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4 THE FISCAL YEAR 2016 EPA BUDGET

5 WEDNESDAY, FEBRUARY 25, 2015

6 House of Representatives,

7 Subcommittee on Energy and Power

8 joint with the

9 Subcommittee on Environment and the Economy

10 Committee on Energy and Commerce

11 Washington, D.C.

12 The Subcommittees met, pursuant to call, at 10:00 a.m.,
13 in Room 2123 of the Rayburn House Office Building, Hon. Ed
14 Whitfield [Chairman of the Subcommittee on Energy and Power]
15 presiding.

16 Members present: Representatives Whitfield, Shimkus,
17 Olson, Harper, Barton, Pitts, Murphy, Latta, McKinley,

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18 Pompeo, Kinzinger, Griffith, Johnson, Bucshon, Flores,
19 Mullin, Hudson, Cramer, Upton (ex officio), Rush, Green,
20 DeGette, Castor, Sarbanes, Welch, Yarmuth, Loeb sack,
21 Schrader, Cardenas, and Pallone (ex officio).

22 Staff present: Nick Abraham, Legislative Clerk; Gary
23 Andres, Staff Director; Charlotte Baker, Deputy
24 Communications Director; Sean Bonyun, Communications
25 Director; Leighton Brown, Press Assistant; Allison Busbee,
26 Policy Coordinator, Energy and Power; Jerry Couri, Senior
27 Environmental Policy Advisor; Patrick Currier, Counsel,
28 Energy and Power; Tom Hassenboehler, Chief Counsel, Energy
29 and Power; Charles Ingebretson, Chief Counsel, Oversight and
30 Investigations; Ben Lieberman, Counsel, Energy and Power;
31 David McCarthy, Chief Counsel, Environment and the Economy;
32 Brandon Mooney, Professional Staff Member, Energy and Power;
33 Mary Neumayr, Senior Energy Counsel; Chris Sarley, Policy
34 Coordinator, Environment and the Economy; Peter Spencer,
35 Professional Staff Member, Oversight; Michael Goo, Democratic
36 Senior Counsel, Energy and Environment; Caitlin Haberman,
37 Democratic Professional Staff Member; and Rick Kessler,
38 Democratic Senior Advisor and Staff Director, Energy and
39 Environment.

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40 Mr. {Whitfield.} I would like to call the hearing to
41 order this morning. Today the Energy and Power and the
42 Environment and the Economy Subcommittee will be examining
43 the Environmental Protection Agency's fiscal year 2016 budget
44 request. And before you start my time, I certainly want to
45 welcome Administrator Gina McCarthy. Thank you very much for
46 being with us today. You have been before our committee many
47 times, and we certainly enjoy working with you. You are an
48 able administrator. We have very significant differences of
49 views on what you are doing up there, or down there, but we
50 will all have an opportunity today to ask questions. And
51 thank you, once again, for taking time to be with us. We
52 appreciate it. And at this time I recognize myself for 3
53 minutes for an opening statement.

54 I would say, first of all, we all are very much aware
55 that President Obama has made it very clear that he considers
56 climate change to be one of the major issues facing mankind
57 today. I was reading an article just a few days ago how this
58 Administration has spent 14 times more on green energy per
59 year than embassy security around the world. As a matter of
60 fact, over the last 5 years the Administration has spent

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61 roughly \$39 billion a year financing grants, subsidizing tax
62 credits, guaranteeing loans, bailing out solar energy
63 boondoggles, and otherwise underwriting every renewable
64 energy idea under the sun.

65 Now, we all recognize that climate change is occurring.
66 The fundamental difference is we don't believe it is the
67 number one issue facing mankind, and the President does. And
68 because of his going around all over the world and entering
69 into international agreements that the Congress has not
70 agreed to, that he has not consulted with Congress about, he
71 is committing the U.S. to meet certain requirements. And so
72 many of the rules coming out of EPA which are so
73 controversial are really being implemented to implement the
74 President's June 2013 speech, in which he outlined his
75 climate action plan.

76 So I was reading a legal opinion recently, and it said a
77 President's speech is certainly not a matter of law. But the
78 President, making these international agreements, has,
79 through regulation, pursued his commitments that he is
80 making. But other countries that are part of these
81 agreements, they are not doing the same thing, so the U.S. is
82 being penalized because of these extreme actions.

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83 So what you all are doing, and I am reading from a legal
84 opinion that Mr. Tribe wrote, you are forcing a select set of
85 victims, including coal relying consumers, communities,
86 regions, businesses, and utilities to bear a substantial part
87 of what is a global problem that even you, and your
88 predecessor, indicated that these regulations would not
89 solve. So you are asking for 425 million more dollars than
90 last year. A lot of that money is going to go to hire
91 additional lawyers to defend and litigate these extreme
92 regulations. So we look forward to the opportunity today of
93 exploring this situation with you.

