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A REVIEW OF EPA'S REGULATORY ACTIVITY DURING

THE OBAMA ADMINISTRATION:

ENERGY AND INDUSTRIAL SECTORS

WEDNESDAY, JULY 6, 2016

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2322 Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Members present: Representatives Whitfield, Olson, Barton, Shimkus, Latta, Harper, McKinley, Kinzinger, Griffith, Johnson, Long, Flores, Mullin, Rush, McNerney, Tonko, Engel, Green, Castor, Welch, and Loeb sack.

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Staff present: Will Batson, Legislative Clerk, Energy and Power; Mike Bloomquist, Deputy Staff Director; Allison Busbee, Policy Coordinator, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Ben Lieberman, Counsel, Energy and Power; Brandon Mooney, Professional Staff Member, Energy and Power; Mary Neumayr, Senior Energy Counsel; Annelise Rickert, Legislative Associate; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Jean Fruci, Minority Energy and Environment Policy Advisor; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; John Marshall, Minority Policy Coordinator; and Alexander Ratner, Minority Policy Analyst.

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Mr. Whitfield. I'd like to call the hearing to order this morning and today's hearing is a review of EPA's regulatory activity during the Obama Administration in the energy industrial sector.

We'll have two panels of witnesses this morning. The first one, of course, is Ms. McCabe, who is a frequent visitor to the committee, and we welcome you again this morning, Ms. McCabe.

And then on our second panel I'll introduce each of those witnesses when it comes time for them to give their opening statement.

At this time, I would like to recognize myself for five minutes for an opening statement. During the almost six years that I have been chairman of this subcommittee we've had 40 hearings that have looked at various EPA rules and proposals that affect or will affect the nation's energy and industrial sectors.

These are the critical sectors for ensuring our nation's economic productivity and prosperity. The costs and burdens of EPA's unrelenting rulemaking upon these sectors have been a constant concern.

We've seen the impact of these rules in scores of shuttered coal-fired plants, the delayed and canceled projects and the destruction of thousands of jobs in communities dependent upon this abundant energy resource.

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But the impact of compliance costs is only part of the story. Our hearing record, which reflects testimony from federal officials, state energy and environmental regulatory, legal experts and economists chose EPA's controversial and extreme interpretations of its statutory authorities to transform its role from that of environmental regulator to that of the nation's ultimate energy regulator.

In fact, on the climate change issues, the philosophy seems to be that the end justifies the means, whether or not laws are violated or not.

We see this first hand in the EPA's implementation of the administration's climate change agenda, which is reflected in what is already more than 100 greenhouse gas-related rules.

EPA's pursuit of greenhouse gas standards for the power sector is a case in point. The agency's new interpretation of its authorities have led to a new source standard that effectively prohibit the construction of power plants in the United States that use the most advanced commercially-proven clean coal technologies, the kind being built today in Japan and around the world.

In fact, Mr. Shimkus, Mr. Olson and I were in a plant in Japan last week. Zero NOx emission, zero SOx emission, operating burning 3 million tons a year cannot be built in America.

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The prospect of this kind of regulation combined with utility MACT and related rules has undermined the diversification of our nation's future energy supply. The agency's assertion of new authorities to set energy policy is even more troubling with EPA's existing source rule.

The so-called clean power plan would effectively place EPA in the driver's seat over the states and the Federal Energy Regulatory Commission in transforming how electricity is generated, transmitted and consumed in the United States and influence over state electricity systems never contemplated by Congress when it adopted the Clean Air Act.

And given EPA's preferred reading of its authorities, there is only increased influence over energy policy to come. EPA is already setting greenhouse gas standards for new and existing oil and natural gas production.

We have to ask what will be the next EPA interpretation of its authority. The administration and EPA's administrator admit the goal is to reduce massively the use of fossil fuels. That's the goal.

But that is not the purpose of the Clean Air Act. Congress did not write the Clean Air Act to be the vehicle for taking command of state energy planning, the efficient and economical dispatch of electricity or the production of oil and gas.

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Congress did not write the Clean Air Act to provide EPA with the ability to create new regulatory powers and authorities so it can transform the nation's energy system.

Yet, this is exactly what the agency is doing and I might add that Congress also rejected the idea of cap and trade once yet EPA is pushing a backdoor cap and trade policy without congressional approval.

Under the clean power plan, EPA has interpreted the Clean Air Act to give itself the power to plan the revenue mix of the U.S. power sector.

EPA has created a de facto fuel and renewable energy standard for America. EPA and the administration are emerged and engaged in blatant favoritism.

For example, nuclear power plants receive no credit for their continued contribution to carbon emission abatement and wind energy by the Interior Department has been given a blanket exemption from the federal Migratory Bird Act and the Eagle Protection Act.

And remember, BP was fined \$100 million under the Migratory Bird Act for the birds that were killed during the Gulf oil spill. So this administration is engaged in favoritism as it pursues its carbon future for America.

I look forward to the testimony of our witnesses today. I

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would remind everyone that 27 states filed a lawsuit against the clear power plan and the Supreme Court issued a stay.

And don't forget Larry Tribe, when he testified before this committee, the constitutional lawyer from Harvard, said the clean power plan was like picking up the Constitution and tearing it up.

With that, at this time I'd like to recognize the gentleman from Chicago, Mr. Rush, for his opening statement.

Mr. Rush. I want to thank you, Mr. Chairman.

Mr. Chairman, as the EPA under the Obama administration prepares the legally mandated regulations to protect the air, protect the land and protect the water for all Americans. The majority party has insisted on digging its heels and fighting these rules at every turn.

Unfortunately, Mr. Chairman, it is impossible to address the most pressing issues associated with climate change if we simply follow the example of the Republican Party of putting our collective heads deep, deep, deep in the sand and kicking this serious problem down the proverbial road for the next generation to tackle.

Mr. Chairman, all one has to do is to look at any number of articles that are written daily over the past five years alone to read about a thousand-year flood, read about the floods that

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wiping out parts of South Carolina and West Virginia even as we speak.

Mr. Chairman, pick up a daily newspaper, any daily newspaper from anywhere around the country at any time over the last year or two and you can read about the 100-year-old drought driven areas in the West.

Mr. Chairman, in fact it seems almost annually that we are witnessing drought-fueled wildfires incinerate millions of acres of forest at a record pace from Alaska to California, claiming the lives of firefighters, innocent people, destroying lives and devastating livelihoods.

Mr. Chairman, we understand that the Republican Party has never met a regulation that it did not want to kill. We get it. We get it, Mr. Chairman.

However, at some point, the majority party needs to stop simply trying to obstruct and follow the lead of President Obama, follow the lead of my allies around the world and indeed pretty much every other nation on this planet and heed the warning put forth by all of the world's scientists and Mother Earth, Mother Nature herself.

Mr. Chairman, it is not simply enough to rail against the EPA for establishing regulations protecting our most sacred natural resources of air, water. Just because these rules are

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perceived to hurt the profit margin of certain industries.

Mr. Chairman, this is the United States of America and not the United States of Avarice. Mr. Chairman, there are other worthwhile benefits to society besides how much money a corporation earns in a single quarter.

In fact, Mr. Chairman, the Clean Air Act and the rules associated with it has been one of the most socially, environmentally and economically beneficial laws ever enacted by this Congress by anybody's standard, rather, period.

Time and time again, we've heard from our colleagues on the other side of the aisle that the EPA has overstepped its authority and is promulgating regulations that would hurt industry, kill jobs and bring about the downfall of the American way of life as we know it.

We've heard it time and time again. It's an old record. It's tired. That dog simply does not hunt anymore, Mr. Chairman. And yet, the benefits of the Clean Air Act programs have consistently outweighed the costs that we have been warned against at each and every time.

Mr. Chairman, you know as well as I in a report -- recent report to the Congress the Office of Management and Budget found that in the average the 32 major rules promulgated by the EPA between 2004 and 2014 had benefits between \$160 billion and \$788

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billion compared to costs of just \$38 billion to \$45 billion. By 2020, Mr. Chairman, the economic benefit of reducing air pollution is estimated at almost \$2 trillion dollars exceeding in cost by a 30 to 1 ratio.

So Mr. Chairman, my friend, instead of always crying wolf over the EPA rules, I would urge the majority party to work with those of us who want to address one of the world's most pressing challenges and help find new strategies to address the issue of climate change that impacts every man, woman and child in this country and around the world -- those who are born and those who are yet to be born. With that, Mr. Chairman, I yield back the balance of my time.

Mr. Whitfield. The gentleman had no time left but you'll get a statement. But Mr. Upton is not going to be with us this morning. He's chairing another conference. And is there anyone on our side of the aisle that would like to make some comments? Mr. Shimkus recognized for five minutes.

Mr. Shimkus. And Mr. Chairman, just to welcome our guests. Also kind of raise the point that you raised that we did visit a super critical clean power plant in Japan, the Isogo Thermal Power Station, and I think the takeaway from many of us was that when we talked to other countries that are involved in this debate they really create and incentivize and give emissions credits for

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more efficiencies and lowering CO2.

I think our problem is is that we don't if there was a net benefit because of new technology and incentives. Our pathway still is using technology that's not available. There is technology that will make power plants more efficient.

This is a 1,200-megawatt two unit system and they broadly boast about the reduction in carbon emissions and they use that in their calculations and we don't see that coming from the administration.

And to my colleague and friend, Mr. Rush, all our question is where does the executive branch get its authority and we don't think the legislative branch should excuse the executive branch for any reason for illegally breaking the law by promulgating rules and regulations that are not founded in statutory authority.

That's part of our debate here today too. So we do welcome you. It will be an interesting hearing and I thank you and I yield.

Mr. Whitfield. Will the gentleman yield?

Mr. Shimkus. I will yield.

Mr. Whitfield. I might just point out I read this in one of the opening statements of one of our witnesses, former Energy Secretary Steven Chu even criticized the Clean Power Plan this past month, arguing we should make a clean power plan that's based

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on clean energy, not renewable energy. So even our former secretary of energy made that comment about the Clean Power Plan.

Mr. Shimkus. I yield back my time.

Mr. Whitfield. Gentleman yields back. At this time, is there anyone on -- I see Mr. Pallone is not here. Do any of you all want to make any opening statements at this time?

Okay. Okay, that concludes the opening statements and we've already introduced Janet McCabe, who's the acting assistant administrator of the Office of Air and Radiation, U.S. Environmental Protection Agency, a native of Indiana, and Ms. McCabe, we appreciate your being with us today and you're recognized for five minutes for your opening statement and then I'm sure there will be a few questions for you.

So thanks for being with us. You know the drill. The microphone, red light and all that. So thank you.

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

Ms. McCabe. Thank you, Chairman Whitfield and Ranking Member Rush, who had to step away and all the members of the subcommittee. Thank you so much for inviting me here to testify today on EPA's regulatory efforts under the Clean Air Act.

The mission of EPA is to protect public health and the environment and the agency's regulatory efforts further those goals. We are guided in meeting those goals by science and by the law, which serve as the backbone for each of the agency's actions.

For over four decades we have cut air pollution in this country by 70 percent and the economy has more than tripled. I will focus my opening statement on providing more detail for three rules, which will provide tremendous benefits to public health and the environment and they've mostly been mentioned already this morning -- the Clean Power Plan, the methane standards for the oil and gas industry and the ozone national ambient air quality standards.

Climate change is a tremendous environmental and public health challenge. The most vulnerable among us including children, older adults, people with heart or lung disease and

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people living in poverty may be most at risk from the impacts of climate change.

Fossil fuel-fired power plants are by far the largest stationary source of U.S. CO2 emissions. Using authority under the Clean Air Act to address these emissions, the EPA finalized the Clean Power Plan last August.

Although the Clean Power Plan has been stayed by the Supreme Court, we are confident that it will be upheld because it rests on strong scientific and legal foundations.

Since the stay was issued, many states have been moving forward voluntarily to cut carbon pollution from power plants. They have also asked EPA to continue our outreach and development of supporting information and tools that will help guide states when the Clean Power Plan becomes effective which we're doing while ensuring that we fully comply with the stay. For example, we recently proposed design details for the optional clean energy incentive program to address state requests for additional clarification as states consider their options to reduce carbon pollution.

In May, EPA announced steps to further reduce methane and other harmful air pollutants from new and modified sources in the oil and gas industry along with the critical first step in tackling methane emissions from existing sources.

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These steps will help combat climate change and reduce emissions of other harmful air pollutants. These standards build on the agency's 2012 rules by adding requirements that the industry reduce emissions of greenhouse gases using readily available and cost effective technology and by covering hydraulically-fractured oil wells along with additional equipment and activities that were not covered in the 2012 rules.

They also required owners and operators to find and repair leaks, which can be a significant source of emissions. These final standards reflect significant stakeholder input and in particular provide companies a pathway to demonstrate that requirements under a state rule are comparable to requirements in the final rule.

This would allow sources to comply with a specific final rule requirement by complying with a state regulation. We know that existing sources in the oil and gas sector also emit substantial amounts of methane and as a first step in the regulation of these sources we've issued a proposed information collection request for ICR.

When finalized, it will require companies with existing operations to provide information on technologies and costs that are critical to the development of reasonable regulations. In addition, EPA plans to seek voluntary information on innovative

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strategies that can accurately and cost effectively locate, measure and mitigate methane emissions.

The draft ICR as published early in June and the first of two public comment periods will last for 60 days. Finally, in October of last year, the agency completed the periodic review of the national ambient air quality standards, or NAAQS, for ground level ozone.

We have a primary standard directed at protecting public health and a secondary standard directed at protecting public welfare, for example, trees, plants and ecosystems.

Exposure to ground level ozone can harm the respiratory system, aggravate asthma and lung diseases and is linked to premature death. These health impacts impose significant costs on Americans and can adversely affect their daily lives through missed school and work.

The Clean Air Act requires EPA to review the NAAQS every five years to make sure the standards continue to protect public health with an adequate margin of safety.

Based on the law, a thorough review of the science, the recommendations of the agency's independent science advisors, assessment of EPA experts and after extensive public engagement and opportunity review and comment at many steps along the way, the administrator determined that the appropriate level to

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protect the public health with an adequate margin of safety is 70 parts per billion.

The two-step process of a science-based NAAQS review followed by implementation is a system that works. EPA and state, local and tribal co-regulators share a long history of successfully managing and improving air quality.

For ozone, existing and proposed federal measures like vehicle standards and power plant rules are reducing and will continue to further reduce ozone pollution nationwide.

We expect that the vast majority of counties outside of California will meet the 2015 ozone NAAQS by 2025 without having to take any additional action beyond those federal measures.

Again, I thank the subcommittee for inviting me here today and I look forward to your questions and the discussion on these and other EPA actions.

[The prepared statement of Janet McCabe follows:]

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Mr. Whitfield. Ms. McCabe, thank you very much for your opening statement and I'll recognize myself for five minutes of questions.

When the Clean Power Plan was being discussed, one of the comments that was frequently made by any representative of EPA was that we were providing maximum flexibility to the states.

And yet, the reality is that in your so-called building blocks where states can go to natural gas or they can go to renewable energy they simply don't have that option. It's simply not there to the extent necessary.

So many critics say that that flexibility argument -- we're giving maximum flexibility to the state -- is really a red herring, that there is no flexibility for those states that have that unique problem facing them.

I mean, do you agree with that or do you just feel like oh, if you work hard enough you can -- I mean, you all arbitrarily set the CO2 standard for every state. So this flexibility argument you honestly believe that these states have the flexibility to meet this requirement?

Ms. McCabe. I do, Mr. Chairman, and I can explain why.

First of all, I think it's important for me to say that the goal for each state was in fact not arbitrarily set. It was set after very careful evaluation of --

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Mr. Whitfield. Who set it?

Ms. McCabe. The EPA rulemaking sector.

Mr. Whitfield. Yeah, EPA set it.

Ms. McCabe. But not arbitrarily. It was based on information and data collected from the industry from states.

Mr. Whitfield. Well, some states would disagree with that. I've talked to many of them and they view, even though you went through a process that you set the standard.

Ms. McCabe. Well, there's a difference between who set the standard and whether it was set arbitrarily. I was taking issue with the use of the word arbitrary, and the record lays out -- people can disagree and certainly do disagree that we made the right choice or that we evaluated the data appropriately.

Mr. Whitfield. Why do you think the Supreme Court issued a stay of the Clean Power Plan?

Ms. McCabe. Because this is a very important issue and they felt that as courts have done before --

Mr. Whitfield. So you don't feel like that they had any questions of the legality of it, that they simply stated because it was such an important issue?

Ms. McCabe. They gave no indication of their reasoning. No court has spoken to the substance --

Mr. Whitfield. But your interpretation is it was so

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important that they stayed it?

Ms. McCabe. That's how I understand it. This is --

Mr. Whitfield. That's your understanding.

Ms. McCabe. -- courts sometimes do stay regulations while they're going through review.

Mr. Whitfield. Uh-huh. Now, let me ask you this question. Despite the stay of the Clean Power Plan, last week EPA published a 44-page proposed rule setting forth the details for clean energy incentive program and requesting comments by August 29th, 2016.

The purpose of the program is to incentivize early action by states to comply with the Clean Power Plan. Now, if a state or affected stakeholder does not comment on this proposed rule during the public comment period, will they have foregone their right to comment on the rule?

Ms. McCabe. This is a completely voluntary program and people are welcome to comment on it during the comment period.

Mr. Whitfield. Well, the rule is not final yet, is it? Or is the rule final yet? Okay.

Ms. McCabe. No, it isn't. It's proposed.

Mr. Whitfield. But you're saying that it's not going to be mandatory? It's going to be voluntary?

