

businesses and minority-owned businesses can create jobs and are part of the infrastructure of jobs.

So if the President speaks tomorrow, I hope he speaks for all of America, that all will have an opportunity to retrieve the dream by the opportunity to make it in America.

I thank the gentleman for having us this evening.

Mr. GARAMENDI. We have always thought of America as being the land of opportunity; and it has to be the land of opportunity for everyone in this country, wherever they may be, whatever their status may be. And we know that if we are able to rebuild the manufacturing base in America, small companies, large companies, entrepreneurs and inventors will all participate in it.

So the Make it in America effort will be a bipartisan effort. And if we put our minds to it, it will be a successful effort, and America once again will be in the leadership place.

Mr. Speaker, we yield back our time, and we thank you.

#### EPA'S WAR ON TEXAS

The SPEAKER pro tempore (Mr. THOMPSON of Pennsylvania). Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. I thank the Speaker for allowing me this time. I am pleased that I can bring up some issues that I think are important.

The title of this is "The EPA's War on Texas," but this is about a lot more than Texas.

I think that most people probably don't realize that a lot of the rules and laws that, especially if they're in business, but even in your own personal life, that seem to touch closest to home, you would think they were done by a vote of this Congress in some form or fashion where we decided that this is good for whatever the rule is for your life or for your business or for the good of our Nation. But, in fact, many of these rules actually come from regulatory agencies. These agencies are given rule-making power, and those rules actually have the power of law.

And so a body of employees of the United States—and a few of them are political appointees, depending on the agency. Some of them are appointed each term by the administration, but most of these people are civil servants who work for civil service and these agencies. There are agencies across this land that take certain sections of our lives and make rules about them—the rule-making authority is given to them by Congress—and the EPA is one of those agencies, the Environmental Protection Agency.

A situation has arisen in Texas which is not only about Texas, but it's about America. The last couple of years I have been talking about the rule of law and the fact that we try to set up a sys-

tem in this Nation that has basic fairness and that there are certain things that are right and certain things that are wrong. When we do that, we don't expect one group to impose its will upon another group inappropriately; but what has happened to Texas, I would argue, is an overstepping of a regulatory agency.

To talk about this, I'm going to have to start off by giving you—so that you understand it not only affects the lives of Texans, but it directly affects the lives of 13 other States immediately, and potentially every State in this Union.

In the last 4 years we have been having an ongoing debate and discussion, both at committee level and on this floor, about the effect of carbon emissions upon the environment. There has been an ongoing debate as to whether or not there is such a thing as global warming. That term now, because the globe doesn't seem to be warming up very much, has turned to climate change, and also because of some kind of falsely manipulated facts concerning global warming, the term has gone to climate change.

But there are those good-meaning people in this Congress who believe that carbon emissions are the new deadly medicine for this country; and if we don't do away with them, it's going to destroy our ability to live on this planet. Al Gore and others are the lead folks on this, and they think it's very important. That debate has been going on now for 4 to 6 years in this Congress, and an attempt has been made to pass what's called cap-and-trade legislation. In fact, by one vote, I believe it was, cap-and-trade, under the Democratic administration of the last session of Congress, was passed out of this House. Cap-and-trade went nowhere in the Senate, and so it never became law. But its purpose was to cap the emissions and tax folks accordingly. That's very simplified; it's much more complex than that. But basically this Congress, made up of the Senate and the House, rejected as a unit the concept of cap-and-trade.

The Environmental Protection Agency decided that even though pretty much America had spoken that carbon emissions were not something that they wanted to impose harshness upon folks about, they decided, well, we don't care what they want, we want the carbon emissions.

□ 2050

So they, starting in December, I believe, of last year, they started issuing new regulations about carbon emissions. And then they started passing them on through the Clean Air Act to the various States.

Now, I'm telling you this because it's going to have a direct effect on your life. Every Member of Congress here and every person that might be watching this discussion someplace else will see that when you start talking about what is maybe happening in Texas, you

have to realize that as you watch the price of gasoline go up at your pump, you have to realize that there can be a direct relationship between what's going on in the market and what happens to the prices for the American consumer.

Here's what has happened in Texas. When they created the Clean Air Act, they gave the EPA the ability to promulgate rules and standards for air quality. But the act specifically says that the local authority and the States have a better means of policing up this act than the Federal Government. So the implementation of the rules, of the standards set by EPA, will be done by the States rather than the Federal Government, and each State is to come up with a plan.

And that bill was passed, I believe, in 1974 or 1976, something like that. Anyway, it was in the 1970s, and it had nothing to do with carbon. It had to do with noxious gasses and other really bad things that were getting into our air and reducing the air quality, and the standards were important.