94 [The prepared statement of Mr. Whitfield follows:]

95 ***** COMMITTEE INSERT *****

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|
96 Mr. {Whitfield.} And, with that, we are doing 3 minutes
97 today, Mr. Rush, so I recognize the gentleman for a 3 minute
98 opening statement.

99 Mr. {Rush.} Well, thank you, Mr. Chairman.
100 Administrator McCarthy, it is always a pleasure to see you
101 come before this subcommittee, and bring great news, and
102 sharing with this subcommittee all the great work that you
103 all are doing over at the EPA. And I just want to thank you
104 so much, you and your agency, for all of the great work that
105 you do in protecting the air, and land, and water on behalf
106 of the American people. If it was appropriate, I would get
107 up and ask for a standing ovation, but I don't think that
108 that would be appropriate at this point in time. But you
109 understand how we feel about you on this side.

110 While this is a budget hearing, we might as well address
111 the elephant in the room, and discuss the topic that is on
112 the minds of many of my colleagues, and that is the proposed
113 Rule 111(d), the Clean Power Plan. Madam Administrator, on
114 behalf of those of us, which includes most of the American
115 people, who do not believe that the world's scientists and
116 climatologists have all conspired together to perpetrate a

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117 hoax by saying that climate change is real, and humans have
118 contributed to it, I would like to commend the leadership of
119 President Obama, yourself, for working to address this
120 serious issue that impacts all of America, all of our
121 citizenry, and indeed everyone else around the globe.

122 The Clean Power Plan represents a significant
123 opportunity to shift away from some of the dirties carbon
124 emitting energy sources that have contributed greatly to
125 polluting the atmosphere to cleaner, more sustainable forms
126 of energy that will help pull us back from the brink of
127 disaster, and set us on a more stable footing. Madam
128 Administrator, I applaud EPA for striking a flexible, state-
129 based approach that provides states, utilities, and grid
130 operators with time and options for finding ways to reduce
131 their CO2 emissions, while also maintaining a form of
132 reliable energy for consumers.

133 I just want to thank you, Madam Chairman. I look
134 forward to engaging with you during the question portion of
135 today's hearing. And I yield back the balance of my time.

136 [The prepared statement of Mr. Rush follows:]

137 ***** COMMITTEE INSERT *****

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|
138 Mr. {Whitfield.} Thank you, Mr. Rush. At this time I
139 would like to recognize the gentleman from Illinois, Mr.
140 Shimkus, the Chairman of the Environment and Economy
141 Subcommittee.

142 Mr. {Shimkus.} Thank you, Chairman Whitfield, for
143 recognizing me, and I do want to welcome Administrator
144 McCarthy. I appreciate your willingness to work with us in
145 the past on such things as electronic submission of hazardous
146 waste manifests. That actually can be very helpful. As I
147 spoke to you earlier, we look forward in collaborating with
148 you on the coal ash legislation, and also on Toxic Substance
149 Control Act.

150 For me, today's hearing is not just an administrative
151 exercise where we do bean counting. While we don't write the
152 checks the agency cashes, most of the major legal authority
153 that underpins the work delegated to the agency rests within
154 this committee. Today's hearing gives us a chance to compare
155 the agency's individual budget request with EPA's underlying
156 statutory authority.

157 As a legislator, I have many questions where I think
158 more information is needed to evaluate how statutory mandates

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159 are being carried out. For example, I have questions about
160 the statutory nexus with the following budget request and
161 policies that are being implemented, like the Clean Power
162 Plan, the Climate Ready Water Utilities Program, and
163 regulations under the Clean Air Act implementing Executive
164 Order 13-650, which I think is chemical safety.

165 Legal authority aside, we know these regulations can
166 become complicated to implement, with unclear guidance adding
167 unnecessary costs to the regulated industries, and ultimately
168 to the consumer. This chart, we think, shows how cumbersome
169 your proposal on the Clean Power Plan could be just by
170 itself. Maybe you have a better chart that makes it a little
171 more simplistic. If this plan puts reliability at base, and
172 the load energy from sources such as coal and nuclear power
173 in danger, communities may pay higher costs, and potentially
174 suffer brown-outs when most in need. We have to ask
175 ourselves if this plan leads to the energy future Americans
176 expect. I believe there is a better way, and that we can
177 find solutions to these challenges without placing the burden
178 on the backs of consumers, or by sacrificing power plants
179 that provide good paying jobs to families across the country.

180 I will also have questions about funding and pace of

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181 activity on chemicals under the Toxic Substances Control Act,
182 specifically on the agency's transparency concerning
183 prioritizing and setting policy choices. These areas will be
184 particularly important as we look to work across the aisle on
185 both sides of the cabal to update this law.

186 Again, I thank the Administrator for being here. I look
187 forward to today's conversation, and the ones that will
188 follow. I would like to yield the remainder of my time to
189 Chairman Emeritus Barton, I think.