Ms. McCabe. Absolutely not mandatory. It's an early action opportunity that's provided in the Clean Power Plan. It's

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not --

Mr. Whitfield. Will there be a final rule?

Ms. McCabe. If the -- if the agency finalizes it it will

--

Mr. Whitfield. And does the EPA plan to finalize the rule before the end of this administration?

Ms. McCabe. I can't speak to the schedule. But I expect that the agency will move to finalize the rule.

Mr. Whitfield. Now, if the EPA does finalize this rule how would this comport with the stay?

Ms. McCabe. We believe that this is not -- taking this action is not inconsistent with the stay and this may come up again this morning. We consult regularly with our lawyers at the Department of Justice.

The stay precludes EPA from implementing the Clean Power Plan. EPA is doing nothing to implement the Clean Power Plan.

Mr. Whitfield. Now, do you think there is universal agreement to what you just said or do you think there are opposing views to what you just said?

Ms. McCabe. I wouldn't want to speak for other people. There are usually a variety of views on everything that EPA does.

Mr. Whitfield. So that's EPA's view, right?

Ms. McCabe. It's the EPA's view. It's the Department of

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Justice's view and we are being very, very careful about this, Mr. Chairman.

Mr. Whitfield. Okay. Because I remember you all making very strong comments that you had every faith and confidence that a stay would not be issued by the Supreme Court.

Ms. McCabe. We did believe that to be true. I think many people believed that to be true.

Mr. Whitfield. Well, a lot of us did not believe that to be true. Anyway, thank you very much and my time is expired. I recognized the gentleman from Illinois, Mr. Rush, for five minutes.

Mr. Rush. Ms. McCabe, I really appreciate you coming before the subcommittee for the umpteenth time to deal with this issue and if one didn't know any better they might think that the majority party really, really, really has it out for your agency.

And you're aware the premise of today's hearing is that EPA has repeatedly overstepped its authority and is really nearly issuing burdensome new rules that will kill jobs and send the American economy down the tank.

You've heard these claims many times before the Republican Party cried wolf when it comes to actual cost and benefits attributed to Clean Air Act rules and other regulations issued by your agency.

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We all understand that facts are not always the driving force behind many of these claims and as a matter of fact it seems as though facts are standing in the way of a lot of these claims. But they keep coming anyway. I would like for you at some point in time during my questions to really focus on separating the, for this subcommittee, some of the truth of the ever present fiction that's in the room.

In my opening statement, I stated there were societal benefits associated with EPA rules. They go far beyond the quarterly earnings of certain industries.

Can you state some of the additional benefits to the EPA's regulatory framework that impacts all Americans?

Ms. McCabe. Yes, sir. Thank you for the question.

It's clear that air pollution has significant impacts on public health across this country. That includes increased risk of asthma attacks, other respiratory illnesses, premature death, other sorts of health impacts that mean missed work days, missed school days for children and parents need to stay home.

These are real everyday issues that families across the country have to deal with. When it comes to climate we know that climate is changing, we know that that is having impacts that is being reflected in increased wildfires, increased droughts, increased flooding, increased violent storms, some of the things

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that you mentioned yourself, Congressman Rush.

These are having real impacts on people, on their health, on their economic well-being and their ability to live their lives in this country.

Mr. Rush. Well, besides the health status of Americans and I've noticed for the last 25 years I've seen -- I know more and more people, more and more families who are victimized by asthma in the last -- over the last 25 or so years.

So the health issues are really, really troubling and a critical stage for our nation. But what are some of the economic benefits associated with the EPA rules, particularly in areas of spurring new technology and innovations in transportation and electricity and in manufacturing sectors?

Ms. McCabe. Yes. That's absolutely been the case. The rules over the years have spurred the creation and invention of pollution control technology which not only employs people here in the United States installing and designing that but is an exported product that the United States exports around the world, which brings, again, value back to the United States.

Mr. Rush. So from a perspective of the health benefits to the nation and the economic benefits to the nation, you made an overall assessment of the work that the EPA has done in the past. Let's just take from the past to the present.

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Ms. McCabe. Well, each time EPA does a rule of economic significance we follow OMB requirements and do a cost benefit analysis, and as you alluded to in your opening remarks the net benefits of the EPA rules have numbered in the billions of dollars over time, far outweighing the costs of each one of those rules.

Mr. Rush. Mr. Chairman, I want to thank you for your kindness and I yield back.

Mr. Whitfield. Gentleman yields back. Thank you.

At this time. I'd like to recognize the gentleman from Texas, Mr. Olson, for five minutes.

Mr. Olson. I thank the chair.

I thank you, Ms. McCabe, for joining us again today. Hope you had a happy 4th of July.

We sometimes disagree, sometimes strongly. But the folks back in Texas 22 appreciate your willingness to come before this committee.

My first question concerns your budget documents. You stressed that the Clean Power Plan goes far beyond traditional end of the pipe regulation.

In your fiscal year 2016 submittal to Congress you stated, and I quote, "the breadth and uniqueness of the Clean Power Plan rulemakings will require that the agency devotes significant resources to its implementation.

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Traditionally, the EPA's regulatory analysis would focus on only emitting sources and end of pipe controls. The existing power plant rule requires that the EPA look at the emission control strategies that are either shifting generation away from higher emitting plants or reducing the need for generation in the first place," end quote.

That sounds to me like you all wrote the law. As you know, only Congress writes the law. Article one, section one is very clear. All legislative powers herein granted shall be invested in a Congress of the United States which shall consist of a Senate and a House of Representatives.

Where in the Constitution or statute has Congress authorized EPA to go from end of pipe controls to generation shifting? Where is this in this document? Please tell me?

Ms. McCabe. It's actually -- Congressman, it's in Section 111(d) of the Clean Air Act, which is where our authority comes from. The -- that section directs us to look at the approaches and controls that industry uses in order to develop or regulations that set reasonable standard for sources under 111(d).

It is not misdirected to end of pipe controls and we made -- have studied the ways that the utility industry has found ways to reduce not just carbon but other air pollutants over the years. And so our rule was grounded very much in the types of approaches

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that that very industry has been using.

Mr. Olson. But that's a big change. End of pipe to all these other things, that's Congress' job. That's our job. That's lawmaking. One further question about the rule of law. Do you believe the EPA has the authority to compel the future generation shifting from natural gas to renewables -- not coal but natural gas to renewables? Do you have that authority? The same authority you're using now?

Ms. McCabe. Our job is to develop rules that reduce air pollution. That's our job under the Clean Air Act, setting technology-based standards following the direction that Congress gave us in Section 111(d).

We are not requiring any particular fuel to be used. We are providing broad opportunities for the industry to use the kinds of approaches that they use and would choose to use.

Mr. Olson. Well, you're banning one source of power from being used -- coal -- for sure. I mean, you say you're not choosing that by you are, ma'am. The real world says you are choosing power sources. You are picking winners and losers.

My second question is about the technological advancements that have allowed our country to emerge as the number-one producer in the world of oil. In fact, a study came out from Norway this past week.

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A three-year analysis confirmed that by 2020 America will have 264 billion barrels of recoverable oil compared to 256 billion barrels with Russia and 212 billion barrels with Saudi Arabia. We are number one, man.

America is number one again. My own state of Texas has been at the front of this revolution even with today's energy prices and that's why I am stunned to see concerns coming from the largest and most efficient oil and gas regulators in America, the people in Texas, the railroad commission when it comes before your agency.

Is it correct that EPA's new regulations will cause natural gas and crude oil production levels to decline? Yes or no?

Ms. McCabe. I don't believe it will, sir.

Mr. Olson. Well, ma'am, according to your economic impacts discussed in your final rule on Page 35,886, it says it does just that. A follow-up question -- is it correct that EPA's new methane regulations will make the U.S. more reliant on foreign energy imports? Yes or no.

Ms. McCabe. I don't believe that that's correct, sir.

Mr. Olson. Same thing. Page 35,886. Your final rule says it will. I yield back.

Mr. Whitfield. Gentleman yields back. At this time I recognize the gentleman from California, Mr. McNerney, for five

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minutes.

Mr. McNerney. I thank the chairman and I also submit with due respect that this is really a political hearing. Ms. McCabe, I'm going to ask some questions about exceptional events.

How often have public entities filed for exceptional events at the EPA?

Ms. McCabe. I don't have an exact number, Congressman, but I would be happy to get you one. It's been a number of times.

Mr. McNerney. Okay. And how often are those approved, those exceptional event requests?

Ms. McCabe. We've approved a number of them and some of them we have not.

Mr. McNerney. Okay. Moving on -- there's been talk in this committee about exceptional events. My office has talked to yours about exceptional events. Is the EPA working on anything that would modify exceptional events to take place during prolonged droughts and how much can be done on the regulatory side.

So, basically, I'm asking are exceptional droughts going to be considered for exceptional events in the future?

Ms. McCabe. Yeah, this is a very challenging situation, Congressman, especially as we see more and more drought coming. So drought in itself is not considered an exceptional event.

We are working with the states and with all stakeholders to

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try to find ways to make sure that we make this process as reasonable as possible and reflect that there can be situations in which there are high dust events that may be able to be considered exceptional events.

Mr. McNerney. Well, that's good because as you know we're having a prolonged drought in the valley in California and it's making a very challenging situation for our districts.

Technological advancements on the electrical grid from transmission through end use have helped improve efficiency and reduced emissions. Many utilities have embraced the clean power plan including those in my own home state of California.

Can you talk about the clean energy incentive programs and how it will help further promote innovative technologies?

Ms. McCabe. Sure. One of the -- one of the strengths that we feel of the clean power plan is the openness that states have to bring in a use energy efficiency as a way to reduce their carbon emissions and there's many, many programs across the country many of which have been spawned and encouraged at the state and local level that are being very effective in bringing not only emissions down but also bringing value to the communities in which those technologies are installed.

Some of these are industrial applications, commercial applications and residential applications and we think that both

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through the clean energy incentive program, which is our voluntary early action program, but also throughout the life of the Clean Power Plan there -- because those types of approaches are often very cost effective to implement that states will want to choose to invest in those.

Mr. McNerney. So we're talking about creating jobs through developing new technologies?

Ms. McCabe. Absolutely, and then implementing those technologies in our communities.

Mr. McNerney. Now, I personally believe that implementing the Clean Power Plan will not result in a much higher -- any electricity prices and I see a parallel between this and the sulfur dioxide emissions through the cap and trade program. Is that your thinking as well?

Ms. McCabe. Well, we looked at that in our regular impact analysis and we predicted that in part because of the increased use of energy efficiency approaches that electric bills will actually go down in 2030 when the program is fully implemented.

Mr. McNerney. So some of the statements we're hearing might actually scare consumers but in reality we expect lower or even electricity prices?

Ms. McCabe. That's what our analysis showed.

Mr. McNerney. You mentioned a proposed innovative

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collection request -- information collection request for oil and gas industry related to methane emissions. How difficult is it to locate, measure and mitigate methane emissions?

Ms. McCabe. This is an area of very rapid development the industry is working very hard on it and there are many others in the research fields as well as at EPA that are working on these issues and across the federal government. So that's why we're going to put out a call for innovative ideas.

There are great advances in how people can detect emissions and it's important to remember that any leak of this material is leak of a product that can be sold. It's not just a loss of a natural resource. It's actually a valuable product.

So the industry itself has great incentive to find these leaks and fix them. And so detecting leaks and then also on the mitigation side.

Mr. McNerney. Does the EPA currently have any data on that, on collection emissions or detecting emissions?

Ms. McCabe. We do. We do that through our greenhouse gas emissions inventory program. Every year we collect information. Every year people are finding ways to be more accurate and more complete in that information.

Mr. McNerney. Are emissions or capturing fugitive emissions is that improving?

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Ms. McCabe. Yes, it is and will continue to for sure.

Mr. McNerney. All right. Thank you, Mr. Chairman.

Mr. Whitfield. The gentleman's time has expired. At this time I'll recognize the gentleman from Texas, Mr. Barton, for five minutes.

Mr. Barton. Thank you, Mr. Chairman.

Would you define just as concisely as you can what you think the mission statement of the EPA is?

Ms. McCabe. To protect the health and the environment, implementing the laws that Congress has passed.

Mr. Barton. Say that again.

Ms. McCabe. To protect public health and the environment, implementing the laws that Congress has passed.

Mr. Barton. Okay. I'll accept that.

Do you know how many pages of rules the EPA has issued since 2009 to try to be generous to do what you just said?

Ms. McCabe. I don't know the number of pages, Congressman.

Mr. Barton. If I were to tell you that according to the majority staff it was 33,841 would you accept that?

Ms. McCabe. I would not disagree with you. I don't have any reason to know what the number is.

Mr. Barton. Okay. Well, that's what -- that's what the majority staff memo says. 3,924 rules encompassing 33,841 pages.

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Now, some of the major rules, and again, this is according to the majority staff so you can dispute this, the Clean Power Plan, the carbon pollution standard for power plants, mercury and air toxic standards for power plants, cross state air pollution rules for power plants, coal ash rule for power plants, effluent guidelines for power plants, which would be -- which would be water, wouldn't be air -- 316(b) rule for power plants, which again would be a water rule, not an air rule.

Air rules for the oil and gas industry, actions to reduce methane emissions from the oil and gas industry, the boiler MACT, the cement MACT, the Brick MACT, the ozone NAAQS, the SO2 NAAQS, the PM 2.5 MACTS and the RMP rule -- those are the major -- the 16 major rules.

Now, using 2008 as the baseline, can you tell me how all of these rules have improved air quality in the United States?

Ms. McCabe. Well, that's a large variety of rules addressing a number of things. They all come from requirements --

Mr. Barton. Okay. I'm not asking you where they come from. I'm taking you at your word which you say the emission statement of the EPA is. I have outlined to you how many rules you -- not you personally but your agency has issued. I've outlined the major rules according to the majority staff and I've asked you

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a basic question.

How much have all of those rules improved air quality in the united States? Ten percent? Five percent? Zero? You know, you can measure it by ozone reduction, particulate matter, however.

Surely, your agency has a metric to track how all of these rules are meeting your mission statement. I'm asking you what it is.

Ms. McCabe. We do have metrics and I would be happy to provide specific numbers. SO2 emissions have gone down considerably in this country. Ozone levels have gone down. Ninety-five percent of the areas that did not meet the 1997 ozone standard now meet it.

Mr. Barton. So can you give me or give the committee a specific -- you can do it by rule, you can do it generically. My seat of the pants nonscientific estimate is hasn't had an impact. Has not changed the basic air quality 1 percent.

Ms. McCabe. We would --

Mr. Barton. Now, you can prove me wrong and I'm happy to see it but I want it statistically. I want it engineering scientifically proven.

What I can tell you is that you have impacted -- not you personally but EPA has impacted the economy by billions of

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dollars. You have killed the coal industry, basically. Killed it. Which, to his credit, President Obama said he wanted to do.

But I want to give you a specific example. This is a power plant that's not in my district. It's in Congressman Flores' district.

It's a big power plant right outside of Fairfield Texas in Freestone County. That is a coal-fired power plant that's been there approximately 50 years. It employs about 500 people directly and is the single biggest economic indicator -- economic generator in Freestone County.

It's probably going to close in the next year or so because of some of these rules. It's just -- they can't meet the compliance costs and they're just going to probably have to close the plant.

If that happens and if you're still at the EPA I want you to go to Fairfield, Texas with Congressman Bill Flores and explain to those people who've lost their jobs how you've improved their environment.

I want you to do that, because I don't think it's possible. And, you know, I voted for the Clean Air Act amendments in 1991. I want clean air.

I want clean water. But I don't want an organized attack on the energy-producing sector of America because of, to use Mr.

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McNerney's term, a political decision to go after the hydrocarbons. And with that, Mr. Chairman, I yield back.

Mr. Whitfield. Gentleman's time is expired. At this time I'll recognize the gentleman from Texas, Mr. Green, for five minutes.

Mr. Green. Thank you, Mr. Chairman and Ranking Member, for holding the hearing. I want to thank Acting Administrator McCabe for being here and the EPA's regulatory activity is the subject of much debate and we're happy to have you before our committee once again to discuss the issues.

The EPA's Clean Power Plan changed significantly from the proposed rule and the final product. My understanding was that the EPA wanted to be responsive to stakeholder feedback including many concerns brought up by industry. The EPA proposed federal implementation plans on October 23rd of 2015.

The final rule indicated a 90-day comment period that ended in January of 2016. Did the agency extend that comment period?

Ms. McCabe. I don't believe we did, Congressman, but it's closed now. So we're considering all the comments that we got.

Mr. Green. Okay. How many comments had the agency received?

Ms. McCabe. Oh, gosh, on the federal plan I'm not sure. But we received many hundreds of thousands of comments on the Clean

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Power Plan and its various pieces over the years.

Mr. Green. What type of --

Ms. McCabe. Millions, in fact.

Mr. Green. Okay. What type of feedback has the agency received?

Ms. McCabe. Well, if you're speaking about the federal plan and the model rules we've got a lot of feedback on the how those rules can help states as they design their plans, very constructive feedback on how to make the rules workable for states while preserving the flexibility that the states have under the plan.

Mr. Green. What did EPA do to respond to those millions of comments?

Ms. McCabe. Well, in the --

Mr. Green. Just a general -- did you modify the plan or did you --

Ms. McCabe. In the Clean Power Plan itself, yes, we made a number of changes in response to the comments both on process issues, on our evaluation of the underlying data in response to additional data that we got, which is a routine occurrence when we get good input from people in a rule making.

Mr. Green. Okay. Well, in Texas, obviously, we -- an oil and gas state and my Pennsylvania and Ohio friends tell me we burnt

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dirt and call it coal in central and east Texas. But we invest significant amounts in wind power -- in fact, the largest wind power production of any state.