And each State had the ability to structure their permitting system to fit the needs of their State and then submit that permitting system to the EPA for approval. And the EPA would say, Yeah, I think that's a good system, or No, we don't think it is a good system.

One of the things that happened when they put together this Clean Air Act and set these emission standards was what they call a grandfather clause. And companies that were already in existence long before the time of the passing of this act were grandfathered out of the act. So basically some of these big refineries, electricity power plants, manufacturing facilities, automobile plants had been around long enough that they would be grandfathered in some certain areas on these emission standards and the requirement for permitting under the law. That was just the way this act was written.

So Texas had a lot of—Texas is the largest energy producing and energy manufacturing State in the United States and has the largest refinery capacity in the United States. I used to be able to name the refineries in Texas, but I'm afraid I'd fall way short today. But needless to say, there are a multitude of refineries and chemical manufacturing facilities just in the Houston area alone and in Corpus Christ and in other parts of our State, both great, gigantic refineries and midsize and small refineries and manufacturing facilities. And they're all dealing with, basically, the petrochemical industry. The oil and gas industry is the base product that they are refining, manufacturing things from and so forth.

So in Texas, looking at what it would take not only to clean up the industries that would fall under the act, which would be the newly permitted industries, but also would start to police up the grandfathered—the folks that

could get out under a grandfather clause—police up those facilities, too.

The people in Texas got together and they came up with a concept called flex permitting, and here's the way it works:

Let's just take a refinery. Baytown has a gigantic refinery that I have visited. They passed a rule that says there's lots of sources of emissions from some form or fashion inside of a refinery—comes from a little thing the size of a faucet to great big smoke stacks can be emitting something into the air. So what we want them to do is take that site and reduce their emissions down to the standard that is required by EPA. And so we're going to let them, so long as their site reduces emissions and meets the goals set up by the Clean Air Act—not every individual place that emits will have to have a permit, but just one permit to cover the whole site. And then as the site reduces its emissions, it all falls under one permit, and it's called a flex permit. So it allows the refinery to go in, fix this first and then fix this second and this third and this fourth; and find the big bad ones first and fix those, and then work down to fix the plant.

And by the way, there is a recent letter from the EPA saying that Texas has met and exceeded the standards under this flex permitting.

But then along comes greenhouse gasses, and they passed the rule about carbon emissions. And they say, Now you have to put that under your permitting systems.

And the other 13 States plus Texas were kind of taken aback by this. But Texas said, No way. We don't think you should be imposing carbon emission standards on us when the Congress refused to impose these standards. And they, as I understand it, started contesting this in the court.

So here's where the rub comes in. The EPA then announces to Texas, We don't approve your flexible permitting system, and every industry in your State is now out of compliance, and you are going to have to have a new permitting system, and we're taking over how that's going to work—even though the act says Texas, or any State, shall be people who administer there.

Now, you may say, Well, that's not too bad. There's a kicker here. Texas created this permitting system in 1994, and since that time, they have been asking EPA to tell them yes or no. Do you approve it or you don't approve it? And tentatively, they sort of said, Well, we'll approve it, but we're going to study it and look at it.

Fifteen years this flexible permitting system has been in place.

And now as the dispute over carbon emissions comes along, to batter Texas into compliance, they have depermitted the whole State. They've announced they depermitted the whole State. Now, the State went to court and at least got a stay on that temporarily.

But think about that. If you had something that you were doing that the government said, Now we'll have to approve that to do it, and you say, Fine, here's what we're doing; would you please approve it or disapprove it, and they waited 15 years to do it, and then when they announced they're disapproving it they say, Oh, by the way, we plan to go back and fine you for the last 15 years for carbon emissions—that's what I understand it's going to be—something is wrong with this picture.

I'm joined by my good friend and fellow judge, LOUIE GOHMERT from Texas, and I'd like to hear his take on this. And if I got anything wrong, he can tell me about it.

Mr. GOHMERT. Thank you. I appreciate your yielding.

And not only do you not have anything wrong, but the Clean Air Act that the EPA is supposedly acting under, but they're actually violating, stipulates that pollution control is "the primary responsibility of States and local government."

□ 2100

While the national EPA office is supposed to set the overall priorities, States are supposed to have, under this bill that they are supposedly acting under, the States have considerable leeway in their "implementation plans." That's what the States are supposed to do. And for all these years, when the EPA all of a sudden changes their instructions, States are normally given 3 years. Because what we're talking about is when the EPA says now shut down, you are talking about jobs.

And I realize this is all part of the President's war on jobs. And it's working well. First, the moratorium in the Gulf of Mexico has really decimated Louisiana and many of the Gulf States as he has declared this war on jobs and eliminated so many jobs there in the Gulf region. But what is happening here, as you freeze out refineries, as you declare war on drilling and activity in the Gulf of Mexico, we are now starting to see that effect on everybody else.

