estimate is Stephen Rabent and Sunita D'Monte. The estimate was reviewed by Theresa Gullo, Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to ensure the United States continues to participate in the global effort to respond to the threat of climate change by remaining a party to the Paris Agreement and fulfilling its commitment to reducing greenhouse gas emissions of the United States through implementation of its domestic laws.

<sup>1</sup>President Trump announced that the United States would withdraw from the Paris Agreement in June 2017. However, under the Agreement the earliest the United States can give official written notice of its intent to withdraw is November 2019 and the earliest that withdrawal may take effect is one year after that notification.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 9 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

## COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 9 contains no earmarks, limited tax benefits, or limited tariff benefits.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 designates that the short title may be cited as the “Climate Action Now Act”.

*Sec. 2. Findings*

Section 2 lists eight findings of Congress about the Paris Agreement.

*Sec. 3. Prohibition on use of funds to advance the withdrawal of the United States from the Paris Agreement*

Section 3 prevents the expenditure of any funds to advance the withdrawal of the United States from the Paris Agreement.

*Sec. 4. Plan for the United States to meet its nationally determined contribution under the Paris Agreement.*

Paragraph (a) of this section requires the President to develop a plan for the United States to meet its nationally determined contribution under the Paris Agreement and to submit the plan to Congress and make the plan available to the public within 120 days of the bill’s enactment. The plan is to describe how the United States will meet an economy-wide target of reducing greenhouse gas emissions by 26 to 28 percent below its 2005 level by 2025, and how the United States will use the Paris Agreement’s transparency

provisions to ensure other parties to the Agreement are fulfilling their announced contributions to the Agreement.

Paragraph (b) of this section requires the President to update the plan within one year of the bill's enactment and annually thereafter.

Paragraph (c) defines the Congressional Committees designated to receive the plan as the Committees on Foreign Affairs and Energy and Commerce of the House of Representatives and the Committees on Foreign Relations, Environment and Public Works, and Energy and Natural Resources of the Senate.

*Sec. 5. Paris Agreement defined*

This section defines the Paris Agreement as the decision by the United Nations Framework Convention on Climate Change's 21st Conference of the Parties in Paris, France, adopted on December 12, 2015.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by the bill H.R. 9.

## DISSENTING VIEWS

There are many bi-partisan policies Congress may pursue, as it *has been* pursuing in recent years, to address meaningfully climate risks, help communities adapt to future risks, and accelerate the innovation, technological advancement, and American competitiveness necessary for a secure, safe, and prosperous society.

Unfortunately, H.R. 9 is not one of those policies. H.R. 9 is an entirely partisan bill. And it is a defective bill.

H.R. 9 was introduced by Representative Castor on Wednesday, March 27, and put on the full Committee markup calendar three business days later, on April 1—without Subcommittee legislative hearing or markup. The Majority then moved H.R. 9 through the full Committee markup on April 4 and reported the bill without amendment. At this point, we understand it is being reported to the House without the benefit of *any* legislative hearing or amendment in a Committee of jurisdiction.<sup>1</sup>

As the Majority knows well, when considering policies that could have profound impact on millions of constituents—and indeed the economic and security interests of the United States—regular order is essential. It is necessary to understand and address defects and develop bi-partisan consensus on effective legislative measures. When bipartisanship cannot be achieved, regular order allows all voices to be heard throughout the process and provides for fuller information and cross-examination of ideas and proposals. H.R. 9 was not considered under regular order.

H.R. 9 withholds funds from the President to prevent taking any steps to withdraw from the Paris Agreement, a withdrawal that would be done under terms negotiated and supported by the previous Administration.<sup>2</sup> It also requires the President to develop a plan to implement the previous Administration’s so-called “commitments” for economy-wide emissions reductions, the consequences of which received no scrutiny by the Majority (or the Committee).

H.R. 9 represents the Majority’s reflexive response to President Trump’s June 1, 2017 announcement that the United States would withdraw from the Paris Agreement and begin negotiations either to reenter or negotiate an entirely new arrangement.<sup>3</sup>

In announcing the intention to withdraw, the President cited serious harms to U.S. international competitiveness, workers, consumers, and taxpayers from compliance with the terms of the Agreement and concluded that: “The Paris Accord would under-

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<sup>1</sup>The House Foreign Affairs Committee conducted a markup and reported H.R. 9 without amendment on April 9, 2019 at <https://foreignaffairs.house.gov/cache/files/2/e/2eb12762-5b1f-49eb-a4be-f34c27fce384/D863FCF8A2343318BC43AC794ED36363.04.09.2019-hfac-markup-summary.pdf>.

<sup>2</sup>See Article 28 of the Paris Agreement at [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf).