I'd like to see the same thing done for solar. How does EPA envision the Clean Energy incentive program encouraging new solar construction?

Ms. McCabe. The way the Clean Energy incentive program works, which as I've said already this morning is voluntary if the state chooses to proceed with it, would incentivize renewable energy and also energy efficiency by providing additional allowances into the trading system that we expect states will set up.

So it just provides a little extra bump for those technologies to get going early in the system and provide the energy that is carbon free.

Mr. Green. Okay. The EPA wants to establish credit reserve and we're running the verification authenticity issues within the renewable fuel standard. I'd prefer not to see that again. How does the EPA plan to verify and authenticate credits under the CEIP, the Clean Energy Incentive Program?

Ms. McCabe. Very good question. So there are -- because there is a lot of work already underway that doesn't have to do with EPA for people to generate credits for energy efficiency

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under state programs, there are already systems in place that allow people to appropriately verify that the reductions are real and we are relying a lot on those systems not creating something wholly new.

Mr. Green. And finally, the EPA had begun collecting information on existing oil and gas production wells. Given that there are approximately 40,000 oil and gas wells in the U.S., what challenge does the EPA foresee in regulating existing sources in a correlator that so many of these wells are small producing wells that make up maybe 10 percent of the total production?

Is there any discussion in EPA to exempt out those smaller wells? Because if they are only 10 percent of the production you would think that that would be, you know, not as big a problem as the other 90 percent.

Ms. McCabe. This is exactly why we need to collect this information. We are very far from making any decisions or even recommendations about what our rule would look like.

But until we have this kind of information that can help us understand where the real significant emissions are, how much it will cost and what technologies are available to address them, we can't really move forward with those rules which is why we've got to collect the information.

Mr. Green. Okay. Mr. Chairman, thank you. I yield back.

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Mr. Whitfield. Gentleman yields back.

AT this time I recognize the gentleman from Illinois, Mr. Shimkus, for five minutes.

Mr. Shimkus. Thank you, Mr. Chairman.

So many questions, so little time. So I'm just going to jump into some of the points. I love the hearings because I love to pick up where other people have talked about to other than what's been prepared for us to ask.

To my colleague Mr. Barton, he cited one power plant. I can cite three in Illinois -- Wood River, Baldwin, Newton -- all are at major risk of closing. That's why -- that's why I want to talk about this new power plant in Japan.

If there is a way we could transition and incentivize transitioning older generation to new generation then we'd give these workers some hope. We'd give coal miners some hope.

But under the 111(b) standards we can't build this power plant and this is the cleanest most perfect plant we can build with technology right now. Well, we can't -- the Japanese built it. Okay.

And so a major coal mining company just announced two days ago they're laying off 4,400 workers -- 4,400. So when we talk about the benefits which you laid out, I'm sure maybe we can sell some new technology.

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You have to consider the loss. You have to really appreciate the job dislocation that's occurring in major coal-producing areas in our country, and if there's emotions and if there's politics behind that's because we're the ones that have to talk to the coal-mining families.

We've got to talk to the mayor and the county board chairman who are losing their major source of revenue because of power plants going to close.

So we don't see that in your -- we never see that in the analysis. When Congressman Barton read the numerous rules and regs -- I have done that before too -- in your analysis you always take, like, the clean power plant and say this is the cost, this is the benefit, boom.

You never do the cost of the cumulative aspects of regulation. They pile on. In fact, I would say the costs are exponential versus additive.

And so that's the crushing effect that's really occurring in coal-fired power plant communities and in coal mining communities across this country, and I think the Supreme Court -- this is the first EPA rule and reg that they state.

This is not like -- this was a major deal for them to do that and so the question should be asked is why. The answer is because we have successfully made the argument that if a rule is being

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litigated the pencil should go down.

You can't force compliance when the final decision has been made on the legality of the rule or reg because if you force them to keep moving they'll shut down. They'll close. And then as we saw in other regs, oh no, we were wrong -- we illegally promulgated this rule.

So the Supreme Court said no, stay. So that kind of brings me to the -- one of the questions that I wanted to ask. In the wake of stay, EPA officials have stated that certain compliance deadlines in the Clean Power Plan may not be penalized should the stay be lifted, the suggestion being here that states and other stakeholders should be prudent to being voluntarily preparing now for rule implementation in case its legality is upheld.

Okay. First of all, dependence should go down. You ought to be telling people prepare for a rule that we don't know if it's going to be legal or not. So here's the question.

Should parties grant the stay by the Supreme Court in any way be penalized if they take no action on the Clean Power Plan or EPA's derivative programs and guidance during pendency of the litigation.

Ms. McCabe. We are absolutely not implementing -- there are no expectations that any state, down state or not, has any obligations currently under the Clean Power Plan.

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Mr. Shimkus. Yes, the question is should they be penalized. You still have closing of the windows. You still have comments going. What if they say we're not going to make comments until we have a final ruling from the Supreme Court?

Ms. McCabe. But I don't see that as a penalty, Congressman. It's their choice whether they want to comment or not. But that particular rule --

Mr. Shimkus. But will you shorten the time frame? I mean, are you going to now say you're not prepared to meet it? I'm assuming it's not going to be ruled favorably. I'm going to assume that it's because you've morphed the Clean Air Act and you've provided powers to the agency that weren't granted under the original legislation. So I think the Supreme Court is going to say it's illegal.

But assuming it is, the question is if states say we've got to stay, we're not doing anything, we are -- many people are concerned that you are moving forward regardless of the stay offered by the Supreme Court.

Ms. McCabe. Well, I'll just say again, Congressman, that with -- in close consultation with the Department of Justice there is nothing that we are doing now that implements the Clean Power Plan in any way.

That was what was stayed. The Supreme Court did not stay

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all action on climate. It didn't stay action by states, that they may choose to take on climate.

It didn't stay efforts by EPA to provide assistance to states when they ask us for that assistance, which they have done, including that we move forward and provide more details on the Clean Energy Incentive Program.

Mr. Shimkus. Thank you very much.

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

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

Mr. Tonko. Thank you, Mr. Chair, and thank you, Administrator McCabe, for your hard work and for your appearance here today.

This is just the latest in a series of hearings to push a message that strengthening standards to protect our public health and the environment are too costly, unachievable or a drag or a drag on our economy.

Couple of observations -- I would think that the greatest -- one of the greatest impacts on the coal-fired industry happens to be falling natural gas prices. And then further evidence is clear that the public health and environmental benefits of clean air act regulations have far outweighed the costs of pollution reduction and we owe it to the next generations -- generations

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unborn to clean our air.

Because of the Clean Air Act, we have grown our economy, created jobs and innovated new solutions to pollution controls. In the United States, leaks from oil and gas wells are the largest source of methane gas in the atmosphere.

In April, the EPA released a report that concluded methane from oil and gas leaks makes up about a third of total methane emissions.

In May, EPA announced steps to reduce those methane emissions. We often hear about carbon emissions but Administrator McCabe, can you explain how curbing methane emissions will indeed help combat climate change?

Ms. McCabe. Yes, Congressman. As some of you may know that methane is about 25 times more potent as a climate pollutant than carbon dioxide. So even though CO₂ is emitted in far greater amounts, methane is a very serious contributor to climate change.

You correctly noted that the extent of the emissions of methane from the oil and gas industry many of those emission are unintentional. They are leaks. They are not necessary, and there is technology that is available. Several states are well on their way to -- have already put in place like the ones that EPA just finalized to regulate these emissions.

So that's making a huge contribution to, as you say, our

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health today and future generations.

Mr. Tonko. Thank you. And when EPA is going through a rule making process, are there significant opportunities for stakeholders to provide input in the pending regulation?

Ms. McCabe. There absolutely are. There are, of course, the formal opportunities for public comment when we do a proposal.

But EPA operates routinely in the Office of Air and Radiation where I work, by doing extensive outreach to the stakeholders which includes the industry, first and foremost. We can't develop these rules if we don't have good relationships with the industry where we get good information from them.

We also work extensively with the states who are our co-regulators and actually are on the ground putting these programs in place and making sure that they achieve the benefits that they are designed to achieve.

So far before we put pen to paper on a proposal, we have had extensive discussions with the industry and other stakeholders.

Mr. Tonko. Well, for the recent -- and I thank you for that. For the recent methane rule, I am informed that EPA received more than 900,000 public comments and held a number of public hearings. Is that in fact correct?

Ms. McCabe. That is correct.

Mr. Tonko. And the regulation was finalized after giving

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consideration to cost benefit analyses and technical justification. Is that correct?

Ms. McCabe. That is correct and we made adjustments in the final rule in response to some of those comments we got.

Mr. Tonko. Okay. Was this methane regulation based on cost effectiveness and availability of technology?

Ms. McCabe. That's correct.

Mr. Tonko. Well, it sounds like the levels set in this regulation are achievable. The total climate benefit for this rule or the benefits for this rule are estimated at I'm told \$690 million. Is that correct?

Ms. McCabe. That is correct.

Mr. Tonko. And is this more than the estimated cost? Are the benefits --

Ms. McCabe. From the proposal?

Mr. Tonko. Yes.

Ms. McCabe. You know, I don't remember off the top of my head but we can get that information for you.

Mr. Tonko. Okay. That would be helpful. On top of that, EPA did not factor in the health benefits from reductions in other pollutants, which can be difficult to quantify but can have serious health consequences, particularly for vulnerable populations such as children and the elderly. Can you explain

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the public health benefits of this new regulation?

Ms. McCabe. Yes, sir. So in addition to the methane reductions, which of course are related to climate change, these facilities emit sort of the standard -- some of the standard air pollutants that we worry about, those that contribute to ozone formation and fine particles. They also emit toxic emissions and, as you know, some of those are very difficult to quantify the benefits because the research doesn't exist. But these are chemicals that are known to have adverse impacts on public health.

Mr. Tonko. And show themselves in what sort of health impact?

Ms. McCabe. Some of them could be carcinogenic. Some of them could affect the respiratory system, the cardiovascular system, those sorts of impacts.

Mr. Tonko. Okay. I've exhausted my time. But with that, I thank you and yield back, Mr. Chair.

Mr. Whitfield. The gentleman yields back.

At this time I will recognize the gentleman from Ohio, Mr. Latta, for five minutes.

Mr. Latta. Well, thanks, Mr. Chairman, and Acting Assistant Administrator. Thanks for being with us again. Really great to have you here again and hear the questions being asked, at the end of the day.

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Let me ask my first question. Under the current statutory framework is it the state environmental regulators or the state's energy regulators who are supposed to plan the amount of renewables, natural gas, coal and other resources for a state's electricity sector?

Ms. McCabe. The choices about energy policy would be made by--generally, I imagine by energy agencies, although every state is set up somewhat differently.

Mr. Latta. Okay. When you say that they might be set up differently because when did the expertise lie with the state energy regulators and not the state environmental regulators? Is that correct?

Ms. McCabe. I wouldn't disagree with that. I just -- my point is that some agents -- some states have energy and environment together and some have them separately.

Mr. Latta. Okay. Let me ask this. How is that the Clean Power Plan is not usurping the authority and expertise of state energy regulators and transferring decision making to the environment regulators?

Ms. McCabe. Because the Clean Power Plan is all about carbon emissions, which is an air pollutant as identified by the U.S. Supreme Court, and the rule sets standards or emissions of air pollution. It leaves the choices of how to achieve those

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reduction up to the states to plan and achieve.

Mr. Latta. Well, where does the EPA derive its knowledge and expertise about how electricity is planned, operated and paid for?

Ms. McCabe. We consult regularly with the energy agencies and the energy expertise across the federal government. We also have long relationships with the regional transmission organizations, with state energy regulators as well as environmental regulators.

Mr. Latta. Okay. But again, when we're talking about being paid for, who ultimately pays for this? Who pays for this?

Ms. McCabe. I'm sorry. Who pays for what?

Mr. Latta. Who pays for it? Okay. When you are talking about when you are -- on the expertise and how electricity is planned, operated and paid for. But when electricity is generated who is paying for it? Because when you put more regulations out there and increase the cost because, you know, going back to the gentleman from Illinois and the gentleman from Texas and their examples -- let me give you another one.

In Ohio, the electric co-ops have built a plant on the Ohio River and the -- you know, the question for them then is what happens to their electricity rates and the competitiveness through the plant if all of a sudden the costs are being driven

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up by more regulations of which I know that Mr. Barton had pointed out the number of pages that are out there.

Who's going to pay that? Who's the ultimate -- who is going to be the ultimate one that has to pay for this?

Ms. McCabe. Well, Congressman, of course, the consumer pays the bill. I think it really is important to note what Mr. Tonko said, which is that EPA regulations are not at all the only thing that's affecting the energy system in this country and that is a very important point, and it gets lost.

Mr. Latta. And I think it also takes in effect -- if you look at the number of manufacturing jobs members have in their district, and I have about 60,000 and I also have the largest farm income producing district in the state.

So we have a lot of folks out there needing a lot of electricity, and when you put the two together and also hearing from my folks because if you go back -- you know, when you talk about you're looking at statistics and things like that I've been told and it's been reported that if we had the exact same effect that we had in January of 2014, which was one of the coldest winters on record in the state of Ohio, we did not go into brownouts or blackouts because we had enough existing power out there that if we had the exact same conditions today we would have those conditions of blackouts and brownouts because we have plants

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closing.

So I think, you know, one of the concerns out there is when you're talking about who's paying for this it's going to be the consumer. But it's also the plants out there because they can't keep up with the regs.

Let me move on. In the Clean Power Plan, for existing electric-generating units, EPA contends Section 111(d) of the Clean Air Act authorizes the agency to force generation shifting away from fossil fuels to renewable energy and efficiency programs.

If EPA can force restructuring of the electricity sector, can it also force the restructuring of other sectors?

Ms. McCabe. Well, I take issue with your use of the word force. The Clean Power Plan doesn't force anything. It follows the -- what the industry is doing. The utility industry and electricity supply is very different in the way it operates from any other industry.

Mr. Latta. Well, let me ask this. Are any of these 70 source categories currently regulated under the Section 111 of the Clean Air Act exempt from this type of restructuring?

Ms. McCabe. I just can't accept the premise of your question, Congressman.

Mr. Latta. But you are saying that you can't accept the

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premise but are -- but are any of the 70 source categories currently regulated under this section of the Clean Air Act, which is 111 of the Clean Air Act, exempt from this type of restructuring? So you're saying that you can't accept the question?

Ms. McCabe. Well, I don't agree that we are restructuring the energy system through our rule. I also want to draw a distinction between the way the energy system works, which is a -- based on a regional interstate grid, very different from other types of industries.

So the question doesn't really make sense.

Mr. Latta. Well, you know, if I could, Mr. Chairman, I'd like to maybe submit the remainder of my questions to the EPA for -- because my time has expired.

Mr. Whitfield. Yes. Okay. The gentleman's time has expired and you may submit for the record.

At this time I'd like to recognize the gentlelady from Florida, Ms. Castor, for five minutes.

Ms. Castor. Well, thank you very much, Mr. Chairman, for calling this hearing to review the benefits of our Environmental Protection Agency, especially to our health and to our economy and with the focus on the Clean Air Act.

For those of you in the audience that really like to get into

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the numbers of looking at the costs and benefits relating to rules -- our important bedrock environmental rules, the Congress requires under the Regulatory Right to Know Act that the Office of Management and Budget submit to us a report and one was just filed in March and it -- what it finds is that EPA's major rules promulgated between 2004 and 2014 yielded more benefits than major rules promulgated by other agencies over the same period.

In the aggregate, the major rules promulgated by EPA have benefits between \$160 billion and \$788 billion compared to costs of just \$38 billion to \$45 billion. Rules promulgated by the EPA in fiscal year 2014 alone have resulted in an estimated \$13 billion worth of benefits, far exceeding the \$1 billion in costs -- in estimated cost and by 2020 the benefits -- the economic benefit of reducing air pollution is estimated at almost \$2 trillion, exceeding costs by 30 to 1.

They go into much greater detail. So for those of you that like to really dig in to what criteria they look at I encourage you to do that.

You know, it's very difficult for the Congress and the public sometimes to focus on impacts over decades of time. We're always focused on the here and now. But I'll tell you coming -- watching the looming cost that we are going to suffer if we do not address climate change in a very aggressive it's really stark and already

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in the state of Florida we have local governments having and taxpayers -- local taxpayers having to pony up multi-million dollars to adapt.

In Miami, they're already spending \$500 million, \$600 million because even on sunny days at high tide the streets are flooded and they're having now to repair water systems and wastewater systems already.

And here are some of the other costs that really aren't discussed. We hear a lot of about cost to the industrial sector. But let's talk about our neighbors back home. What they predict are rising costs in property insurance from extreme weather events, flood insurance -- the Congress has grappled with flood insurance -- the rising cost of flood insurance.

One global reinsurance giant predicts that extreme weather events are going to leave taxpayers on the hook for billions and billions of dollars in future years. Florida depends on tourism.

We're going to have to renourish our beaches. That's a very significant cost. And the Congress is called upon time and time again to respond to emergencies, extreme weather events. So let's not lose sight of the true cost to taxpayers and our neighbors back home, our small businesses from mom and pop shops to all sorts of businesses. That has to be factored in.

So Administrator McCabe, I was glad to hear in your testimony

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that even though the Clean Power Plan is in -- on kind of a regulatory hold for now that many states have been moving forward voluntarily. Can you give us a quick snapshot of what's being done voluntarily even though we're kind of in a temporary holding pattern?

Ms. McCabe. Uh-huh. Yes, absolutely. A number of the states that are moving forward are states that have been looking at these issues for a number of years.