And it's one thing to stand up and say, and I am sure we'll hear tomorrow night about how the President cares so much about the working poor in America, and that's who he's out for. But the trouble is, don't watch what is said, watch what's done. And as we watch the price of gasoline continue to go up, and up, and up, the people that are most devastated by that are not the massive companies that can pass these costs on, they're the people that are trying to get to those jobs that have jobs left. So those that hadn't already lost their jobs are going to have to deal with this problem.

The EPA, the regulation chief, Gina McCarthy, just a couple of weeks ago sent notice to Texas saying she had no choice but to seize control of the permitting. I mean this is the Federal Government just deciding that even

though the bill under which she is acting says the States and local government have primary control, she's decided to seize control. This is the Federal Government at its worst, at its most dictatorial, doing what democracy says you will not do, because they couldn't pass the bill, and now they're coming on and doing this with a totalitarian dictatorship.

Now, might as well put "czar" beside Gina McCarthy's name. She's the latest czar. Just hadn't called her that because the name's become unpopular. But now she has seized control of the State and local permitting under the act. She noted "statements in the media" by Texas officials and their legal challenges to EPA's greenhouse gases, but she cited no legal basis for the takeover. And what's more just really offensive is the fact that what in essence they're saying is in 1992, according to this Wall Street Journal article, in 1992, before there was ever any regulation of this horrible carbon dioxide, carbon emission, and unfortunately Gina McCarthy, as she says anything, she's a pollutant, she's a polluter, we need to shut down polluters like folks that are breathing out carbon dioxide. You know, it used to be a joke, Judge, that the government has gotten so overreaching that the next thing they're going to regulate the air you breathe. And now we're here. And that's what's happening.

But in 1992 there were no carbon dioxide concerns. And now they're using the fact that in 1992 Texas was not regulating carbon dioxide as a reason to take over what the Clean Air Act says must be done by the States and local governments. So it's pretty ridiculous. The Wall Street Journal says these words: "The takeover was sufficiently egregious that the D.C. Circuit Court of Appeals issued an emergency stay on Thursday suspending the rules pending judicial review. One particular item in need of legal scrutiny is the permitting takeover as an interim final rule that is not open to the normal and Clean Air Act-mandated process of public notice and comment." As the article says, so much for transparency in government.

But I guess when you declare a war on jobs, you declare a moratorium on drilling activity, you devastate the hardworking folks in America that are trying to produce energy, and what that didn't kill then you turn right around and take over control of State environmental responsibilities so that you can finish going through with your war on jobs.

Mr. CARTER. And you know, this flex permit's whole purpose was to use common sense and meet the environmental standards without shutting down facilities and losing jobs. That's why they came up with the flex permit. It allowed them, if they met the standards, to do the repairs and fixes in integral parts and not stop until the whole thing is in compliance and have a permit for every faucet in the building

that needs to be adjusted or fixed. But rather let them fix the problem as it goes along.

And we are the model for meeting the air quality act, the model. I mean most States aren't in as good of compliance as the State of Texas under the flex permit system. And yet exactly as my colleague has pointed out, because of this carbon emissions dictatorship and because they're saying you will do as I say or else, the position that's being taken by this czar from the EPA, Texans are sort of the kind of people that just bow up when people say that like that, so we said "no," and we are in this fight. And I think we are in the fight to win. Because I think anybody would say it would be totally unfair for EPA to sit and ponder their duty to approve a plan and spend 15 years looking at it and not do anything with it, and it's meeting its standards, and all of a sudden, bingo, because of this they're taking over our permitting.

I am very pleased to be joined by a gentleman that is probably the most knowledgeable man in Congress about the workings of this particular act, Mr. JOE BARTON, former chairman of the Energy and Commerce Committee and a ranking member of the Energy and Commerce Committee, and now our Texas expert on all things energy and all things environmental. Mr. BARTON, I yield you so much time as you choose to use.

Mr. BARTON of Texas. Thank you, Congressman CARTER. And I want to thank you and Congressman GOHMERT and some of the other Texans who may have been here before I got here. I have been at a Young Guns dinner, which is why I'm late. But I did not want to fail to take advantage of this opportunity. I want to thank you for hosting this Special Order.

I want to kind of set the predicate here in terms of those kind words that Judge CARTER just said about me. I have been in the Congress 26 years. I have been on the Energy and Commerce Committee 24 years. I have been a congressional observer or delegate at large to all the major global warming climate change conferences, or COPS, council of parties. I was at Kyoto when Vice President Gore came over and made his famous speech, and then on behalf of President Clinton agreed to sign the Kyoto Accord, which the U.S. Senate never took up.