<sup>3</sup>See Statement by President Trump on the Paris Climate Accord at <https://www.whitehouse.gov/briefings-statements/statement-president-trump-paris-climate-accord/>.

mine our economy, hamstring our workers, weaken our sovereignty, impose unacceptable legal risks, and put us at permanent disadvantage to the other countries of the world.”<sup>4</sup>

The Committee’s own oversight and legislative record in the previous four Congresses produced ample evidence to confirm the potential harms from the Paris Agreement and related U.S. commitments. In the runup to the Paris negotiations, the Committee examined closely the Obama Administration’s greenhouse gas emissions control initiatives, enshrined in its Climate Action Plan,<sup>5</sup> and especially the imposition of its Clean Power Plan and related electric sector regulations, which had been a central feature in support of U.S. pledges.<sup>6</sup>

The evidence collected through numerous Committee oversight and legislative hearings showed how these electric sector regulations, premised on an obscure and misinterpreted provision in the Clean Air Act, would have produced a radical and expensive transformation in the supply and delivery of electric power; threatened to drive out of the U.S. markets major sources of affordable energy, undermined reliability and security, and increased consumer utility bills.<sup>7</sup>

The Majority could have done the public a service to review this record and explore what meeting the U.S. commitments would truly entail. Instead, Members and the public were deprived of a close examination of the costs and feasibility of all the air, transport, industrial, and agricultural regulations necessary to meet the timelines proposed in the U.S. commitments—timelines that aim for “deep decarbonization” by 2050.<sup>8</sup>

The Committee would have benefited from a close look at why the Obama Administration did not provide the public a complete plan to meet the 2025 commitments. What it managed to implement fell short in emissions targets by upwards of 40 percent using the most optimistic assumptions.<sup>9</sup> Such an examination would have revealed the costs of trying to regulate through emissions caps when there are not yet technologies available to meet the reductions affordably and reliably.

Compounding H.R. 9 defects is the unquestioning focus on U.S. domestic action, while all evidence indicates the bulk of future global emissions growth will be in China, India, and the rest of the developing world. Recent projections by the International Energy Agency show that fossil energy, even with all existing and an-

<sup>4</sup>*Id.*

<sup>5</sup>See *The President’s Climate Action Plan*, Executive Office of the President, June 2013. The plan entailed a suite of actions, including electric sector emissions reductions, oil and gas sector methane emissions reductions, auto fuel economy standards, energy efficiency initiatives.

<sup>6</sup>See references to the Clean Power Plan in the *U.S. Intended Nationally Determined Contribution* and the *2016 Second Biennial Report of the United States of America Under the United Nations Framework Convention on Climate Change*.

<sup>7</sup>See, for example, <https://republicans-energycommerce.house.gov/news/fact-sheet/hr-2042-ratepayer-protection-act-0/>. The regulations prompted State governors, regulators, and other stakeholders to challenge the legality of the regulations, which the current Administration is now seeking to replace.

<sup>8</sup>See *U.S. Intended Nationally Determined Contribution*, which states: “This [2025] target is consistent with a straight line emission reduction pathway from 2020 to deep, economy-wide reductions of 80% or more by 2050.”

<sup>9</sup>The Obama Administration reported its implemented and proposed policies, would, under the most optimistic assumptions about natural emissions sinks, reach about 60% of the emissions reductions to meet Paris commitments, according to *2016 Second Biennial Report of the United States of America Under the United Nations Framework Convention on Climate Change*.

nounced policies implemented, will remain the dominant form of energy in our global systems through 2040, and likely beyond.<sup>10</sup>

We must recognize that this is a global issue that requires global solutions. And there are some hard realities that make global emissions reductions challenging. In 1990, energy-related carbon dioxide emissions were 20.5 gigatons. By 2018, energy-related CO2 emissions had increased to 33.2 gigatons, or by 62 percent, according to the most recent report from the International Energy Agency.<sup>11</sup> This growth has occurred despite nearly 30 years of international climate agreements. And it will continue as nations seek the tremendous benefits of energy and power in their societies and as developing nations especially acquire the steel, cement, and other infrastructure needed for building and expanding the world's cities; the world's building stock alone is expected to double by 2060, the equivalent of building an entire New York City every single month for forty years.<sup>12</sup>

Consider just energy related emissions: between 2017 to 2018 alone, global emissions of carbon dioxide increased by 560 million metric tons—a half gigaton. China's emissions increased by 230 million metric tons, or a little more than 40 percent of the worldwide increase. Meanwhile, as U.S. energy emissions also tracked up, the IEA notes: “Despite this increase, emissions in the United States remain around their 1990 levels [which is] 14 [percent] and 800 million tons of CO2 below their peak in 2000. This is the largest absolute decline among all countries since 2000.”<sup>13</sup>

While the previous Administration committed the U.S. to expensive domestic action to increase its rate of emissions cuts, the Paris Agreement allows global growth in emissions to continue at a rapid pace in developing nations and especially among the United States' chief competitors and adversaries.