They are looking at reasonable restrictions on carbon emissions from their utility systems or even more broadly across their economies. They're looking at ways to integrate their energy planning, their increased investment in wind and solar, in energy efficiency and planning those in for a carbon -- a freer carbon future.

Ms. Castor. And do I understand that many states in partnership with their electric utilities are already close to meeting the goals laid out in the Clean Power Plan?

Ms. McCabe. I believe that that's generally correct. Of course, the goals are -- in the Clean Power Plan are many years out into the future. But yes, there are states and utilities that are well on their way, that utilities are increasingly investing and relying on wind and solar as a significant portion of their portfolio.

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Ms. Castor. And those are job creators. I know EPA doesn't really look at that side of the equation but one recent report predicts that due to the Clean Power Plan and just the significant shift towards renewables that we can anticipate 1 million new jobs in clean energy by 2030.

So there is a lot that goes into this cost benefit equation. But I think it's plain as day that we have got to act now aggressively to address the looming costs of the change in climate.

Thank you, and I yield back.

Mr. Whitfield. At this time, the chair recognizes the gentleman from West Virginia, Mr. McKinley, for five minutes.

Mr. McKinley. Thank you, Mr. Chairman, and thank you, Ms. McCabe, for coming again to this. It just seems like you were here not too long ago.

But let me go back over a little bit to restate that it's my understanding that this hearing was to examine the effects of major regulations on the energy and the industrial sectors. Is that your understanding of the purpose of this hearing?

Ms. McCabe. I believe so, yes.

Mr. McKinley. Okay. Thank you. Now, so I go to that is that these effects of these regulations and there was a report that Lisa Jackson used when she came here back six years ago. Used

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to wave this report in front of us that was written by Morgenstern back in 1999 and it was primarily intended to demonstrate that she believed that more regulations actually helped the economy.

As a matter of fact, she said that from this report that one and a half jobs are created for every million dollars spent in meeting those regulations. Do you remember that report?

Ms. McCabe. I -- not specifically.

Mr. McKinley. Okay. She used to wave this quite often, as often as you came or come, she used to come and she used to use this all the time. This justifies why we have so many regulations.

So I'm just curious about that because to me it appears from looking at the kind of three points of some of the things these major regulations -- there's one about that using this about the jobs impact.

I think we're picking winners and losers because I don't see one and a half jobs being created for the billions -- hundreds of billions of dollars that have been spent.

It appears more we're picking winners and losers because in the coal fields across this country they are struggling with it. I know that there have been over 40,000 coal jobs lost -- direct coal jobs -- let alone the 300,000 secondary jobs that are affected with it.

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So I'm struggling with the premise. So you can't tell me whether or not you agree with this report any longer?

Ms. McCabe. I am not here to speak about that report, Congressman, nor am I here to speak about --

Mr. McKinley. Okay.

Ms. McCabe. -- how much you would value any particular regulation.

Mr. McKinley. Well, I just -- I just want -- in terms of the economy, what it's doing to the economy is these regulations, what have happened with it because I think there was an initial premise this was going to save jobs or create jobs. I don't think it did.

Then we went -- then we went to the environmental -- you pivoted to the environment and temperature and we talked about temperatures were going to be under control if we pass some of these rules and regs affecting the coal and the gas industry.

But yet even under the Clean Power Plan the EPA is accepting that it only is going to reduce the temperature or lessen it by 15 thousandths of a degree by the year 2100. I struggle with that.

So it doesn't surprise me at all that now the EPA is pivoting from the fact that jobs weren't created that there's no temperature increase. So now they're -- just in March, Gina McCarthy was before us and she testified that she said that it's

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not about the environment, it's not about the health and safety for the people that we've been passing this.

She said it's about global leadership and I think wow, that was -- that was a jaw-dropping revelation that she came out -- this is not about the environment is why we're passing these -- despite what you just said to Joe Barton that's not what this whole idea was about.

So I'm struggling with it because we've got a chart that shows yeah, we may be doing it, adhering to it in America but the rest of the world is not following our global leadership that was being promoted.

The rest of the world is continuing to use coal and create more fossil fuel and CO2 emissions in the atmosphere with this. Germany is building 26. India is going to double its production with it.

So, to me, it comes across more as just an effort to have bigger, broader, stronger, more intrusive government as compared to really helping people and their economy.

So we have seen it in the ag community what the EPA is affecting, that that part of our sector of our economy, when they went after the waters of the United States they went after the farm dust rule, if you remember, for a while.

But then they backed off. Did they back -- did you all back

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off because you got push back? Because the science -- you were saying how it was supposed to be good for your health. But once it was promoted on the farm dust you backed off.

Ms. McCabe. Congressman, respectfully, I have to disagree with the way you're characterizing various prior statements of the administrator and others in EPA just on a whole range of issues.

Mr. McKinley. I'm just going from testimony that they gave. I'm not characterizing. Then you came out with a water quality standard that you didn't even give the states a chance to have a comment period.

You came out with a water advisory that is 70 times more stringent than it is in Europe, 20 times more than numbers of states. Communities that are struggling in rural America to try to meet the water quality are going to spend millions and billions of dollars across this country to meet a standard that is questionable as to whether or not it's going to have an effect with it.

So I'm going to go back in the remaining time -- maybe I've lost my time -- what's the answer, back to Joe Barton, when we talk to a coal miner that lost his job? It's okay because the environment is better? Is that what you want to tell him?

Ms. McCabe. No. No, sir. Not at all. But I think it's

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important to recognize that there's lots of things going on in the energy system and coal is not as competitive as it was because of natural gas and other things going on in the industry.

Mr. McKinley. But states with natural gas are also into recession. I'm sorry I'm going over my time.

Mr. Whitfield. Yes, the gentleman's time has expired.

Mr. McKinley. But we've gone over to Louisiana, New Mexico, Oklahoma, Illinois, Wisconsin -- they are all struggling with this thing and they are not coal-producing states.

Mr. Whitfield. At this time I would like to recognize the gentleman from Iowa, Mr. Loeb sack, for five minutes.

Mr. Loeb sack. Thank you, Mr. Chair. Good to see you, Madam Administrator. It's always good to have you here.

We're talking about a lot of very important issues here and actually in some ways I can identify with some of the things that were just said, being from Iowa. We have a lot of issues having to do with water, a lot of different things.

I am confident that we can fight our way through a lot of those issues. We're going to have to go to the state level, at the local level, at the federal level.

I think we're going to have to get all the stakeholders together eventually and we're going to have to work through this. It's not going to be easy, there's no question about that,

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especially on the water issue.

But I do want to speak to two different issues, if I may. As you might imagine, I want to talk to you about ethanol a little bit. I want to talk to you about wind a little bit, two things that are very important for the state of Iowa, two places -- two issues I think where we have made tremendous progress over the years as well.

When it comes to ethanol and the RFS, the renewable volume obligations -- the RVOs -- we know because the Department of Energy has stated that using ethanol as a vehicle fuel has measurable greenhouse gas emissions benefits compared with using gasoline.

CO2 released when ethanol is used in vehicles is offset by CO2 captured when crops that we use for the ethanol are grown.

Given the role that renewable fuels play in cutting down greenhouse gases, and I realize it's not universally accepted but I believe that that is in fact the case, shouldn't the recent RFS or RVOs -- the renewable volume obligations -- for 2017 be increased to achieve this goal?

Why are they at the level that they're at, given that the EPA itself has said that this is good for our environment?

Ms. McCabe. Yes. Yes, sir. Well, you're exactly right. That is why Congress passed the renewable fuel standard, one of the reasons. Also the other was energy security and we have found

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that there have been increases in a whole range of renewable fuels including ethanol that are good for climate change.

In our proposal we actually did propose an increase from the prior year in the amount of renewable fuel that would be expected to be used in the transportation system and each year as we've done that RVO those numbers have grown.

We have -- our job is to set those expectations and we have done that after a careful review of what the system is able to accommodate in order for those fuels to be used. Congress didn't just want them to be produced and sit somewhere. They wanted them to be actually used in the system and replace the petroleum fuels.

Mr. Loeb sack. Do you agree that if we have infrastructure improvements, especially for E15, that that would help us move along a little bit more quickly in terms of trying to get to the goal that we're supposed to get to?

Ms. McCabe. I do think so and I think that that infrastructure is growing. It's just taking a little bit longer than everybody thought it would.

Mr. Loeb sack. Right, and I won't get too much in detail about the methodology used by the EPA but that's always a big concern, obviously, that a lot of us have in these states that produce ethanol and biodiesel for that matter too. It's not just an ethanol issue, as you know.

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So I just want to make sure that we stay on top of this because we can in fact accommodate, I think, more production of ethanol and biodiesel. We've just got to -- in particular we've got to deal with the infrastructure issue, I think, going forward.

You know, too, that Iowa is -- I know that Congressman Green talked about Texas being a wind producer. In Iowa, you know, we're well over 30 percent of our electricity now is accounted for by wind energy, as you know.

The concern that a lot of us in Iowa has is the Clean Power Plan, which as you know says that we've got to achieve a 32 percent reduction in carbon pollution.

But the start date for all of that is January of 2013 and a lot of states like Iowa, at least some states and Iowa in particular, achieved a tremendous amount of progress prior to that date. And I mentioned this to Administrator McCarthy as well, kind of gone round and round about this -- you know, 32 percent.

The Clean Power Plan, I think, makes a lot of sense moving forward. It's going to be more difficult for some states than others. But Iowa has already made tremendous progress and we're not getting an credit for the progress that we made in the past by starting that date at 2013.

Is there any possibility for flexibility for states like Iowa to get credit for what we've already done?

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I think it's unfair in some ways to start at that particular date and not take into account what states like Iowa have already done, especially on wind production.

Ms. McCabe. Yes. Well, I think this question really reflects this debate that folks have been having this morning about what is our role under 111(d).

It is not an energy policy rule. It is technology rule and for any technology rule we do under Clean Air Act we have to pick a starting point. And you're always going to have people on one side or the other that wishes the starting date were a different time. We picked ours because of the information that we had from sources out of that date.

It is still the case, however, Congressman, that states like Iowa that have been aggressive and are continuing to be aggressive in renewable energy are charting themselves a path to meet the Clean Power Plan and especially if states choose to get into a relationship with one another, in trading relationships, that can provide great advantages to a state that is really on the leading edge of developing those resources.

Mr. Loeb sack. I would just encourage more flexibility moving forward on this issue. Thank you, Madam Administrator. Thank you, Mr. Chair.

Mr. Whitfield. At this time the chair recognizes the

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gentleman from Virginia, Mr. Griffith, for five minutes.

Mr. Griffith. Thank you, Mr. Chairman, and Madam Administrator. I'm going to read to you from Section 321 of the Clean Air Act. This provides, quote, "the administrator shall conduct continuing evaluations of potential loss for shifts of employment which may result from the administration or enforcement of the provisions of the Clean Air Act and applicable implementation plans including where appropriate investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."

Yes or no, does the EPA -- I would submit the EPA does not conduct these continuing evaluations. Isn't that correct?

Ms. McCabe. Sir, whenever we do a regulation we look at those very characteristics in great detail.

Mr. Griffith. You look at those characteristics when you propose a new regulation but you do not continue -- you do not conduct continuing evaluations of potential loss through shifts of employment and then investigate threatened plant closures or reductions in employment allegedly resulting from the administration or enforcement of those regulations. Isn't that true? Yes or no.

Ms. McCabe. There have been a variety of efforts over the years but you're reflecting that there is a difference of opinion

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about our obligations under that study.

Mr. Griffith. Well, there certainly isn't a difference of opinion will shall, is there? Shall means you shall do it, does it not? There's no wiggle room, is there?

Ms. McCabe. It does say shall but it reflects a set of activities that --

Mr. Griffith. All right.

Ms. McCabe. -- people could disagree on exactly what those were.

Mr. Griffith. I don't know how you disagree on that, ma'am. But we'll just leave that as it is. Despite that plain language, I understand that in 2009 in response to a letter from Mr. Barton and Mr. Walden, the EPA said it has not interpreted the CAA Section 321 to require the EPA to conduct employment investigations and taking regulatory actions. Can I interpret your prior answers to mean that it's still the position of the EPA?

Ms. McCabe. I wasn't involved in the writing of that letter, Congressman. But I'd be happy to provide further information on it.

Mr. Griffith. All right. I will follow up with that.

According to the American Coalition for Clean Coal Electricity by the end of 2016 it is estimate that almost 51 megawatts of coal-fired generation will retire or convert because

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of EPA policies.

And I know the EPA was asked to conduct an investigation pursuant to 321 of the Clean Air Act with respect to any of these plant retirements. But that has not happened, has it?

Ms. McCabe. As I said, each time we do a rule we look -- that affects the power industry we do a forecast to get a sense of what the impact on the industry may be.

Mr. Griffith. But when Murray Energy asked you all to do this and filed suit on that, you asked that it be dismissed and claimed that the energy corporation did not have standing to ask you to do that nor had they been harmed by the Clean Air Act. Have you looked into the situation at all?

Ms. McCabe. Sir, I really don't want to speak to ongoing litigation, which you understand is very active.

Mr. Griffith. I understand that. But I will tell you here is the concern I have. My district has lost thousands of jobs. I don't have any Murray Energy plants or coal-generating plants or coal-production plants in my district.

But it does concern me when they send out last week a notice that they are going to lay off another 4,400 employees. According to an article in the Wall Street Journal, a year ago they had 8,400 employees.

Now they have 5,356 and they are laying off 80 percent of

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those, or at least they have sent out the warning notices required by law.

But they may lay off 80 percent of those. While it is true that natural gas prices are low, it is also true that regulations have killed the coal industry in many, many ways and it doesn't seem that you all are following through on your Section 321 requirement that your constantly continuing evaluations of potential loss or shifts in employment and then when there are losses, and Mr. Murray has made it very clear there are losses coming. And if you don't want to do that one because there's litigation look at Alpha Natural Resources.

I don't think they're suing you right now. But they are in bankruptcy court and they do have a lot of -- or had a lot of employees in my district. There are still some but not as many as there were.

You have a requirement to follow up on this. I don't believe you're doing it. Your answers here today indicate to me you're not doing it. The industry is in trouble.

I will also tell you what's interesting is you talked about methane being a whole lot worse than carbon dioxide. Right now they are proposing in my region two or three new giant gas pipelines.

Now, I am not against the gas industry. But you have

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indicated there is a lot of leakage when they're both getting the natural gas out of the ground, which we have some in the district, and then when they are piping it across the country.

But your policies on coal have pushed people to natural gas even before the coal-fired power plants have used up their useful life and I think that's a shame because I think you all have been penny wise and pound foolish and you certainly have not considered the fact that thousands, tens of thousands, of people in the coal industry and those industries that supply the coal industry have lost their jobs and you all as a group have not done your job under Section 321 of the Clean Air Act.

I yield back.

Mr. Whitfield. Gentleman's time has expired. The gentleman from Illinois is recognized for five minutes -- Mr. Kinzinger.

Mr. Kinzinger. Thank you, Mr. Chairman, and Acting Assistant Administrator, thank you for being here and thanks for your service to your country.

I echo the concerns of many of my colleagues about the sheer number of regulations that have come out of the EPA recently. But I'm more concerned about how our economy and the small businesses and manufacturers are supposed to handle all these regulations.

I think many Americans are very concerned, rightly so, about

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the state of our economy and I share those concerns, especially in light of the cost of so many of the EPA's regulations.

I just have a few questions. In a recent report by the Competitive Enterprise Institute, they estimate the total compliance costs for EPA regulations to be about \$386 billion in 2016. To put that in perspective, that's 2.1 percent of our GDP.

Do you think that the \$386 billion estimate is in the ballpark and if you don't what is your best estimate of compliance costs?

Ms. McCabe. I really couldn't speak to that number. People do various studies. They base their studies on various assumptions that may or may not be what's actually borne out by the rule. So I really couldn't speak to that.

What I can say is that we do an evaluation for each one of our rules of the expected costs and the expected benefits associated with it.

Would you agree that when a manufacturer faces a new compliance cost, let's say it's not \$386 billion if you don't think so or whatever the number is -- there's a number -- do you think they have to commit resources to comply with those rules?

If a manufacturer has to comply with your rules do they have to commit some of their own resources to do it?

Ms. McCabe. Sure. There would be expectations that they would invest in control equipment or other approaches to reduce

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emissions.

Mr. Kinzinger. So if a manufacturer has to devote resources to comply with new EPA rules they have fewer resources available to produce or expand production of goods and services unless they increase prices?

Ms. McCabe. Well, I don't know that it's as simple as that and our rules always look at what kinds of approaches are cost effective and the impact that they would have and in fact industry has grown -- many industries have grown over the years with making investments in cleaner technology.

Mr. Kinzinger. How does the EPA examine the impact of higher prices for goods and services? So, I mean, obviously we can go back and forth on, you know, whether it's good, bad, indifferent.

But we admit and we understand that there is some level of resources that a manufacturer will have to commit, which is less invested in expanding or promoting goods.

How does the EPA examine the impact of higher prices for goods and services or less expansion throughout the whole economy as a result? Do you guys take that into account?

Ms. McCabe. So we follow OMB directives and methodologies in looking at our economic evaluations. Not everything has tools available to look at the impacts and so we work with OMB and others to continually develop better tools for that.

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Mr. Kinzinger. Mullin, you have to sit back.

Ms. McCabe. So that's how we do it. Right now, there aren't good tools that you could accurately do whole economy modeling such as you described.

Mr. Kinzinger. So you're saying that there is not -- basically, the second and third order of facts is not taken into account. So, you know, basically cost of -- if the manufacturer has to invest what they are not going to grow by that's not taken into account by those models?

Ms. McCabe. Or how much they are going to grow and be able invest more because it's been -- it's good for their business.