Most recently, I was a part of the congressional delegation that then-Speaker NANCY PELOSI took to Copenhagen last year, where President Obama came and pleaded that there be a conference agreement, which then Secretary of State Hillary Rodham Clinton agreed to fund with dollars that the U.S. Government didn't have. So I was at Buenos Aires. I mean I have been to all the major conferences as a congressional observer or delegate.

I chaired dozens of hearings on global warming, authored bills, was an original cosponsor and passed the—I helped to vote for and support the Clean Air

Act amendments of 1990. So I have been involved in this issue for a number of years. Let me say this: CO<sub>2</sub> is not a pollutant under the criteria as put forward by the Clean Air Act. It's not one of the named criteria pollutants like SO<sub>2</sub> or ozone. It is necessary for life as we know it.

□ 2110

The term "greenhouse gas," if you just think what a greenhouse is, self-enclosed, in this case the world, and the greenhouse gases are what create the atmosphere and help trap the heat so that life can exist. CO<sub>2</sub> is a trace gas, it's about 1/10 of 1 percent of the atmosphere. Man-made CO<sub>2</sub>, called anthropogenic CO<sub>2</sub> is, I don't know the exact percentage of the total, but it is less than 50 percent.

So what has happened in the last 10 to 15 years is this theory of global warming and climate change needed a bogeyman, and they chose CO<sub>2</sub>. They have developed these models that show as CO<sub>2</sub> levels rise in the atmosphere over time the temperature rises.

It is a fact that CO<sub>2</sub> is rising, but it is not necessarily a fact that that rise is causing temperature to rise. In fact, there is quite a bit of data that would indicate that CO<sub>2</sub> rises as a consequence of temperature rising, so it is a follower, not a leader in that.

So in any event, this administration, the Obama administration, when they came into office in January of 2009, began a process, or accelerated a process, to determine that CO<sub>2</sub> was a danger to the atmosphere or a danger to the health of the U.S. population. And they, within 90 days, issued an endangerment finding where they said that since CO<sub>2</sub> was a danger to public health, they had the right to regulate CO<sub>2</sub>, and they began to promulgate these proposed regulations.

What does that have to do with the Special Order this evening? The Environmental Protection Agency has made a decision—and I think a political decision—to be punitive towards Texas and has gone down, and I am sure Judge CARTER and Judge GOHMERT have pointed out that they have revoked over 100 existing air-quality permits, some of which have been on the books since the 1990s, for sites and facilities in Texas.

Those permits are for more than CO<sub>2</sub>. They actually are required by the Clean Air Act to regulate SO<sub>2</sub> and NO<sub>x</sub> and ozone, things of this sort. They revoked all of those.

The EPA has also issued, I don't know the right word, Judge, threats, warnings to the State of Texas that Texas must begin to implement some of these proposed regulations on CO<sub>2</sub>. In both cases, I think the EPA is acting without the law being on their side; and in the case of the CO<sub>2</sub> regulations, I am very confident they are acting without the science on their side.

So what those of us who represent Texas here in the Congress, in conjunction with our Governor, Lieutenant

Governor, the Texas House, the Texas Senate and the Attorney General of Texas, are saying is before we go any further, let's see what the real facts are. Let's see, has Texas, as a regulatory entity, through the Texas Council of Environmental Quality, TCEQ, failed in its obligation under the Clean Air Act to, to implement the terms of that act?

I think the answer is Texas has not failed. I think the answer is, if you look at the record, air quality and the criteria pollutants that are specifically regulated by the Clean Air Act is improving in Texas. We have two or three or four, I guess we have, the DFW is a non-attainment area. El Paso is a non-attainment area. Houston-Harris County is a non-attainment area and Beaumont-Port Arthur, I believe, are still listed as a not. So we have four areas that have been non-attainment under the specific criteria of the Clean Air Act.

In all four of those, the State of Texas has submitted what are called state implementation plans, SIPs, and those have been accepted, I think with one exception by the EPA, both regionally and nationally. Under those SIPs, air quality is improving.

And if the EPA were not to keep changing the standard, we would be in attainment in all four regions. But each time we have gotten close, in the DFW area, for example, to be in attainment, they have tightened or changed the standard and said that we were in noncompliance.

So what we are doing this evening under Judge CARTER and Judge GOHMERT's leadership is saying let's begin to have a debate about what the facts are. The first fact that everybody watching this and listening on the floor needs to know is air quality in Texas is improving. The TCEQ, Texas legislature, has done an outstanding job of implementing the terms and conditions which we have passed here in Washington.

Number two, the State of Texas, working with industry, has adopted a flexible permitting program where we work with industry and say here is the standard you need to meet. Here are the various ways you can meet it; let's work together.

And that's worked very well. Compliance costs in Texas are below the national average. Industry sees that. Industry is coming to Texas. People are moving to Texas for its quality of life.

