



COMMITTEE ON
ENERGY & COMMERCE
DEMOCRATS
RANKING MEMBER FRANK PALLONE, JR.

FOR IMMEDIATE RELEASE
April 22, 2015

CONTACT
Christine Brennan—(202) 225-5735

Statement of Ranking Member Frank Pallone, Jr.
House Energy and Commerce Committee
Subcommittee on Energy and Power
Markup of H.R. _____, Ratepayer Protection Act

April 22, 2015

Mr. Chairman, it's very disappointing that we are here on Earth Day marking up a bill to gut EPA's Clean Power Plan proposal and effectively amend the Clean Air Act in a harmful and dangerous fashion. It used to be that even when Republicans spent significant time trying to undermine our environmental statutes, they would at least use Earth Day as tool to trumpet some small, consensus environmental bills with small improvements.

Now, we don't even get that. Now, we have a Republican Majority whose message seems to be, "Happy Earth Day: let's pollute the planet."

As I said in last week's hearing, this legislation is not only dangerous, but also premature, unnecessary and poorly conceived. It asks us to legislate to address phantom problems in a rule that has not yet been finalized and it gives individual governors the unfettered ability to thumb their nose at the Clean Air Act.

Human-induced climate change is real and it is happening now. Only the irresponsible can claim otherwise. But the purpose of this bill is to appease the climate deniers and give aid and comfort to those states who want to “just say no” to addressing unchecked carbon pollution from the largest sources in the United States. Yet, the citizens of those states will not be able to “just say no” to the worsening effects of climate change such inaction would bring—from crippling drought to heat waves, from frequent extreme storms to damaging sea level rise. Those state’s families, businesses, and others have no way to “opt out” of such fundamental changes to our planet’s climate system.

Last week, the D.C. Circuit heard oral arguments on legal challenges to EPA’s proposed Clean Power Plan. Judge Thomas Griffith, a Republican appointee, noted that: “typically we’re not in the business of guessing what the final rule would look like” and that by seeking review of a proposed rule, “you’re inviting us into a morass.” Another Republican appointee, Judge Brett Kavanaugh, said that if the court ruled at this point it would “preclude the whole process that leads to a final rule.” Judge Kavanaugh also pointed out that: “You can ask for a stay as soon as the final rule is out there.”

I agree that legal challenges to proposed rules are highly problematic—what I find even more problematic is the notion that the Congress would also attempt to legislate away a proposed rule. Congress does not need to interfere when neither EPA nor the courts have had a chance to do their jobs. Litigants can and will challenge the final rule, and if necessary, the courts can use well established judicial procedures to remedy the situation. Judge Griffith thinks that the Court

of Appeals reviewing a proposed rule is a “morass.” Yet it is exactly that morass into which the Whitfield bill would have us all jump head first.

According to EPA, the passage of this bill would be “disruptive.” I think that is an understatement. This bill is both disruptive and unhelpful to those in the electric power sector who are trying to make the plans and long-term capital investments needed to ensure electric reliability and affordability well into the future. A serious effort would include working with States, regional entities, FERC, and electric generators to develop workable solutions to combat carbon pollution in a reasonable way. But it’s clear that any serious effort is exactly what this bill seeks to stop.

Finally, let me emphasize that I believe this rule will be upheld in courts. This rule is not a violation of the Constitution, nor is it the regulatory catastrophe that the doomsayers predict.

On the other hand, this incredibly reckless draft bill will provide an incentive for polluters to “run out the clock” on litigation so all deadlines in the rule would be extended as long as possible, no matter how frivolous the challenge and regardless of the outcome. And efforts by my Republican colleagues to push states to “just say no” and refuse to cooperate with EPA and the requirements of the Clean Air Act sets a really dangerous precedent.

I believe strongly that the Clean Power Plan will give us a reasonable path forward to reduce carbon pollution from the power sector. Just saying no, without a backup plan is not only

reckless, but it condemns our children and grandchildren to a world governed by the disastrous impacts of catastrophic climate change.

I urge Members to oppose this bill.