Mr. Kinzinger. And for the EPA rule setting carbon dioxide standards in the new coal plants did the EPA consult with equipment vendors or contractors to determine if a plant could be built with carbon capture and storage technology to meet new standards?

Ms. McCabe. We certainly consult with a whole variety of people in the industry.

Mr. Kinzinger. And can you identify any of the vendors that made those assurances and if not, why not?

Ms. McCabe. I'd be happy to get back with you -- to you with more details on who we spoke to.

Mr. Kinzinger. Okay. But you will be able to do that then? We will count on that response.

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Ms. McCabe. Sure.

Mr. Kinzinger. Okay. And for the existing coal plant rule, EPA set emission standards that are impossible to achieve at units themselves and will require beyond the fence actions. Is there any coal-fired electric generating unit in the world that can meet carbon dioxide emissions rate that the agency has set for existing power plants?

Ms. McCabe. Through its own -- the coal emissions?

Mr. Kinzinger. Yes.

Ms. McCabe. Themselves? No, I don't believe so. But there are technologies and techniques that they can use in order to reduce their emissions.

Mr. Kinzinger. And these would be the beyond the fence actions?

Ms. McCabe. Well, CCS would be one way that a coal plant -- fuel mixing is another way that they could reduce their emissions.

Mr. Kinzinger. So the next question and my last one, is there any control equipment or work practice that exists today that would allow an existing coal-fired unit to meet the standard? You think -- you say there is.

Ms. McCabe. Yes.

Mr. Kinzinger. Okay. All right. Well, it will be

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interesting.

With that, I yield back. Thank you.

Mr. Whitfield. At this time I will recognize the gentleman from Ohio, Mr. Johnson, for five minutes.

Mr. Johnson. Thank you, Mr. Chairman, and Ms. McCabe, thanks for joining us today. You know, the Congressional Budget Office has stated that if we increase the costs of energy it increases the cost of goods and services, costs which fall disproportionately on low-income household like those that I represent in eastern and southeastern Ohio.

You previously testified that the agency did not assess the full economy wide impacts of the Clean Power Plan. So is EPA currently using economy wide modeling to estimate the full economy impacts of its rules?

Ms. McCabe. We don't have tools available to do that kind of analysis.

Mr. Johnson. But the law requires you to do that kind of analysis, doesn't it?

Ms. McCabe. Whole economy modeling? I don't believe so, sir. The law requires --

Mr. Johnson. Aren't you -- aren't you supposed to consider the economic impacts of the -- of the rules that you put out? I think that's what I heard just a little bit ago.

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Ms. McCabe. In accordance with the methodologies that the Office of Management and Budget sets forth and we follow those procedures and --

Mr. Johnson. But I thought I understood just a little bit ago that you're not following those procedures either.

Ms. McCabe. No, we are.

Mr. Johnson. Okay. Don't you think that the EPA should consider those full economy impacts?

Ms. McCabe. I think these are very, very complicated issues.

Mr. Johnson. Oh, yes. They are complicated. The rules are complicated. The regulations that you guys are putting out are complicated. It's draining the life blood out of our -- out of our businesses.

Between the Clean Power Plan, the Waters of the U.S. and others that you folks have gotten, you just heard from my colleague, Mr. Kinzinger from Illinois, the hundreds of billions of dollars that you guys are sucking out of our economy every year that could be going toward job creation.

You know, the money that is coming out in federal regulations, particularly from the EPA, is like a -- is like a dadgum permission slip to do business in America. Doesn't produce a product, doesn't pay a salary. It doesn't go to any

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company's bottom line. It's like going to the movie theater and buying a ticket but you don't get the popcorn or the diet Coke.

You've got to pay extra to get that stuff and the projector doesn't work. It's a ripoff of the American people, and the federal courts have shown and have demonstrated through their rulings that you guys are consistently overreaching.

I think it's absurd. I think it's irresponsible. Quite honestly, Ms. McCabe, I think it's un-American. You obviously don't have a concern and your department doesn't have a concern for the economic well-being of the very people that create jobs in this country.

Let me ask you another question. Is it correct that the EPA will not engage the Clean Air Scientific Advisory Committee to consider adverse effects of implementing air quality standards?

Ms. McCabe. It's not correct that we will not. We --

Mr. Johnson. Have you done so?

Ms. McCabe. We -- we --

Mr. Johnson. Have you done so? Yes or no.

Ms. McCabe. Not in the context --

Mr. Johnson. Okay. So you haven't. So why not? Why not up until now?

Ms. McCabe. The Clean Air Science Advisory Committee has focused its attention on the standards, on the standard setting.

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Mr. Johnson. No, I'm asking you. I know what they do. I am asking you why you haven't consulted with them -- why you haven't engaged with them.

Ms. McCabe. We engage with them all the time.

Mr. Johnson. No. You just told me you didn't engage with them, that you haven't up until now. So first you say you didn't, now you say you did. That's the same kind of double talk that our businesses are getting across the country. Have you engaged with the CASAC?

Ms. McCabe. We have --

Mr. Johnson. Have you -- have you engaged with the CAS --

Ms. McCabe. I am trying to answer you, Congressman.

Mr. Johnson. No, you are not. It is a yes or no question. Have you -- have you engaged with them?

Ms. McCabe. Yes, we have engaged with them.

Mr. Johnson. Why did you just tell me that you haven't?

Ms. McCabe. Because --

Mr. Johnson. You said not up until now.

Ms. McCabe. Because you asked me about a specific topic.

Mr. Johnson. No, I asked you that you -- I asked you is it correct that the EPA will not engage with the Clean Air Scientific Advisory Committee to consider the adverse effects of implementing air quality standards. You said it's not true. I

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said have you engaged with them. You said not at this time.

Ms. McCabe. Not on that topic.

Mr. Johnson. Okay. Well, that's what I am asking you about.

Ms. McCabe. All right.

Mr. Johnson. That's why I don't let you ramble on because you try to deflect the answer to something that you want to talk about instead of what the American people are concerned about, why you are not doing your job and why you are not considering the implications of the rules that you're putting out.

Is it correct that the EPA does not believe it has to investigate jobs losses pursuant to Section 321 of the Clean Air Act? Do you think you're supposed to do that?

Ms. McCabe. As I noted --

Mr. Johnson. Yes or no? Do you think you are supposed to do that? I got six seconds. Do you think you're supposed to do that?

Ms. McCabe. This is a matter in litigation, Congressman. So --

Mr. Johnson. So due to a matter that is in litigation you can't answer whether or not you are supposed to do that?

Ms. McCabe. We believe that we are discharging our duties under the Clean Air Act.

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Mr. Johnson. Are you -- are you required to investigate jobs losses under Section 321?

Ms. McCabe. The statute speaks for itself and says what it says, and we're --

Mr. Johnson. And you are not doing it. It's absurd, Ms. McCabe.

Mr. Rush. Gentleman, order.

Mr. Whitfield. Gentleman's time has expired. At this time, I recognize the gentleman from New York, Mr. Engel, for five minutes.

Mr. Engel. Thank you. Acting Assistant Administrator McCabe, thank you for joining us. I am a little taken aback by the hostility that I hear in this room. I just want you to know that there are many of us who approve of the work that the EPA does.

Mr. Johnson. Point of personal privilege, Mr. Chairman.

Mr. Engel. We want -- we want -- we want clean air.

Mr. Whitfield. Would the gentleman sustain for just one minute?

Mr. Engel. Yes.

Mr. Johnson. I -- you know, I find it absurd that we would be challenged on an air of hostility when we are doing what the American people require us and request us to do, which is to hold

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the EPA accountable.

If we are not going to do it then who is going to do it?

Mr. Rush. Mr. Chairman -- Mr. Chairman -- Mr. Chairman --
Mr. Chairman.

Mr. Johnson. I have -- I have the floor. I have been
recognized.

Mr. Engel. You took my time.

Mr. Johnson. Though I claim back my time. His time was
over.

Mr. Whitfield. Okay. Let's hold it for just a minute.
Obviously, climate change and regulations are something we all
feel very strongly about and I don't think it's correct to question
anyone's motives.

And we all have very strong feelings about this. Mr. Johnson
is speaking in defense of his constituents. Mr. Engel is
expressing what he perceives as hostility. What would the
gentleman like to say?

Mr. Rush. Mr. Chairman, my side has sat here very patiently
and calmly while this witness, who by every indication has worked
tirelessly on behalf of the American people, to be called
un-American that is absurd.

Mr. Whitfield. Well, Mr. Rush --

Mr. Rush. That is extreme and I said it to you when it was

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-- when it was mentioned, if the facts -- you don't agree with the facts then all of a sudden you are called un-American.

Mr. Chairman, there is not place in this hearing for a witness, be it from the EPA or whatever agency -- governmental agency there is to be called an un-American.

Mr. Whitfield. He said it was in his opinion un-American. He didn't say she was un-American. And there are very strong feelings on this issue because many people, and we are speaking for our constituents, believe that EPA is exceeding its legal authority under the direction of a president who is trying to impose his will on climate change around the world. So there are strong feelings on the issue, there is no question.

Mr. Engel, you are recognized. We will give you -- you were about four minutes when we interrupted you.

Mr. Engel. I don't think -- I think it was more than four, Mr. Chairman. I would like to have my five minutes. I really just --

Mr. Whitfield. Well, I would be happy to give you five minutes.

Mr. Engel. -- say anything except welcome the witness and --

Mr. Whitfield. You are recognized for five minutes.

Mr. Engel. -- let me say that I am not questioning anyone's

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motives. Everybody has the right to express their mind. I just question the hostility that the questions are being asked. I think you can -- you can disagree with a witness. You can -- you can tear down whatever they have to say. But I am a big believer in you do it in a way that doesn't call anyone un-American and that you don't question anyone's motives.

I think that the administrator is trying to do her job. We are trying to do our job, and I think that we can have differences of opinion and state the disagreements without being hostile. That's all I wanted to say.

I am a supporter of what you try to do with clean air and clean water. I believe the history of the Clean Air Act shows that the United States can reduce pollution while creating jobs and strengthening the economy and your testimony and Ranking Member Rush's opening statement set forth statistics on how EPA's pollution reduction program saved lives and improved public health, particularly among children and senior citizens.

So I won't repeat that here. I'll get to my questions. I have about four of them so if you could keep your answers brief I would appreciate it.

Many of my colleagues criticize the compliance costs of EPA's regulations. Please explain the opportunities that regulated entities and industries have to communicate concerns to

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regulators during the rulemaking process and please explain how those concerns are taken into account.

Ms. McCabe. Both before we start the rulemaking and certainly through formal comment periods we solicit people's views on all of the information that we use to develop our rules including rules about cost.

We are constantly looking for ways to adjust the rules to provide opportunities for people to comply with them in the most cost-effective way possible.

Mr. Engel. Thank you. In your experience how often are major rules adopted where projected costs exceed projected benefits?

Ms. McCabe. Where costs exceed the benefits I am not aware of any that I've worked on where the costs exceeded the benefits.

Mr. Engel. Thank you. The U.S. has become a world leader in pollution control technology supporting millions of jobs, generating hundreds of billions of dollars in revenues and tens of billions of dollars in exports every year.

Has the Clean Air Act contributed to the development of that industry here in the United States?

Ms. McCabe. Yes, sir, it has through our automotive technologies as well as other pollution control technologies. It absolutely has.

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Mr. Engel. Thank you. The EPA and the National Highway Safety and Transportation Agency have proposed new vehicular fuel efficiency standards that establish average fleet one standards of 40.1 miles per gallon by model year 2021 and 49.6 MPGs by model year 2025. If possible, please discuss the cost benefit consideration associated with this proposal.

Ms. McCabe. So this proposal is great because it means American motorists are using less gas. That means they are pumping less. They are saving that money in their pockets and everybody appreciates that.

Mr. Engel. Thank you. On August 8th of 2011, EPA finalized a cross state air pollution rule and after a series of court challenges that delayed implementation I understand that the EPA now expects to update and finalize the rule by next month, August 2016. If possible, could you please discuss the cost benefit considerations associated with this rule making?

Ms. McCabe. Yes, sir. Absolutely.

This is a rule that's required for upwind states to reduce their emissions that contribute to ozone air quality problems downwind.

We reviewed the variety of technologies that are available to electric utilities to reduce those emissions of NOx and found a number of extremely cost effective approaches -- \$1,500 per ton

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or less -- that could be implemented very quickly including turning on pollution control technology that has been installed but is not being run at this time.

Mr. Engel. Thank you. On June 22nd, 2010, EPA finalized a rule which strengthens the primary sulfur dioxide NAAQS to a level of 75 parts per billion. Principal effects would be to require additional controls on fossil fuel-fired power plants. If possible, could you please discuss the cost benefit considerations associated with this rule making?

Ms. McCabe. So sulfur dioxide has very clear impacts on public health. So every time you reduce sulfur dioxide you are achieving benefits that can be monetized in terms of people's public health.

There are very well understood technologies, very cost effective technologies that are available for facilities to reduce their emissions of SO₂ and I should note that those very same kinds of technologies are helpful in meeting other requirements.

Mr. Engel. Well, again, thank you for your testimony and I appreciate the work you do and sorry that you weren't treated very courteously.

Ms. McCabe. Thank you, sir.

Mr. Whitfield. At this time, I recognize the gentleman from

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Oklahoma, Mr. Mullin, for five minutes.

Mr. Mullin. Thank you, Mr. Chairman. Thank you once again for being here. I don't envy your position and unfortunately I have lost a tremendous amount of respect for the EPA and what their mission statement has turned into.

From trying to protect our environment, which I'm a big advocate for -- I am the fourth generation on my farm. We live in the same location that, literally, my family stopped walking because I'm Cherokee and when we came into Oklahoma, still live in the same area. Love it.

And so we're about protecting it. My kids will grow up on the same place. But the EPA has turned into more of an agenda-driven agency than actually doing its original mission statement as you stated earlier.

And I just want to kind of rehash some things. I mean, you have -- you have said that you believe that energy costs is going to be lower due to the EPA's regulation. Is that correct?

Ms. McCabe. What I was referring to was our projections in the Clean Power Plan, that by the 2030 compliance year because of the investment in energy efficiency that we predicted that people's bills would go down by about 7 percent.

Mr. Mullin. So out of those Clean Power Plans, there are several regulations specifically to the power plants and by fully

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implementing all of those out of 16 rules it's going to cost the industry -- now, this is where you are saying it's going to lower costs to our consumers -- by the time all of these 16 rules are fully implemented it's going to cost the industry \$28,912,000,000 a year annually to comply -- annually. Now, who's going to pay for that?

Ms. McCabe. Well, I'm not sure where your number comes from, Congressman, so --

Mr. Mullin. This is from you guys. EPA's estimate of compliance cost -- EPA's -- these are yours -- so this isn't my number. This isn't the majority's number. These are your numbers. The 16 rules that you have towards power plants, \$28,912,000,000 annually -- your numbers -- to comply. Now, where is the cost saving to the consumer? Who is going to pay for that?

Ms. McCabe. This is a very large industry. The utility industry --

Mr. Mullin. Now -- no, no, no, no. Who is going to pay the \$28 billion? Let us just round it up to \$29 billion because you guys usually under estimate because you want to try and make your numbers look good. So let's say \$29 billion annually. Who is going to pay for that?

Ms. McCabe. What I am trying to say, Congressman, is that

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consumers pay rates which are set through --

Mr. Mullin. So what you're saying is you expect the industry to absorb it?

Ms. McCabe. I am not saying any -- I am not giving you any --

Mr. Mullin. Well, now, you made the claim that the -- that the consumers' cost was going to go down.

Ms. McCabe. Yes, sir.

Mr. Mullin. Okay. How are you coming up with that claim if you can't answer who is going to pay for the \$29 billion that you guys estimate it is going to cost annually to comply with your regulations?

Ms. McCabe. This industry invests every year millions and millions of dollars --

Mr. Mullin. This is -- no, no, no. This has nothing to do with investment. This has to do with complying with your regulation.

Ms. McCabe. Respectfully, Congressman, it does have to do with investment.

Mr. Mullin. No. No, it doesn't. This is to comply.

Ms. McCabe. Yes, and they're --

Mr. Mullin. There is a huge difference. I am a business owner. There is a cost to implement every regulation that comes

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in. That has to either be absorbed by the company, which can't usually absorb it, or it's got to be passed on to the consumer.

Now, if you are going to sit here and tell me as witness that it is going to lower the cost, you are telling the American people that it is going to lower the cost but your estimates -- your estimates are saying it's going to cost \$29 billion annually for the industry to comply and your only answer is is that it is going to be absorbed by the industry? You are making that assumption?

Ms. McCabe. The increased use of energy efficiency will mean that people are using less energy.

Mr. Mullin. Now, the last time you were here I went through energy efficiency that you guys were claiming and we didn't show that. The cost of the compliance of the appliances had went up and greatly outpaced the cost of energy savings. So now you are saying that it's going to save it because of energy savings. So you're making an assumption -- you are making a false claim then?

Ms. McCabe. I am not making a false claim.

Mr. Mullin. No, you are saying that it is going to save the consumer dollars. You are making that assumption --

Ms. McCabe. I am --

Mr. Mullin. -- and so you are making a false claim because there is nothing to back that up.

Ms. McCabe. What there is to back that up is our regulatory

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impact analysis, which lays out all of this analysis --

Mr. Mullin. By your own costs it's \$29 billion a year. Who is going to pay for it?

Ms. McCabe. Sir, you need to look at the regulatory impact analysis that goes through --

Mr. Mullin. No. What you need to do is understand the industry. I read your bio. You have never worked in the industry. You have worked against the industry from day one.

Ms. McCabe. That is absolutely not true, Congressman.