I am sure you all pointed out that Texas has led the Nation in job creation. Texas has led the Nation as one of the leading States in terms of population increase. Now, you cannot be doing all those good things and then be derelict in air quality if, in fact, air quality is improving and water quality is improving.

So we want a dialogue on what the facts are, both on the criteria pollutants under the Clean Air Act and on CO<sub>2</sub>, which is a greenhouse gas. And I would hope, Congressman, that we do

more of these Special Orders, that we even do some of these in Texas. I can assure you on the Energy and Commerce Committee, and I am a senior member, I have encouraged our current chairman, Mr. UPTON, and our current subcommittee chairmen, Mr. WHITFIELD, Mr. STEARNS and Mr. SHIMKUS, to hold hearings, bring witnesses on both sides from Texas, bring our friends at the EPA, both up here and in Dallas, come down, come up, and let's put the facts on the table and then let's see what laws, if any, need to be changed.

I am already a cosponsor of a bill that would make it explicit that CO<sub>2</sub> is not a regulated pollutant under the Clean Air Act and should not be. I am not saying that at some point in time we may not need to issue a standard on CO<sub>2</sub>, if it's proven that it is a harm to public health. But until that time, it should not be regulated under the Clean Air Act. It was never intended to be, and we think the EPA is wrong to keep insisting that it should be.

Again, I want to thank you, Judge, and thank you, Judge. I am glad to be here and participate.

Mr. CARTER. I thank you for coming here. JOE BARTON really has been dedicating his life to these types of issues for his long tenure in Congress.

But I always wonder if sometimes people back home are sitting around saying so what does this mean to me. Well, I am speculating, okay, I am only speculating, but let me say something that I think everybody agrees.

The last time we had a spike in the price of gasoline, it started, I think, everybody points to how it started, it started when they had a refinery fire in Illinois.

□ 2120

And all of a sudden, the speculators said, whoa, we've got to reduce refining capacity in the oil and gas industry right now. They shut down about half that plant in Illinois. And all of a sudden, we started to see the futures start to move on oil. And that was the kick-off of \$5 gasoline in some parts of the country. Why? Because the speculators say, well, if refinery capacity is reduced, gasoline is going to be in more short supply. Futures, I can buy now, sell later. I can make money off this commodity. And the price started up. Other things happened then, speculators, all of that can be talked about. But it started. Everybody says that there was a fear of reduced refining capacity because right about that same time we had the hurricanes, which reduced refining capacity over in New Orleans.

Now, what's happened since this whole thing started right here which could reduce—remember that Texas has the largest amount of refineries anywhere in the United States. JOE, Mr. BARTON, if I could ask you, what percentage of the refining is in Texas? It's a pretty good percentage of the national refining. Do you know?

Mr. BARTON of Texas. About two-thirds.

Mr. CARTER. Two-thirds. Two-thirds of the refining capacity is in Texas. And all of a sudden as this dispute between EPA and Texas rises its ugly head, and we see that the EPA is taking over this permitting, and industry itself is saying, look, we just want to know what to do. We are at a loss of what to do. And we are willing to work. Industry is saying to them, tell us what the new permit is. Tell us how to do this. What's going to happen? And there's a lawsuit pending, and all this stuff. Now the speculators, I think, are starting to say, oh, the price may be going up again. You tell me. Has the price of gasoline gone up in the last 3 months? Does it look like it's going to continue? I'm not saying this is the cause, but I think I can argue it's one of them.

What Texas does with industry is the perfect example of government and industry working to fix a problem together. That's what we thought we were going to get from the Obama administration when he started out. Instead, we have government working against industry in this present administration, and because of that we start to see it at every level. And by the way, if you think it's just in this particular area, just a little fact: Last year, the Federal Government issued a total of 3,316 new rules and regulations, an average of 13 rules a day. Seventy-eight of the new rules last year were major rules. A major rule is a rule that will result in an annual effect on the economy of \$100 million or more, a major increase in cost or prices for consumers, or significant adverse effect to the economy. And we had, just last year, 78 of those rules, plus an additional 3,000-plus more rules that were passed.

I bring this all up, and I will yield to my friend in just a moment, because I want to talk about one of the solutions that we are looking at. It's a little known thing that is now coming to the forefront. It's called the Congressional Review Act. Back in 1996 under the Contract With America Advancement Act of 1996, as part of the Small Business Regulatory Enforcement Fairness Act, they created the Congressional Review Act, this is Public Policy Law PL 104-121. It allows the Congress to review every new Federal regulation issued by the government agencies and by passage of a joint resolution overrule that regulation. The process is the Federal agencies shall—note that word, that means they have to, although I don't think they all do—submit to each House of Congress and to the Comptroller General a comprehensive report on any major proposed rule. Congress has 60—that's legislative—days to pass a joint resolution of disapproval of any rule. The Senate must—must—vote on the CRA resolution of disapproval if 30 Members of the Senate approve having a vote. Only 30 Members are necessary to have a vote in the Senate.