As we learned from information submitted at one hearing, Russia, the world's number five greenhouse gas emitter, right after the European Union, pledged it would reduce emissions by up to 30 percent below its 1990 baseline. But Russia's emissions were already 50 percent below the 1990 baseline, which was set as the Soviet Union collapsed. This gives Russia room to increase its emissions substantially—giving Russian industry a competitive advantage.<sup>14</sup>

India, the world's number three emitter, committed to reducing its carbon dioxide emissions intensity (emissions per unit of GDP) by 33 percent to 35 percent by the 2030s, a goal which would still allow emissions growth of 65 percent by 2030, driven in part by the announced doubling of domestic coal output shortly after the Paris agreement. Moreover, the commitment is conditional on financial

<sup>10</sup> See World Energy Outlook, *International Energy Agency* at <https://www.iea.org/weo/>.

<sup>11</sup> See *Global Energy & CO2 Status Report*, International Energy Agency, March 2019, at <https://www.iea.org/geco/emissions/>.

<sup>12</sup> See *Our 2019 Annual Letter*, Bill and Melinda Gates, noting “As the urban population continues to grow in coming decades, the world's building stock is expected to double by 2060—the equivalent of adding another New York City monthly between now and then. That's a lot of cement and steel. We need to find a way to make it all without worsening climate change.”

<sup>13</sup> *Op. Cit.*, *Global Energy & CO2 Status Report*.

<sup>14</sup> See February 27, 2019 Letter to Committee from Steve Eule, Vice President for Climate & Technology, Global Energy Institute, U.S. Chamber of Commerce, Subcommittee on Environment and Climate Change Hearing “*We'll Always Have Paris: Filling the Leadership Void Caused by Federal Inaction on Climate Change*,” February 28, 2019.

assistance and technology transfer from developed nations estimated at upwards of \$2.5 trillion.<sup>15</sup>

China, the world's top greenhouse gas emitter, pledged to peak its carbon dioxide emissions around 2030 and make its best efforts to peak early. It pledged to reduce its carbon dioxide emissions intensity by 60 percent to 65 percent. Yet data from the previous 25 years show China has already been reducing intensity at about this rate, so the commitments mean business as usual.<sup>16</sup> Whatever the progress, the essential deal placed the United States at a substantial strategic disadvantage as China pursues unbridled efforts to expand manufacturing and exports around the world.

The Majority's focus on the Obama Administration's economy-wide emissions commitments is not a realistic solution to global emissions growth. Enforcing the commitments through regulations here at home, however, could create realistic hardship on our electricity, transportation, and industrial sectors in communities around the nation. H.R. 9, in short, is a solution that threatens the nation's pursuit of its other security and economic priorities, without addressing the underlying global emissions challenge.

The challenge is to focus on what is necessary for future energy systems, transportation systems, manufacturing, and industry to emit fewer greenhouse gases. This is a technological challenge. And without the technological fixes, international agreements will not work.<sup>17</sup>

Had the Majority investigated the details of U.S. commitments, the potential impacts of policies to meet those commitments, and the relative quality of other nation's promises, we suspect their unquestioning support for H.R. 9 would wither away.

Had the Majority reviewed the reasons why the Obama Administration could not reach bipartisan consensus on its greenhouse gas policies and could not create a durable agreement through the advice and consent of the Senate, we suspect it would have devised a more thoughtful path to U.S. climate change policy.

But as reflected in H.R. 9, the Majority choose its well-worn path. Indeed, the Majority rejected every Minority amendment offered at markup, including amendments that sought to protect consumers from energy-price impacts, that sought to ensure that any planning include essential clean technologies like nuclear and hydropower, that sought to ensure the continued global emissions benefits of the nation's natural gas exports, and that sought to ensure that the United States not bind itself to commitments that put it at a strategic disadvantage to China or Russia, which have gamely avoided economically harmful climate policies. As it is, we cannot support favorably reporting this bill to the House floor.

Rather than pursue this plainly defective and partisan bill, the Committee should have continued examining bi-partisan policies focused on the innovation and the adaptive capacity of the nation and its communities, recognized the scale of the global technological challenge, the benefits of modern energy and industrial sys-

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See, for example, testimony of Sam Thornstrom, Energy Innovation Reform Project, before the Subcommittee on Environment and Climate Change Hearing, "We'll Always Have Paris. Filling the Leadership Void Caused by Federal Inaction on Climate Change," February 28, 2019.

tems, and sought out the ingredients to technological advances and continued U.S. competitiveness and security.

GREG WALDEN,  
*Republican Leader.*

JOHN SHIMKUS,  
*Republican Leader, Subcommittee on Environment  
and Climate Change.*