Mr. Whitfield. The gentleman's time -- the gentleman's time has expired.

Mr. Rush. Mr. Chairman -- Mr. Chairman, a point of order. When are you going to stop the badgering of witnesses before this committee? And then I respect the prerogatives of every member of this committee -- every member of the House. I respect the witnesses. Mr. Chairman, if they're asked a question then they should have some reasonable amount of --

Mr. Whitfield. Well, I didn't -- it's not my opinion that Mr. --

Mr. Rush. Mr. Chairman, please don't cut me off. At least I ask for some reasonable assurance that they are going to be able to answer the question that they are asked. Now, Mr. Chairman, this hearing is getting way out of hand and then you have to have

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some responsibility for it.

Mr. Whitfield. This hearing is not out of hand.

Mr. Rush. Yes, the hearing is --

Mr. Whitfield. People have a right to ask the questions.

Mr. Rush. They -- this witness has been badgered and badgered --

Mr. Whitfield. She has not been badgered.

Mr. Rush. -- and badgered and badgered and badgered and badgered, Mr. Chairman.

Mr. Whitfield. I respectfully disagree with you.

At this time, I recognize the gentleman from Missouri, Mr. Long, for five minutes.

Mr. Long. Thank you, Mr. Chairman. I appreciate and I wish there was as much respect on the House floor for the activities there as what there are in this room and if you want to look at disrespectful look at last Thursday on the floor of the House -- the representatives of the people's House.

Ms. McCabe, I am sure you're aware in February of this year -- I moved to the chair. I can see -- it's the only one I can't see -- get him out of here.

But I'm sure you're aware that in February of this year the Supreme Court issued a stay on the implementation of the Clean Power Plan. The EPA has stated it will continue to provide tools

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and support for states that seek the agency's guidance and just last month issued a proposed rule on design details for a program out of the Clean Power Plan.

Why does EPA continue to issue implementation guidance on the Clean Power Plan in light of the Supreme Court's stay and shouldn't the EPA stop issuing guidance for the Clean Power Plan?

Ms. McCabe. Congressman, we are not implementing the Clean Power Plan, which is what the court stayed. No state is required to do anything under the Clean Power Plan. While that is --

Mr. Long. But you're issuing guidance on it or not?

Ms. McCabe. We are developing further tools in response to requests from states that are voluntarily choosing to go forward and work on these issues and the Supreme Court did not stay all activity of the agency. It did not stay activity of states that want to do something to address these important public health issues.

Mr. Long. Yes, but it issued a stay on the implementation of the Clean Power Plan, correct?

Ms. McCabe. Which we are -- which we are not doing.

Mr. Long. So you are not issuing guidance on the Clean Power Plan?

Ms. McCabe. Developing tools is not implementing the Clean Power Plan, which is what was stayed.

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Mr. Long. What is the EPA's interpretation of the stay of the Clean Power Plan?

Ms. McCabe. Our interpretation is that we cannot require any state to take any activity that is required under the Clean Power Plan and we are not doing that.

Mr. Long. Okay. Does EPA consider the cumulative impact of economically significant rules when proposing additional rules and if so what influence does this have on the EPA when proposing new rules or updates to current rules?

Ms. McCabe. Each time we do a rule we take into account all the rules that have gone before it and build that into our analysis of costs and benefits.

Mr. Long. Okay. Since 2009, the EPA has published nearly 3,900 final rules -- the final answer. Roughly, how many of these rules have been considered economically significant, which means they have an annual effect on the economy of \$100 million or more?

Ms. McCabe. I don't know the answer to that question, Congressman. I would be happy to get it for you.

Mr. Long. I didn't think you would but I was hoping you would be able to get it for me. So I --

Ms. McCabe. Yes. Absolutely. We will gladly get it for you.

Mr. Long. Yes, I appreciate that. And under the Paris

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climate agreement the United States agreed to revisit its greenhouse gas goals in five years with the object of making them more stringent.

Will this agreement lead the EPA to more proposed stringent standards for the power sector, you think?

Ms. McCabe. I really can't speak to rules in the future, Congressman. But this is a global and challenging problem that people will continue to work on.

Mr. Long. Former climate chief -- excuse me, a former chief climate counsel of an environmental group recently mentioned that there could be newer versions of the Clean Power Plan if the Supreme Court rules in favor of the plan.

Is the EPA currently doing work on a more stringent version of the Clean Power Plan for power plants?

Ms. McCabe. No, we are not.

Mr. Long. Under Section 111, standards are to be reviewed every eight years. Would more stringent standards be in fact a possibility?

Ms. McCabe. That every eight year review applies to Section 111(b), which is the standards for new power plants. So just wanted to clarify that.

But at this moment, we are not looking at any review of the 111(b) and 111(d) standards.

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Mr. Long. Okay. Well, I'd feel, you know, kind of left out if I didn't get to raise my voice at least once today. So I want to thank you for being here and I yield back.

Mr. Whitfield. The gentleman yields back and that concludes all the questions. So Ms. McCabe, thank you for being with us this morning. We look forward to continuing working with you on these issues.

At this time, I would like to call up the second panel of witnesses, and on the second panel we have -- I am actually just going to introduce the second panel as we call them for their testimony.

So if the second panel would come forward and Ms. McCabe thank you again. Our actual first witness on the second panel will be Mr. Travis Kavulla, who is the president of the National Association of Regulatory Utility Commissioners and he's the vice chairman of the Montana Public Service Commission.

So we will recognize Mr. Kavulla for his five-minute opening statement, and just make sure that the microphone is on and you see the lights on the table. When the five minutes is up, the red light will come on.

So at that point, you can start summarizing. But we do appreciate all of you being with us this morning and, Mr. Kavulla, you are recognized for five minutes for an opening statement.

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STATEMENTS OF TRAVIS KAVULLA, PRESIDENT, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, VICE CHAIRMAN, MONTANA PUBLIC SERVICE COMMISSION; DAVID J. PORTER, CHAIRMAN, RAILROAD COMMISSION OF TEXAS; LYNN D. HELMS, DIRECTOR, NORTH DAKOTA INDUSTRIAL COMMISSION, DEPARTMENT OF MINERAL RESOURCES; ROBERT WEISSMAN, PRESIDENT, PUBLIC CITIZEN; CHARLES D. McCONNELL, EXECUTIVE DIRECTOR, ENERGY AND ENVIRONMENT INITIATIVE, RICE UNIVERSITY, FORMER ASSISTANT SECRETARY OF FOSSIL ENERGY, U.S. DEPARTMENT OF ENERGY

STATEMENT OF TRAVIS KAVULLA

Mr. Kavulla. Thank you very much, Chairman Whitfield and Ranking Member Rush and members of the committee, for sitting through this hearing today and affording us your attention.

I am speaking today on behalf of the National Association of Regulatory Utility Commissioners, a 127-year-old organization that represents the public utility commissions of the United States.

I think it's safe to say that when the rule was -- the Clean Power Plan was published in the Federal Register October of last year it represented the EPA's most far-reaching regulation of the electric power sector in the agency's history.

NARUC's members are divided on what should be done to address

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carbon dioxide and other greenhouse gases emissions. However, NARUC has advocated unambiguously that states' traditional regulatory oversight over utility resource planning not be eroded and that low-carbon-emitting resources of all kind receive credit in the Clean Power Plan.

In both respects, the EPA's regulation falls short of these principles. Traditionally, air quality regulations identify the pollutant that they have in mind to abate and then they specify the technology which either maximally controls for its emissions or is the most cost effective in controlling the emission of a pollutant.

Then the regulation will require the installation of that technology or require the facility that emits that pollutant to limit its emissions to the same -- to the same level.

In short, traditional environmental regulation revolves around installing specific pollution control technologies at the facility that produces the emissions and certainly in all previous rules issued under Section 111(d) a facility-specific technology has been at the core of the regulations emissions standard.

And if you look back at the several regulations issued under 111(d), these technologies are fairly modest in scope and limited in their applicability to certain industries -- for instance, spray cross-flow packed scrubbers for the phosphate fertilizer

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industry.

When the EPA, however, decided to focus on electric power generation under Section 111(d), instead of focusing on the emitting facility as the -- as the point of regulation, the EPA instead focused on what it called the complex machine that is the North American power system and it identified through a system of so-called building blocks a more comprehensive system to abate the emission of carbon dioxide.

The EPA then set about creating state requirements that were not limited to reducing emissions from coal-fired generators based on facility upgrades but on the idea that if only natural gas-fired or renewable generation were more prevalent coal plants would dispatch less often, reducing their emissions.

Together, the requirement-setting process leads to a more stringent emission standard for coal plants which is impossible to achieve at the specific plants using demonstrated technology.

In short, to regulate existing power plants, the EPA is effectively requiring the construction of entirely new power plants. This novel approach means that EPA has interpreted the Clean Air Act to give that agency the power essentially to plan the resource mix of the U.S. power sector.

Effectively, the EPA has created a de facto fuel and renewable energy standard. I am concerned about this because

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traditionally making determinations as to the economic, environmental and social efficiency of utilities' investments to serve retail customers has been for nearly a century the province of state utility commissions.

Regulated utilities that own generation file integrated resource plans that are subject to review by state utility commissions.

These are intended to be processes that take a wide ranging look at customers' needs, incorporating demand forecasting a wide consideration of available resources including energy efficiency and indeed environmental externalities.

In my experience, state utility commissions possess and deploy substantial technical resources in analyzing these plans.

But when the EPA adopted a system that encompassed the entirety of the state's electric power production what it really did was to remove the IRP function of a utility commission and replace it with a carbon resource planning process undertaken by the state's environmental regulator and the governor's office under Section 111(d).

It may seem innocuous to transfer one regulator -- an economic regulator like myself with an environmental regulator, but the functional transfer of authority is highly consequential for several reasons. It gives a less experienced regulator

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control over a resource planning process. It makes the resulting plan a matter of federal environmental law enforceable under it sapping the ability of the industry and the regulator to respond nimbly to changing market conditions.

The scope of the plan, rather than just for a single utility, now becomes the entire state's electric resource mix with the likelihood that certain parties are favored over others and, finally, it introduces a new level of potentially self-seeking politics and to have a plan in process.

Needless to say, Mr. Chairman, with the adoption of the Clean Power Plan by the EPA, it fundamentally alters how and by who utilities are regulated in the United States.

Thank you.

[The prepared statement of Travis Kavulla follows:]

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Mr. Whitfield. Thank you, Mr. Kavulla.

Our next witness is Mr. David Porter, who is the chairman of the Railroad Commission of Texas and, Mr. Porter, thanks for being with us today and you are recognized for five minutes.

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STATEMENT OF DAVID J. PORTER

Mr. Porter. Thank you, Chairman Whitfield, Ranking Member Rush and members of this committee. For the record, I am David Porter, chairman of the Railroad Commission of Texas.

For those of you who are not familiar with the Railroad Commission, we are the state of Texas' chief energy regulator. I am one of three statewide elected commissioners and we oversee everything from oil and gas to pipelines, uranium exploration, surface coal mining, natural gas, local distribution companies and alternative natural gas fuels.

The Railroad Commission has effectively regulated the oil and gas industry in the state of Texas since 1919. It is one of the oldest state agencies in the nation and the most mature energy regulatory body in the world.

Texas is the nation's largest producer of oil and natural gas and the commission monitors approximately 433,000 oil and natural gas wells, more than 335,000 of which are actively producing.

This energy production supports 2 million jobs in Texas and about a quarter of the state's economy. The oil and gas industry significantly benefits Texas as well as the entire United States.

The recent surge in drilling has considerably bolstered the

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national economy. The result in historical production increases have also paid the way for extraordinary geopolitical advantages.

In recent years, the United States has been able to surpass Saudi Arabia and Russia as the leading producer of oil and natural gas liquids in the world.

We have also seen a huge shift in the balance of trade because of the growing strength of our domestic energy industry. Domestic oil production has increased by 4.3 million barrels per day since 2006 and correspondingly, because of that increase, the trade deficit has been decreased.

As chairman of the Railroad Commission, it is my job to ensure fair and consistent energy regulation in Texas so businesses can safely, efficiently and economically produce the energy that powers our state and national economies.

That said, I very much appreciate the opportunity to submit this testimony regarding recent rulemaking by the United States Environmental Protection Agency under the Clean Air Act.

In my written testimony, I have detailed the Railroad Commission's specific concerns about the recent EPA methane rules, the Clean Power Plan and the mercury and air toxic standards.

Time constraints will prevent me from detailing the extensive concerns the commission has with the unprecedented EPA

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rulemakings outlined in that testimony. But you will find that these concerns are based on scientific fact and sound legal and economic analysis.

You will also find that the underlying themes in EPA rulemaking under the Obama administration have been the consolidation of increased regulatory power in the federal government to the detriment of state authority and the circumvention of regulatory authority granted to the EPA by Congress.

Clean Air Act rulemaking by the EPA during the Obama administration has been characterized by minimal interaction and consultation with Texas and other state regulatory authorities, underestimated or ignored compliance costs, overestimated, unjustified and exaggerated regulatory and environmental benefits, increased regulatory and economic burden on operation companies, especially the smaller operators who make up an overwhelming majority of the oil and gas industry in Texas, and the creation of one-size-fits-all regulations that ignore economic realities and the significant differences in regional operating conditions in state regulatory existence.

History shows that decreases in emissions and improved environmental conditions came about as a result of innovative technological advances in market-driven efficiencies, not

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through the massive overreach of federal bureaucrats.

The Railroad Commission of Texas takes its role as a steward of state resources very seriously. Our rulemaking decisions are based on sound science and potential economic impacts to all Texans, mindful that it is from industry that these entrepreneurial ideas emerge.

When businesses are forced to operate as bureaucracies which EPA seems intent on achieving through its unwarranted and overreaching rules, innovation is stifled and both consumers and the environment pay the price.

EPA policies under the Obama administration have consistently striven to eliminate competitive energy markets while ignoring engineering realities, sound science and economic impacts.

Simultaneously, EPA has circumvented both the authorities delegated to it by Congress and the rights of state regulatory agencies to establish their own rules.

I believe you will find ample evidence of this in my submitted testimony. I respectfully urge this committee to prevent this administration from further assuming unconstitutional powers and imposing intrusive regulations on the states to ensure that our nation continues to serve as the global energy leader we are today.

Thank you for this opportunity to testify.

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[The prepared statement of David J. Porter follows:]

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Mr. Whitfield. Thank you, Mr. Porter.

Our next witness is Mr. Lynn Helms, who is the director for the North Dakota Industrial Commission at the Department of Mineral Resources. Thanks for being with us and you are recognized for five minutes.

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STATEMENT OF LYNN D. HELMS

Mr. Helms. Good afternoon, Chairman Whitfield and Ranking Member Rush, members of the subcommittee. Thank you for this opportunity to provide comments from the great state of North Dakota on EPA's regulatory activity during the Obama Administration.

North Dakota is ranked second in the United States amongst all the states in production of oil and gas. We produce approximately 430 million barrels of oil and 585 billion cubic feet of natural gas each year.

The North Dakota Industrial Commission and Geological Survey oil and gas division regulate operations related to production of oil and gas and protection of the state of North Dakota's environment.

I have highlighted in my written testimony nine specific actions since 2009 that have had major negative consequences to North Dakota regulatory environment and/or economy.

It needs to be kept in context that those have been done in conjunction with seven regulatory actions by the Department of the Interior.

Those nine are the March 2010 to present hydraulic fracturing drinking water study, the December 2010 class six CO2 rules, the

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February 2014 hydraulic fracturing using diesel fuel rule, the May 2014 hydraulic fracturing chemical disclosure rule, the May 2015 waters of the U.S., August 2015 Clean Power Plan, May 2016 RCRA lawsuit, June 2016 methane reduction for new and modified sources and the June 2016 methane reduction information request on existing sources.

North Dakota has been left with no choice but to litigate three of those actions and we have been involved in that litigation. I want to focus the remainder of my time talking about two or three of those.

In June of 2014, with the final rule published in August of 2015, the Environmental Protection Agency under President Obama's climate action plan proposed to cut carbon pollution, known as the Clean Power Plan.

This directly interferes with North Dakota's ability to reduce natural gas flaring in the state. In order to build the infrastructure to collect and process the natural gas that's coming from the Bakken formation, the industry needs 300 megawatts of new electric generation.

Instead of granting us the ability to produce or build 300 megawatts of additional generation, the plan requires that we cut or retire 1.3 gigawatts of existing power generation in the state.

The result of that is a cumulative increase of flaring of

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almost a trillion cubic feet of natural gas, a loss to the state of over \$100 million in gross production tax revenue and a loss to the mineral owners of the state of \$570 million in royalty income.

North Dakota, along with 26 other states, sought and received a stay of this rule. North Dakota's reduction of carbon emissions under the proposed rule was 11 percent. That was going to be difficult but maybe achievable. Under the final rule, it was raised to 45 percent with no warning that that was coming.

No credit for pre-2013 natural gas or wind installations and I can guarantee you that power costs will not go down in the state of North Dakota.

On June 3rd of 2016, a final rule proposing a suite of changes to the Clean Air Act for new and modified emission sources in the oil and natural gas industry was published in the Federal Register.

This rule contains all sorts of undefined things like technically achievable, technically feasible, technically infeasible. It's a direct conflict with rules in the state of North Dakota for reducing natural gas flaring.

The rule does not adhere to the statutory language in the Clean Air Act for defining sources of emission. It aggregates sources using a new quarter-mile standard which will cause

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problems for the state of North Dakota for regulating how oil well sites are placed in the state in order to minimize the footprint of those sites on the state's landscape.

Finally, the proposed rule says it doesn't have any federalism implications. But that's not true. The proposed rule will conflict with numerous North Dakota current regulations.