So this is a tool where we can, in our small way, be a part of this fight on behalf of Texas. And we will be following this procedure that is set out in this act, and we will be attempting to have, and will have, a vote on this House floor on this rule. And I think when people hear the "taint fair" factor in this particular rule, it's going to be a strong vote.

I now yield the time to Mr. GOHMERT that he wishes to take.

Mr. GOHMERT. Well, my friend indicates it's unfair for Texas. But as former chairman of Energy, JOE BARTON, notes, with about two-thirds of the refining capacity for the whole country being in Texas, what this means is regardless how anybody feels about Texas, I know there are a lot of people that don't care for the State, but regardless of how people feel about it, when two-thirds of the refining for the gasoline they put in their cars is coming from the State of Texas, and the EPA has declared war against Texas, violating the laws of this land in order to politically stick it to Texas, the price that will be paid is by rank and file folks across the country. And, as we've seen, manufacturers—we had colleagues across the aisle talking about jobs, jobs, jobs—the things that this administration are doing are killing jobs. They were going to create all these jobs and create all these jobs, and then they did such a terrible job of creating jobs, in fact, we were going in the wrong direction. So then they went to saying, well, we are saving jobs, when the fact is they are driving jobs overseas. We're losing manufacturing jobs constantly. And this very thing we are talking about tonight is one of the reasons. There is so much uncertainty with regard to business in this country.

Now if you want certainty, you could be a friend of this administration, as George Soros is, so his biggest single investment is a drilling company down in South America, and so we loaned them \$2 billion—that's with a B, billion dollars—to drill offshore off Brazil, but in the meantime, we've got a war declared on those who make their living in the gulf coast area, a drilling moratorium. People are still not able to drill, and that has affected so many jobs. But when the price of gasoline continues to go shooting up because this administration is doing everything they can to increase the price of energy and make it harder for people to get cheaper gasoline, people are going to make their voices heard. And what I don't think the administration understands is the timing of all this is going to be such that it's going to be coming around in 2012 and really adversely affecting people's pocketbooks and jobs. Employers can't count on the price of fuel being where they need it, and a lot of businesses are saying, this is something we can't do business with, the EPA, the uncertainty of the requirements.

And what it reminds me, too, is in our Natural Resources Committee with

the Democrats in control they were always able to bring more witnesses. That's just the way procedure works around here. Whichever party is in the majority, they get to bring more witnesses that will say what their position is. They brought a witness to the Natural Resources Committee to testify that, gee, we really need to stop drilling off the coast and basically everywhere. But he said there were over 200 million families in the world that make their living from fishing, and if we allow this drilling off the coast to continue, it's going to destroy fishing for all those 200 million families. Well at my turn, I pointed out, you'll be glad to know that we heard those things in Texas, I did growing up, that if you allow platforms off our coast, then it's just going to kill off all the fishing off the coast of Texas and in the gulf. It turns out, I told the witness, he would be glad to know, that those platforms become an artificial reef. Fish proliferate around those areas. So when you want to go fishing now, they take you out to platforms because it's done so much good for fishing. And I said, as far as you're concerned about the oil that was leaked after Katrina, not one barrel came from any of those platforms, some of which were totaled. They came from onshore tanks which really were the place where tankers bringing oil from overseas came in and unloaded it. Some of that was hit by the hurricane and leaked. And he said, well, look, and this is in a nutshell what he said, I guess the real problem is this: If you produce oil or gas onshore, offshore, wherever it is, at some point it's going to be burned, and it may be it's in an engine, wherever, that produces carbon, the carbon goes into the air, and eventually the rain brings it down either into the ocean or on the land, and it's washed into the ocean. That puts more carbon in the ocean, and as you have more carbon in the ocean, eventually the pH increases, and eventually if you keep doing that long enough, the pH will increase enough, everything dies in all the oceans, and so that's when people can't fish. That's what this administration is basing all of their opposition to drilling and production of fossil fuels on.

□ 2130

We all agree we ought to be moving off of fossil fuels; but if we would allow drilling on Federal offshore areas, Federal onshore areas and designate a percentage of the proceeds of our Federal royalty to go toward development of alternative fuel, we don't run the jobs off, we don't run the poor folks that are just trying to make it into bankruptcy because they can't afford gasoline, and everybody wins. It doesn't have to be an everybody-lose solution.

Mr. CARTER. I yield to Mr. BARTON.

Mr. BARTON of Texas. I want to keep reiterating, air quality in Texas is improving. It is improving. The Clean Air Act gives the Federal Government, through the Environmental Protection

Agency, the right to preempt States when the States either don't implement the Federal regulations on the Clean Air Act, or if the States simply turn it back and ask the Federal Government to take over. So the EPA does have the right under certain circumstances to preempt State implementation.