North Dakota is currently filing a petition for review of this harmful rule. And then finally, on June 3rd of 2016, the proposed information collection effort for oil and gas facilities was published in the Federal Register.

Information requests for tens of thousands, maybe 100,000 existing facilities, are being distributed across the country. Comments on this proposed information collection are due August 2nd and we plan to submit extensive comments.

Unfortunately, North Dakota has submitted extensive comments on all of these rulemakings and not one of them has been accepted by the EPA.

Thank you for your time.

[The prepared statement of Lynn D. Helms follows:]

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Mr. Whitfield. Thank you, Mr. Helms.

And our next witness is Mr. Robert Weissman, who is the president of Public Citizen, and Mr. Weissman, welcome and you are recognized for five minutes.

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STATEMENT OF ROBERT WEISSMAN

Mr. Weissman. Thank you very much, Mr. Chairman, and thanks to the gentleman from Virginia for joining us today and tolerating this panel discussion.

I wanted to make three brief points in my five minutes about both the regulatory process generally and about the regulatory process as regards clean air rules and EPA action.

The first point is that the overall benefits of regulation issued under both the Obama Administration and the preceding Bush Administration massively outweigh the costs. We have heard some reference to the best evidence about this earlier in the hearing.

Generally, for overall regulation, in the low end benefits outweigh costs two to one but probably as much as fifteen to one. In the area of EPA rulemaking, benefits outweigh costs four to one or as much as twenty to one.

And it should be said that I think the members of this committee are absolutely right to focus on individuals who may be displaced from jobs and recognizes there are real-life costs.

But they ought to also recognize the real-life benefits. These aren't just dollars being saved. These are illnesses being averted, deaths being prevented, children who are not suffering asthma attacks. The benefits are real.

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As I discussed in my written testimony in some detail, retrospective looking at cost estimates shows that industry routinely overestimates costs and particularly in the environmental area and I will come back to that point later.

Second point I want to make is about the issue of regulatory delay. Public Citizen last week issued a new study looking at the issue of regulatory delay and showing how slow our rulemaking process is.

I think it's an area that this committee should look at because we actually need to do much better at getting rules out the door faster both to achieve their protective benefits and to avoid the problems of regulatory uncertainty.

Our study found that economically significant rules are 40 percent slower to be issued than other rules, that economically significant rules that are accompanied by a regularly flexibility analysis and an advance notice of proposed rulemaking take almost five years to issue, longer than the term of a president.

We found that regularly delay as a problem is getting worse, considerably worse now under the Obama administration than it was previously under the Bush administration. It now takes almost 3.8 years for a major rule to be issued.

We found that EPA and the Department of Energy are two of the slowest agencies at issuing rules and also, incidentally, that

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the Obama administration issued about 10 percent fewer rules than the Bush administration had done through this period of its term in office.

Lastly, I want to address focusing more specifically on clean air rules and looking at those points and drilling down as how they relate in the clean air and energy industrial sector.

Again, in this area, the benefits massively outweigh the costs, and just to focus on this area of the Clean Power Plan because I think there has been some uncertainty about it, the Clean Power Plan doesn't just generally have benefits that outweigh costs.

Consumer cost -- the consumer electric bill will go down under the Clean Power Plan. I'm just talking about the Clean Power Plan, and the reason for that is the consumers will be using less energy under the Clean Power Plan than they will be without the Clean Power Plan.

So even under the conservative accounting of the EPA, and it is conservative accounting, the slight uptick in cost per unit will be offset significantly by reduced actual consumption.

Our analysis -- Public Citizen's analysis shows that that is true not just for the nation as a whole but in every single state. In every single state, consumer electric bills will decline under the Clean Power Plan.

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I should say as well that we retrospectively that costs are overestimated. The Wall Street Journal talking about the mercury rule noted that some industry trade groups has argued that the mercury rule would prompt blackouts and skyrocketing electricity prices. Already we know by 2015 that neither scenario had materialized due largely to increased production of natural gas. Again, we see cost estimates oversold.

If you look at the clean air rules you also see that key benefits are not captured in the EPA's regulatory impact analyses and that they often don't take the best choice in terms of advancing net benefits for society, choosing instead to focus on lowering cost, even though they are forsaking benefits for the American people.

Looking at the rules -- the actual rules that are issued by the EPA -- the Clean Power Plan, mercury rule, the ozone rule -- actually you see that the rulemaking process is slower than the aggregate statistics I discussed earlier suggests because the EPA is so slow to begin rulemaking in the first place. The ozone rule is notable. But we just got issued a rule that was required actually under statute to initially be issued in 2002.

And last, I think it's worth saying in the EPA context, as you look at the science and you look at the actual rulemaking, what is apparent is that the EPA massively trails the science.

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The EPA is not acting nearly fast enough or nearly aggressively enough based on what the science says and its statutory obligations.

Thank you very much.

[The prepared statement of Robert Weissman follows:]

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Mr. Whitfield. Thank you, Mr. Weissman.

Our next witness is Mr. Charles McConnell, who is the Executive Director for Energy and Environment Initiative at Rice University and he also was former Assistant Secretary for Fossil Energy at the Department of Energy.

So, Mr. McConnell, welcome and you are recognized for five minutes.

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STATEMENT OF CHARLES D. McCONNELL

Mr. McConnell. Thank you, Mr. Chairman and members. Glad to be here to testify about the Sections 111(b) and (d) of the Clean Air Act and the Clean Power Plan.

But before I begin, I would like to quote a novelist, Saul Bellow, who said a great deal of intelligence can be invested in ignorance when the need for illusion is deep.

And so for me, that is what is summarized by a lot of what I have heard most of the day today. I got three key issues that I think we need to be real clear about.

One, these EPA rules, specifically the Clean Power bill -- Plan does not serve environmental purposes. Calling this environmental regulation is disingenuous.

Two, we don't have functioning interagency collaboration. I personally witnessed that at the DOE. And three, EPA's proposals actually harm energy sustainability. So the projected chart that hopefully we'll be able to show here will outline what the Clean Power Plan really does.

But I would like to say before we go to that I am not here representing a political agenda or a political point of view. I believe in climate change. I am not a denier. CO2 is a forcing function for climate change.

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It's not solely the forcing function but it is a contributor and I think we have an obligation to do something about CO2. I served in this administration and believe in these fundamentals. But what we have with this plan, as this chart indicates in front of you, this gives us a worldwide CO2 concentration reduction of .2 percent.

It is a projected whopping .01 degree impact to global temperature rise and the sea level reduction impact is the amount equivalent to two human hairs and it is all offset by three weeks of Chinese emissions. I find this plan stunningly unambitious.

Our EPA administrator actually acknowledged these facts in testimony but said we should not judge this plan by its ideological global leadership. It's in fact the cornerstone of U.S. climate policy to show the world, and I ask show the world what -- that we are willing to make our energy more expensive, less reliable for de minimis CO2 impact?

The fact that we have seven states bearing 40 percent of this burden? And energy costs will go up. That's according to PUC analysis across the country.

This is a false sense of accomplishment. It is not meaningful climate policy and I won't sit here and recognize it as such. It's a force renewable portfolio standard that is a classic case of regulatory overreach.

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The EPA required to seek expertise through interagency collaboration and public notice and comments which actually includes those actually conducting business. How could this program have been hatched?

Well, I would submit to you that the interagency collaboration is illusionary. I led that office at DOE for two years and bore personal witness to any number of circumstances.

An example was a specific request made by EPA of my office to comment on a term they called resourced adequacy. And what is that? It's a theoretical analysis of theoretical installed capacity that might be utilized to provide theoretical system and supply reliability.

It's a term to appear insightful but it really isn't. It's ideological mumbo jumbo.

It's forcing closure of coal and eventually gas generation that we rely on. So why not ask of our PUCs to analyse real reliability and real onstream data? Why not model real reliability performance? I would submit it's because of the inconvenient truths.

EPA rules don't promote real energy sustainability either. We have a framework at Rice that's being broadcast here where we ask three questions -- is our energy more accessible, reliable and secure?

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Are we making our energy more affordable, cost effective and globally competitive and are we being more environmentally responsible? You got to answer yes to all three, and the CPP fails this miserably.

I think we need to do three things. One, we need to embrace how impactful clean fossil technologies are to our environment. Not focus on shutting down the coal mining industry or the oil and gas industries that we believe in.

The second thing we need to do is to meet these climate goals. We need carbon capture utilization and storage. It has been identified as the IPCC as the most critical technology for the world to meet climate targets and the CPP rules deter it.

And the third thing is we need to encourage public/private partnership to enable new transformative technologies, not obstructing them with burdensome regulation.

Let me close with a quote often attributed to Mark Twain and recently Laurence Peter from the Peter Principles. The question is sometimes I wonder whether the world is being run by really smart people who are putting us on or by imbeciles who really mean it.

Thank you.

[The prepared statement of Charles D. McConnell follows:]

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Mr. Whitfield. Thank you, Mr. McConnell. I appreciate that.

At this time, I would like to recognize the gentleman from Texas, Mr. Olson, for five minutes of questioning.

Mr. Olson. I thank the chairman, and welcome to our five witnesses. I hope you enjoy the fireworks show from the first panel on July 6th the way I did.

A special howdy to the chairman of the Texas Railroad Commission, David Porter, who I found out was born at the same hospital I was, the Madigan Army Hospital in Fort Lewis, Washington, many months before I was born, with all due respect.

And also a special howdy to Chuck McConnell, the executive director of the Energy Environment Initiative at my alma mater, Rice University. Wise old owls are always welcome here.

For Chairman Porter, Mr. Kavulla and Mr. Helms, the regulators on our panel, could you describe the -- well, first of all, you have been in the position of having to implement EPA's regulations that address real world issues that either are a known, crop up.

It is out of control. My question is for all three of you, starting with you, Chairman Porter. Can you describe the impact you think the methane rules have on Texas energy production and, more broadly, can you say anything about Ms. McCabe's testimony

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that you disagreed with and to which you would like to respond to correct the record, so to speak?

Chairman Porter, you are first at bat, sir.

Mr. Porter. Definitely, and I address it in my written testimony. But I think the methane emissions rules would be very bad for the oil and gas industry in Texas and one of my biggest concerns is the effect that it would have on the small operators if they really small stripper wells are not exempted from those rules.

Even a relatively large number of wells is represented by the stripper production, which is 10, 15 percent of total production but it still is a viable part of the Texas economy, particularly in the rural areas and small towns are support by the small oil and gas companies that operate there. So the economic impact is huge.

Mr. Olson. Mr. Kavulla, your comments, sir, about what was raised or anything you want to straighten out with Ms. McCabe's testimony, or a fact check?

Mr. Kavulla. Yes. Maybe just this persistent assertion that has come up that utility bills will lower in cost, which I don't find to be a credible assertion.

I mean, the premise of environmental regulation, whether you agree with it or not, is that it serves to restrain some kind of

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economic production to produce public health benefits.

Here there is an assertion that an industry that is in the business of offering its production sometimes in competitive markets but other times under the regulation of PUCs on a least cost basis is not obtaining economic efficiencies that you expect them to obtain.

I don't think it's credible to say that consumers would just save money if an environmental regulator would stage and intervention into the market. To me, that doesn't make sense, and if true it means that utility commissions everywhere are not doing their jobs at which I know them for a fact to be requiring the low cost acquisition of energy efficiency as a matter of law.

Mr. Olson. And Mr. Helms, back to you. I heard your comments in your opening statement about the methane emissions so I'm going to talk to Mr. McConnell.

In your testimony you mentioned that many of EPA's rules fall short. They don't live up to the promises. That is something I have touched on a lot in recent hearings.

Can you talk about the impact of the Clean Power Plan, how will that impact? Does it hit the target? Or as you put the slide up here, is it way off base?

Mr. McConnell. It's wrapped up to be climate legalisation. But in fact, as you can see from the chart, it doesn't do anything

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about the climate. I think, Mr. Congressman, in my view, the climate story is being written globally.

Really, much outside the United States, in places like China we saw a chart earlier today with all the coal plants being developed all over the world, that's a reality. That is not something the EPA is going to stop. That is going to happen.

And so for the United States to be a global leader we need to provide global technology leadership, not global ideological leadership with a plan that's wrapped up to be something that it isn't, to punish ourselves for no climate benefit.

Mr. Olson. Amen. I was just in China and we saw their reports in the local press. They're building new power plants they know they don't need. They just want the jobs, more coal emissions. So, again, it's a global challenge. It's not just America's. Let's take care of our country first. I yield back.

Mr. Whitfield. The gentleman yields back. At this time, I recognize the gentleman from Illinois, Mr. Rush, for five minutes.

Mr. Rush. I want to thank you, Mr. Chairman.

Mr. Weissman, I am quite interested in your views about the delays within the regulatory agency that is assigned to protect the American people.

And you stated in your testimony that there have been more

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regs under the Obama administration than under the Bush administration. Did I hear you correctly?

Mr. Weissman. No. Actually, about 10 percent fewer regulations under President Obama than President Bush.

Mr. Rush. Fewer then. But in regards to the delays, what do you think that we should be doing about the delays?

Mr. Weissman. Well, it is --

Mr. Rush. What -- what?

Mr. Weissman. Yes, it is a confounding problem. I think the single source -- single primary source of delay is excessive analytical requirements. So the agency is to issue rules.

If you actually look at the technical material they put out it's astounding in its volume and unfortunately there are several proposals in Congress to add analytical requirements, which would worsen the delay problem.

So I think the first thing to look at is how to pare back some of the analytic requirements and the second is to hone in on the role of the OIRA, the Office of Information and Regulatory Analysis, and see how OIRA can be forced at minimum to adhere to the standard that the -- to the schedule standards that it's supposed to abide by. It routinely does not turn rules around according to the schedule it's required to under the executive order.

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Mr. Rush. What does -- what is the impact when the rules are designed to protect the environment and public health, safety and financial security and then there are also the regulations that are taking the longest to finalize and experience the most delays in the regulatory process, what is the impact on the community?

Mr. Weissman. Yes. It is quite severe. For one thing, just as a business matter it's harmful because of -- the biggest problem for industry turns out to be regulatory uncertainty, not knowing what the rules of the game are. Once the rules are established industry actually is pretty adept and nimble at adapting.

But in terms of -- but we also lose over time the benefits of those regulations. So, for example, the mercury standard is projected to save between 4,000 and 11,000 lives every year -- every year.

If we wait three years, we are losing 12,000 lives. And we might not know who the names of those people are but they are real people. They are not statistical abstractions.

Mr. Rush. So there is -- are you saying then there is very little that we can do in -- as a Congress to try to remove some of the delays and the hindrances to getting these rules and these regulations before the American people quicker?

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Mr. Weissman. No, I think there is a lot that Congress could do if it were so inclined. I would focus a lot on the role of OIRA and holding that agency to account to make sure it speeds the process and it does not needlessly and inappropriately delay a rule.

I would look at the level of analytic requirements and reduce what agencies are required to do and I would also look at the problem of revolving door where people go from the regulated industry into the regulatory agency and then back to the regulated industry.

I think that revolving door creates a culture where agencies are inclined to go slow because they are overly sympathetic to the regulated industry of which they once were a part of and may be seeking employment with in the future.

Mr. Rush. I want to thank -- Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes himself for five minutes of questions.

You know, from the questions of Ms. McCabe, I think it was quite obvious to everyone that there is a lot of emotion about this issue and when we talk about the Clean Power Plan, I think Mr. McConnell really touched on an important point and that is the results of the Clean Power Plan is so minute that it's almost meaningless.

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And yet, it's being pushed by the administration worldwide and made a big deal of at the Paris agreement. We signed the agreement, we implement this to fulfill our responsibility.

So it appears the U.S. is being a leader in addressing climate change. But in reality, not anything is measurably being done to climate change and yet the U.S. is really being punished.

And one of the problems that I have had with the Clean Energy Plan is the tortuous route that EPA went through to give itself the power to do what it was trying to do. And historically, in the U.S., the states, through the public power commissions, the utility commissions or whatever, which you represent, Mr. Kavulla, have had this authority to deal with the energy issues.

And Ms. McCabe today responded oh, this is not a regulation about energy -- it's a regulation about emissions.

But in reality, this does give EPA authority to determine what power is being used in the power plants. Is that your impression, Mr. Kavulla?

Mr. Kavulla. Mr. Chairman, I would agree with that characterization, yes. I think fundamentally because the rule does not rely on an assumption about a particular pollution control technology being the benchmark for the emission standard that is set for the emitting plants and it instead relies on assumptions that coal plants will produce less often if there is

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simply more wind and natural gas that it is essentially a regulation on the energy system broadly.

Mr. Whitfield. And Mr. Porter, would you agree with that characterization?

Mr. Porter. I would.

Mr. Whitfield. And Mr. Helms, would you?

Mr. Helms. Very definitely, and when you look at the methane reduction rules, Mr. Chairman, when you look at them policing the fact that you've got to get a Title 5 permit now for every multi-well horizontal drilling pad, you now have the environmental regulators deciding when and where oil and gas wells are going to be drilled as opposed to the oil and gas regulators.

Mr. Whitfield. And Mr. McConnell, would you agree with that characterization?

Mr. McConnell. Yes, I would, and we talked a lot this morning about flexibility and how it's really flexible. Well, that is disingenuous. It is not flexible.

If you look at the thresholds and you look at the technologies and fuels associated with those thresholds it makes you choose wind or solar, period.

You don't have an option in particularly the seven states that are bearing 40 percent of the load of the responsibility.

Mr. Whitfield. Yes. And Mr. Weissman may not agree with

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this characterization but we all recognize the benefit of the Clean Air Act and we all understand the importance of the impact on health.

But this is fundamentally changing the way we regulate energy production in America and I think that is one of the main reasons why the Supreme Court issued a stay because it was kind of done under guise of darkness and no one really focused on it, certainly not the public because it's so complicated.

Some of you mentioned in your testimony how complex this is. And that is the only point that I would make and I'll yield back the balance of my time and recognize Mr. Green for five minutes of questioning.

Mr. Green. Thank you, Mr. Chairman. I want to thank the chair of the Texas Railroad Commission. Having served 20 years in the state legislature, I appreciate the work you do, and also Charles McConnell, who we flew up yesterday on the plane and what you do at Rice University and we talked -- I'm on the other side of town. I have the University of Houston. So and we are glad to partner with Rice on lots of things.

I want to apologize to the panel. We actually have a conference committee going on on our main floor so some of us are coming in and out during the hearing for votes and issues on that.

But Chairman Porter, in your testimony, you raised concerns

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about the regulation of low production well sites. Just last week, the U.S. Energy Information Administration stated low production wells, or as we call them stripper wells account for approximately 10 percent of U.S. production.

EIA estimated there is approximately 380,000 low production wells operating in the U.S. whereas there are 90,000 non-stripper wells. The production from each well would limit any emissions, however. The sheer volume of wells would raise some concern about the potential impact. Can you explain a bit more about your concerns and why you think EPA should exempt these wells?

Mr. Porter. The reason I think EPA should exempt these wells, and there are studies being done at this time, is that the impact on each individual well was extremely low because of the volume.

And I think the reason it should be also is the economic impacts on both energy production for the nation and, of course, the economic impact on the state of Texas and the small communities and the small independent oil men that are the backbone of most of rural Texas would be dramatically impacted by the cost of complying with the same type of emissions standards that you'd have on the large horizontal well at this time.

Mr. Green. Well, and I also understand the difference between what traditionally was large horizontal as compared to

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what we are doing with the fracking in south Texas and even before there, relatively quick wells that you get production out and you move them.

Director Helms, in your testimony, you write that the state of North Dakota is ranked number two in the United States in production of oil and gas and I would like to remind everyone that Texas is still number one, after North Dakota, California and Pennsylvania. So we know a little bit about oil and gas.

Recently, the EPA identified the next issue of area they address as methane from oil and gas production. When I drive through south Texas I see there is no one in the oil and gas sector that wants to see that flaring because that is product going out and the royalty owners and I know the -- don't want to see that if they are not getting their royalty on it.

And I also know that the reason companies flare gas is because they lack the infrastructure required to capture it or send it to the market.

Can you talk a little bit about the infrastructure challenges North Dakota faces and how building, gathering lines would help alleviate the issue of methane flaring?

By the way, I have never not lived on a pipeline easement in Houston, Texas in my life and if Texas doesn't have the infrastructure then I don't know of anybody who doesn't but we

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do have infrastructure problems with those in south Texas.

Can you talk about what North Dakota has been trying to with the gathering lines?

Mr. Helms. Yes. Thank you, Representative Green.

North Dakota was faced with the largest oil field in the world, the Bakken aerial extent, and it was discovered fairly recently the infrastructure did not exist for gathering and processing the natural gas.

We found ourselves in 2012 flaring 36 percent of the natural gas. We needed to encourage --

Mr. Green. Did the state not receive any tax benefit on those either?

Mr. Helms. Well, no tax benefit, no royalty benefit on flared natural gas. Absolutely. And so we implemented rules through the industrial commission to reduce that natural gas flaring.

I am happy to report it's down to 8 percent now. But the Clean Power Plan and the methane rules are going to interfere directly with North Dakota's plan for reducing its gas flaring by limiting the power that we have available for powering those natural gas processing plants and by changing the configuration of the oil field requiring us to add three to four times as much pipeline in the ground in order to reach these smaller pads that

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are going to be required under the methane reduction rules.

And so they work exactly counter to the reasonable purpose of reducing flared methane and reducing methane leaks.

Mr. Green. Well, did EPA take into consideration, in my last eight seconds, what North Dakota has been doing already in reducing it?

Mr. Helms. Congressman Green, there was not one single bit of consideration given to our comments with regards to that fact and therefore are petitioning them for reconsideration of the rule.

Mr. Green. And, again, for the record, it seems like if you are already reducing it and you have a plan that you've done it without EPA why would they not accept it?

Mr. Chairman, I know I'm out of time.

Mr. Whitfield. I thank the gentleman. I recognize the gentleman from Ohio for five minutes.

Mr. Latta. Well, thank you, Mr. Chairman, and thanks to the panel for being with us today, this morning, this afternoon. Appreciate it.

Mr. McConnell, if I could ask you the first question. It has been said that carbon capture utilization and storage and enhanced oil recovery might only be a niche in a full scale CO2 storage opportunity to require much more than EOR geological

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opportunities.

Is CCUS a niche or is there a greater opportunity and as the follow-up on that, if it is a greater opportunity what kind of actions will it take from us to make the most of this opportunity?

Mr. McConnell. Well, clearly, the answer to your second question is we need to encourage the development, set up an infrastructure in this country that actually promotes the development of a technology that needs continual investment in R and D.

But it's interesting, we're talking about research and development and deployment of something that the EPA has already determined to be commercially available and that is also part of disingenuous conversation because if we still have R and D dollars being put against that technology how could it be commercially ready?

It's unimaginable. But to your first question, is it a niche? Absolutely not. I took over at the DOE in 2011 as we had done the national carbon sequestration mapping across this country, looking at storage opportunities.

But I suggested to our national energy technology laboratory that we needed to find where the oil deposits were in this country because that is where we could get economic benefit from carbon capture, utilization and storage and be able to safely and

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permanently store those CO2 emissions in that formation.

So you get a perfect two-fer. You get a business development opportunity for jobs, manufacturing and growth and you get a climate benefit.

But instead what we've done is we've looked into these regulations with the EPA now putting onerous responsibilities onto oil and gas operators that is actually slowing the implementation of what the IPCC has already determined to be the most important global technology in our march toward achieving climate targets globally.

There are oil opportunities off the shore of China, off the North Sea, in the Gulf and around the world where this can be deployed and taken globally to make a globally impact.

Mr. Latta. Thank you very much.

Chairman Porter, I think you have testified before us before. I think you're sitting in the same seat, if I remember correctly. But, you know, I would like to just go back to your testimony because, again, listening to Ms. McCabe's testimony and talking about, you know, going out and talking with a lot of folks around the country.

But you know, looking at your testimony and I know you didn't have a chance to run through some of these but I'm going to just run through a couple of them real quick.

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Minimal interaction and consultation with Texas and other state regulatory authorities underestimated or ignored compliance costs, overestimated unjustified exaggerated regulatory environmental benefits, increased regulatory and economic burden on operating companies in a one-size-fits-all.

I don't see from your comments that she must have talked to you. Was there any kind of a cost benefit that was done by the -- for the state of Texas of these regulations going in place?

Mr. Porter. Are you asking about the state of Texas or the federal government?

Mr. Latta. Well, I'm just asking if the state of Texas got consulted with all these different issues that you brought up in your written testimony.

Mr. Porter. No, not directly. I mean, of course, like everyone else we had the opportunity to make comments and we -- the Railroad Commission quite often do make comments on federal regulations and for the most part they seem to be generally ignored. Occasionally, something is picked up. But --

Mr. Latta. So you don't think there was much interaction that -- or really listening to what you all had put forward to the EPA then?

Mr. Porter. Not a lot. I will say as far as our interaction between the EPA I was first elected to office in 2010, came in

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2011. Interaction was very unpleasant with the EPA at that point in time between the Railroad Commission.

In the last few years, it has gotten more civil. I'm not saying that they listen to us a lot. But at least the lines of communication are a little more open and it's a little more civil than it was when I first came into office five and a half years ago.

Mr. Latta. Mr. Helms, how about the same question? Do you have a lot of interaction? Do they listen to you?

Mr. Helms. Congressman Latta, very little interaction, and as I stated in my comments, none of our recommendations on any of these rules were implemented.

Speaking to the carbon capture and storage, North Dakota is the only state who has applied for primacy. We did that back in June of 2013. We have progressed through the entire process and our primary application has been sitting on the administrator's desk since July 14th of 2014 with no action.

Mr. Latta. Okay. Thank you very much.

Mr. Chairman, my time has expired and I yield back.

Mr. Whitfield. I thank the gentleman.

Now I recognize the gentleman from Missouri, Mr. Long.

Mr. Long. Thank you, Mr. Chairman.

Mr. Kavulla, in Missouri we get 80, 85 percent of our power

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from coal, just to say that kind of as a precursor here. But you mentioned in your testimony that the EPA has interpreted the Clean Air Act to give it the power to plan the resource mix for U.S. power sector.

Could you expand on this? What does this mean for states having to implement the Clean Power Plan?

Mr. Kavulla. So in states like Missouri as well as Montana and other heavily coal-dependent states there is no viable pathway to come into compliance with the Clean Power Plan's goal unless you basically build natural gas and renewable infrastructure in order to displace some of your coal output.

That's the premise of EPA's goal setting or requirement process in the regulation and I expect that that would be the pathway toward compliance that most utilities would have to find themselves in unless and until something like carbon capture and sequestration becomes commercially available on a wide scale.

Mr. Long. Are there any functioning plants right now of carbon sequestration up and running operations? I know when we did this a year, a year and a half ago there weren't any. Are there today?

Mr. Kavulla. In North America, I believe there might be one in Saskatchewan. There is one potentially coming online that's been the subject of a great deal of media scrutiny recently in

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Mississippi.

But in general, I wouldn't consider that a commercially available technology. I'll put it this way. I am not aware of any regulated utility or any utility in the competitive sector which is currently proposing to its regulator the adoption of carbon capture and sequestration as the least cost alternative.

Mr. Long. How about the reliability? Can you discuss the impact of the Clean Power Plan? What effect it will have on electric reliability if many of these coal-fired power plants are shut down to comply?

Mr. Kavulla. In my view, it could be significant and this is something where interagency consultation was very important and may not have happened as well as it should have between the Federal Energy Regulatory Commission and the EPA.

The FERC is the agency responsible for the reliability of the whole electric system and particularly in those areas, especially in the eastern United States, that rely on competitive wholesale markets to assure enough resources for the reliability of the system. The sudden unavailability of some of those resources with nothing to step into the breach may have real implications.

Mr. Long. Do you think that the EPA is providing adequate flexibility for states to meet the Clean Power Plan standards and

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if not what impact is this having for state utility commissions?

Mr. Kavulla. My own personal view is that they are not. Montana has, as a percentage, the most significant reduction goal -- 47 percent reduction in carbon dioxide. And frankly, when you have that monumental of a requirement the flexibility is a meaningless concept.

I mean, you can only close down existing coal plants before the end of their useful lifespan in order to comply unless somehow there are available allowances to sell from others. So far, it doesn't necessarily seem that there will be.

Mr. Long. In the next five to ten years the EPA -- if the EPA went forward with an updated Clean Power Plan with more stringent standards what impact would this have on electric reliability?

Mr. Kavulla. Congressman, it's hard to say. I mean, it's difficult enough to plan just for this regulation, much less anticipate what the EPA may or may not do.

Mr. Long. I know when southwest Missouri down in the Joplin area whenever I travel and I look at these power plants where they have had to go in and spend hundreds of millions of dollars updating to the latest EPA regulations, which might take six to eight years before you even know if the regulation is going to be implemented or not it's mind boggling.

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And then I'm also reminded of a recent trip that I made to Midland, Texas to a large oil and gas outfit down there and after we toured one of their drilling rigs, got up on top of that and looked at that we went and drove down this two-mile -- it seemed like two miles; not sure it was that long -- driveway back into where they gather all the gas and oil and sort it out and truck it out and pipe it out and whatever they are going to do with it.

And there was a herd of cattle there, about ten head of cattle, in this pretty small area and there was a sheriff's car there. And they said well, what's the sheriff's car doing. So then they went, people have been rustling our cattle. I thought, how can you rustle ten head of cattle, you know. But anyway, I said, so what are the cattle -- they're kind of in middle of nowhere.

They said, well, that's our example, that those ten cows put out more methane gas than our entire operation here of oil, gas, drilling and piping and sorting it all out.

So I am out of time. I yield back.

Mr. Griffith. I thank the gentleman and now recognize myself for five minutes. Let me do a little clean-up if I can.

Mr. McConnell, you said earlier that the analysis by PUCs across the country show that electric rates would go up for the folks back home. PUC is public utility companies or company?

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Mr. McConnell. Yes.

Mr. Griffith. Yes. And their data indicates that their electric rates are going to go up under these regulations. Isn't that correct?

Mr. McConnell. As much as 40 percent in the seven states that are going to bear 40 percent of the responsibility. Yes, sir.

Mr. Griffith. And I don't think my state, Virginia, is one of those seven states. But our state corporation commission indicated previously that this would increase electric rates in Virginia as well.

So that when folks talk about the rates going down you have to come up with a formula somewhat like Mr. Weissman did which show that while the per unit cost, I believe you said, the cost per unit goes up but we anticipate the people will use less electricity.

Do you see any indications that people are going to use less electricity with all of these electric cars and electric gadgets than --

Mr. McConnell. It's kind of unimaginable, isn't it, Congressman? Yes, and so while we look at people in America and consider the fact that we are more energy intensive than we ever have been as a society, we will continue to be so. And then more

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importantly, think about all the developing countries around the world and how energy intensive they are going to be over the next 15 to 20 years.

And this formula for reduction through the reduction of power that people are going to have, kind of unimaginable while we all pull out our cellphones and text and do all the things that we do now, right.

Mr. Griffith. Yes, sir. I understand that.

Now, also I thought it was interesting you talked about that there wasn't interagency communication and so forth and I know what one of the things that the DOE is talking about now is research parity between the fossil fuels and the renewables and we're not getting there and in fact there has been some push downward.

And wouldn't that help with what we have been talking about with the CCUS, the carbon capture and storage programs? Wouldn't it help if we had parity on clean coal technologies? Because for places like Montana, as we just heard Mr. Kavulla say, it's going to be very difficult for them to meet any of these targets because they are so heavily dependent on coal.

Mr. McConnell. Eighty percent of our energy comes from fossil fuel and yet we continue to push research down in the fossil area, for some strange reason, and we are doubling down on the renewable portfolio, which represents about 3 percent of our

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energy in this country. It is stunning, actually.

And the other thing that's stunning is while this EPA we continue to promote carbon capture, utilization and storage as a commercially demonstrated technology we are still having conversations about an R and D budget. That is a bit disingenuous, isn't it?

Mr. Griffith. Well, I will let you do the testifying here today. But I've seen my statements in the past. But no, I'd probably agree with you.

Let me -- let me also talk about applied for primacy. I just want to make sure that folks back home know what that means.

Mr. Helms, you said earlier that the state of North Dakota had -- in regard to carbon capture it had applied for primacy in 2013. The paperwork was all finished and sitting on the administrator of the EPA's desk in 2014 and yet no action yet. What does that mean, applied for primacy?

Mr. Helms. Well, Mr. Chairman, when you look back at the history of EPA, the first 20 years that this agency existed it did almost everything through state primacy programs and those programs were incredibly effective.

Starting in about 1990, Congress and the EPA chose to go with top-down prescriptive regulation through massive one-size-fits-all national programs. That has not served the

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nation well.

Primacy is a situation where the EPA sets up basic framework. States apply to regulate under that framework. They get approval of their program through EPA in that framework and they move ahead with regulation. That is usually an underground injection control, air quality, all of those issues.

Mr. Griffith. And when they talk about this -- because my time is running out -- when they talk about the successes that the EPA has had in the first decades of its existence it's been done under that process with the primacy of the states with the EPA setting up guidelines in the states following through.

And now over the last five or six years or so that EPA has moved away to a more Washington one-size-fits-all approach. Is that what you are saying?

Mr. Helms. That is absolutely correct, Mr. Chairman, and that is exactly why these rules don't work and they can never work because they are not being done state by state through primacy programs.

Mr. Griffith. And I appreciate that.

I will say just as an editorial comment at the end that I appreciate Mr. Weissman's testimony and while we won't agree on everything there are some things that we would probably agree on that might surprise him and others.

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I don't agree on one thing that he said though. He talked about the mercury rules and said that the projections were horrible and everything was going to happen by about 2015.

Nothing had happened. The rule didn't fully implement until 2015. We didn't, fortunately, get a polar vortex this last winter like we had in 2013-14.

I was reading an article this week about the deer population in Virginia and how badly it had been affected by the polar vortex of 2013-14. I would still submit that some of those problems, and I hope we won't get a polar vortex but some of those problems brought about by shutting down our coal-fired power plants will show up.

Should we be so unfortunate as a nation to get the same kind of conditions that we had in the winter of 2013-14 in the next couple of winters, sure, by 2025 we'll probably be okay because we will have repaired the damage at great cost to the ratepayers.

With that, my time is up and I yield back. I do have some business to take care of.

I would like to enter into the record correspondence from the committee dated December 14, 2011 to EPA regarding its benefit analysis and EPA's written responses dated February 3rd, 2012 and May 4, 2012. This correspondence relates to EPA's use of particulate matter co-benefits in its benefits estimates.

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Also, I would ask unanimous consent that the slides that were shown on the television today be submitted for the record. And then there is some closing language we have to say about other stuff in there.

There we go. And also the record would remain open for ten days for any members that wish to ask questions or submit other documents.

Mr. Rush. No objection, Mr. Chair.

Mr. Griffith. Thank you very much. Anything further?

All right. With that being said, that would end our hearing today. Thank you all so much for your testimony.

[Whereupon, at 1:11 p.m., the committee was adjourned.]