But in this case, I would postulate, and each of you are former judges before you became Congressmen, that since the State of Texas has complied and air quality is improving and there is a debate about whether CO<sub>2</sub> should be regulated under the Clean Air Act, which is a separate issue, that the Federal Government has overstepped its bounds to come in and unilaterally, against the wishes of the State of Texas, repeal these permits and require that they all be resubmitted and not only resubmitted, but resubmitted in a very specific way.

The State of Texas air quality permitting program has been flexible, says we will regulate an entire site and as long as you are under that cap, you can implement new equipment and new procedures as long as your emissions stay the same or go down. And under the Texas flexible permitting program, they have gone done, in some cases as much as 20-30 percent. This is in a State where population has gone up, where productivity has gone up, and output has gone up. So in my view the State of Texas and the Texas Council on Environmental Quality should be getting awards from the Federal Government, not being punished and not being unilaterally dismissed.

I really respect and thank you, Congressman CARTER, for holding this Special Order. I will tell our friends in Texas that may be watching that this Special Order is not the end; it is simply the beginning.

Mr. CARTER. That's right.

Mr. BARTON of Texas. Those of us who support this initiative support it because we believe you can have improving air quality and improving water quality and increase jobs and economic output. It is not an either/or. It can be a win/win. But if we adopt the EPA's shortsighted, mandatory, very specific command-and-control attitude, you are, as Congressman GOHMERT said, you are going to destroy jobs, destroy the economy, reduce output, and not get very much increased environmental quality.

Mr. CARTER. Reclaiming my time, I believe the Governor pointed out that of the million new jobs created in America in the last 5 years, 3 years, something like that, 850,000 of them were created in Texas. We are a dynamic economy; and we are a dynamic economy because we have had the foresight of all working together to make jobs, to improve the environment by using logical, commonsense methods of doing this regulation.

Mr. BARTON of Texas. If the gentleman would yield, common sense, we are beginning the redistributing proc-

ess now, and the State of Texas is going to gain four additional congressional seats which means our population between 2000 and 2010 has increased approximately 3 million people. My question to you: Would people be coming to Texas if the quality of life was decreasing, if the environmental quality was decreasing, or would they be coming to Texas because it is a better place to live and it has economic opportunity?

Mr. CARTER. Reclaiming my time, that is exactly what is going on, Mr. BARTON. They are all indications. You can stop your new neighbors and ask them why they came, and they will tell you because Texas is where things are happening. It is where you have a tax structure where we can prosper in business, and yet it is a fair tax structure.

You are doing things right so that rather than throwing up roadblocks to new businesses, you are throwing up enhancements to make it easier for new businesses to come and prosper. Not the big monstrous refineries, the little bitty mom-and-pops. Some of those mom-and-pops are a chain of mom-and-pop stores that are all over the State and soon to be all over the Nation. Texas makes sure that we follow basic rules and we don't turn people loose, but we come up with methods where government and industry work together to solve problems.

Mr. BARTON of Texas. If the gentleman would yield for another question, name a State that has one of the more rigid, restrictive, so-called protective environmental regulatory schemes in the Nation?

Mr. CARTER. California.

Mr. BARTON of Texas. The gentleman is correct.

Name the State that has the largest net out-migration from its State to Texas?

Mr. CARTER. California.

Mr. BARTON of Texas. The gentleman is correct again.

So here you have a State that is noted for its State regulatory protection regulations at the State level; and yet that State has one area, the Los Angeles basin, that has been in the worst category for nonattainment for two decades. I wish we had some of our friends from the great State of California on the floor, and they could correct me if I'm wrong, but that particular region has not exhibited any measurable increase in air quality, in spite of the most rigid regulations, and that State has exhibited the largest net out-migration of population to Texas.

I don't think that is serendipity. It is because we have strong environmental protection in Texas. Our air quality is improving. The quality of life is improving; but because of our flexible approach, you still can create jobs in Texas, and there are lots of folks around the country who want to take part in that and become part of that.

Mr. CARTER. As we fight this fight, this fight is not just an oil and gas

fight. This is going to affect power plants around the country that are operating under natural gas, coal, oil, any kind of hydrocarbon. This is just the tip of the iceberg of what is going to happen in this arbitrary decision by the EPA against the will of the Congress and the American people.

We have had 2 years of doing things against the desired will of the American people, and the American people spoke in the last election. It is time for us to make commonsense decisions and do what makes sense. It makes no sense to let people operate under a system that works for 15 years and then come in and say implement this immediately. We are not giving you 3 years to implement it. You will do it now. And when we said, no, wait a minute, let's play by the rules, they say, Fine. We never did get around to giving you the official letter approving your flex permit system, so here is your official letter. It is denied. Because you are not doing anything about it, we are going to come in and take over your permitting system.

I don't think the average American thinks that is the way anybody ought to operate. It is not the way that I think anybody ought to operate. I would be surprised if it is not the way that a majority of the people in this House think these agencies ought to operate.

You know, we always hear the idiot, crazy things and they come out in the newspaper and you will see some of them. But just to let you know it is not just in this industry where new regulations are going to be going strange; there is a proposed regulation that is going to be affecting Texas for sure and a whole lot of other States in this unions: they want to regulate dust.

□ 2140

So, if you've got a dusty road, driving up to your ranch house or to your personal house, they want to come in and regulate the dust that kicks up in the summertime, when it's hot, behind your car.

The solution they came up with for this in California—California, the place where they have the drought in the Central Valley, a shortage of water—is to water down your road every day. Take the water you need for the plants and for people, and squirt it on the road to keep dust from going up in the air.

Like Mr. GOHMERT said, we used to laugh and say, someday, the government is going to regulate the air we breathe and the food we eat. Lo and behold, they are. It's going on right now.

So this is just the beginning. As JOE said, this is just the beginning of bringing this to the attention of the American people—this regulation, what they're doing to Texas—and of standing up for our fellow Texans, who are standing up for our State's compliance record and standing up for our State's ability to create an environment where people can have a job and where they

can pay their own way—and good industry jobs. We're standing up for those people. We're making sure that we don't lose those great jobs in Texas because of this regulatory agency.

This is only the beginning of the fight. There is more to come. We're going to fight, not only this regulation, but many, many more. We'll be bringing them up to let the American people see that the regulators can be dictators.

I just want to correct one thing Mr. GOHMERT said. We're no longer having a moratorium on drilling. I was told today by one of my constituents that we're having a permanent moratorium.

They said, Oh, yes. Where the moratorium's lifted, you just have to get a permit.

So far, there haven't been any permits.

Mr. BARTON of Texas. I just want to make one nonscientific comment.

I flew this morning from DFW Airport up to Reagan Airport to attend this session of Congress. The DFW area is home to approximately 3 million people, to a number of power plants, lots of industry, electronics, general aviation, defense. I flew into Washington, which has almost no industry. The air was clear at DFW. When I came into Reagan, I looked out the window, and I thought, man. I mean, I don't want to be disrespectful to our international friends over in Poland, but it did remind me of the last time, which was several years ago, I flew into Warsaw, and the air was so thick you could see it. I don't know what the issue is here in the Washington region today, but when we flew into Reagan, it was noticeably hazier and browner flying in than it was when I left DFW, where the air was absolutely crystal clear.

Now, that's nonscientific, but I would invite anybody who thinks we've got an air quality problem in Texas to go to Dallas or to go to Houston. Drive out along the Houston ship channel. Go down to Corpus Christi, outside the major refineries on the gulf coast, and you'll see a success story. What you won't see is air pollution that's caused by industry in Texas. Their compliance record is excellent, and they've got the facts to back it up.

Mr. CARTER. I thank you.

At this time, I yield back what little time I have, and remind everybody that the stars are still big and bright deep in the heart of Texas.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. EMERSON (at the request of Mr. CANTOR) for today and the balance of the week on account of medical reasons.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. McDERMOTT, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today and January 26.

Mr. BURTON of Indiana, for 5 minutes, today and January 26.

Mr. TURNER, for 5 minutes, January 26.

#### ADJOURNMENT

Mr. CARTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 44 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, January 25, 2011, at 10 a.m. 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:

172. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Emerald Ash Borer; Quarantined Areas; Maryland, Michigan, Minnesota, Missouri, Pennsylvania, Virginia, West Virginia, and Wisconsin [Docket No.: APHIS-2008-0072] received January 11, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

173. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Pine Shoot Beetle; Additions to Quarantined Areas [Docket No.: APHIS-2008-0111] received January 11, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

174. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Asian Longhorned Beetle; Additions to Quarantined Areas in Massachusetts and New York [Docket No.: APHIS-2009-0014] received January 11, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

175. A letter from the Chairman, Congressional Oversight Panel, transmitting the Panel's monthly report pursuant to Section 125(b)(1) of the Emergency Economic Stabilization Act of 2008, Pub. L. 110-343; to the Committee on Financial Services.

176. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Supplemental Priorities For Discretionary Grant Programs [Docket ID.: ED-OS-2010-0011] (RIN: 1894-AA00) received January 3, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

177. A letter from the Secretary, Department of Commerce, transmitting the annual report for FY 2010 of the Department's Bureau of Industry and Security (BIS); to the Committee on Foreign Affairs.