190 [The prepared statement of Mr. Shimkus follows:]

191 ***** COMMITTEE INSERT *****

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192 Mr. {Barton.} I am here, all 27 seconds of me.

193 Mr. {Shimkus.} You are welcome.

194 Mr. {Barton.} Madam Administrator, we are always glad
195 to see you. You are very accessible, and you are very
196 personable in public, and when we have private conversations.
197 I am going to ask you about the China policy the President
198 recently asked, and I am also going to talk to you about the
199 renewable fuel standard, and the Iran situation, which, as
200 you well know, under current law, is simply not workable.
201 But we do appreciate your accessibility, and look forward to
202 the interchange.

203 [The prepared statement of Mr. Barton follows:]

204 ***** COMMITTEE INSERT *****

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|
205 Mr. {Whitfield.} Gentleman's time has expired. At this
206 time recognize the gentleman from New York, Mr. Tonko, the
207 Ranking Member of the Environment and Economy Subcommittee.

208 Mr. {Tonko.} Thank you, and good morning. Thanks to
209 Chair Whitfield and Chair Shimkus for holding this hearing on
210 the Environmental Protection Agency's budget request. And
211 welcome, Administrator McCarthy. We appreciate your keen
212 intellect, and I respect your passion to provide sound
213 stewardship for our environment, all while growing jobs. And
214 I thank you for being here today to discuss the President's
215 fiscal year 2016 budget request for the agency.

216 The EPA plays a vital role in the lives of our citizens,
217 and in maintaining the resource base that sustains our
218 society, and indeed our economy. As you state in the opening
219 of your testimony, Administrator McCarthy, public health and
220 a clean environment are inextricably linked. I agree. And
221 the record of environmental achievement and economic growth
222 over the years demonstrates that environmental protection is
223 consistent with a strong and vital economy. In fact, if we
224 are willing to make investments in vital environmental
225 infrastructure, such as our drinking water treatment and

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226 delivery, source water protection, sewage treatment, and
227 waste to energy systems, we can create thousands of jobs, and
228 improve the condition of our rivers, our lakes, and our
229 coastlines. We are not saving by avoiding these investments.
230 At best, we are transferring these costs to state and local
231 governments, to businesses and to individual citizens. But
232 even worse, by delaying needed maintenance and repairs, we
233 are raising the costs of the very systems upon which we
234 depend.

235 When polluted land and water are not cleaned up, the
236 resources become unavailable for productive use. A
237 contaminated property is unoccupied, undeveloped, and
238 generates no revenue for our economy and for our community.
239 Pollution that is not attended to spreads, leading to
240 additional problems. And it does not become less expensive
241 to clean these up at a later time. The cost only rises. Our
242 failure to repair vital infrastructure, and to the address
243 the complex challenges of climate change, has already cost us
244 a great deal. Infrastructure does not repair itself, and the
245 pace and impact of climate change, both are increasing. We
246 need to address these issues now, before the costs rise
247 further.

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248 I know there are many members who believe that cutting
249 the EPA budget is a good thing for the economy, because a
250 lower budget will block the agency from issuing regulations
251 and enforcing environmental laws. In fact, much of the EPA
252 budget supports state and local governments, either through
253 grants and loans, or with information and technical
254 assistance that is so welcome. Cuts to the EPA budget
255 translate into extra burden on our states, our local, and
256 tribal governments. The Administration and the Congress
257 should be working together to ensure that we maintain and
258 improve upon our record of environmental protection. EPA's
259 budget is an important part of that effort, and I indeed look
260 forward to your testimony, Administrator McCarthy, and to
261 working with you to continue our progress as a Nation in
262 environmental protection. And thank you again for joining
263 us.

264 [The prepared statement of Mr. Tonko follows:]

265 ***** COMMITTEE INSERT *****

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|
266 Mr. {Whitfield.} Gentleman's time has expired. At this
267 time I would recognize the Chairman of the full committee,
268 Mr. Upton, for 3 minutes.

269 The {Chairman.} Thank you, Mr. Chairman, and we do
270 appreciate the administrator of EPA for appearing before us
271 today to discuss the budget requests and priorities. Yes, we
272 have sharp areas of disagreement, but together, the two of
273 us, we have never been disagreeable, and I look forward to
274 the continued relationship.

275 I am sad to say that the budget request, to me, looks
276 like we can expect more of the same red tape and costly
277 rules, and that concerns me, because I think some of these
278 regs are going to cost American households and families big
279 time. They are going to cost our businesses, particularly
280 manufacturing. Manufacturing in Michigan, as you know, and
281 across the country, finally does have an edge. For the first
282 time in years, major global manufacturers are eyeing
283 Michigan, and other states, to set up or relocate operations-
284 -is on the side of American workers, but EPA's regulatory
285 agenda does threaten to raise the costs, and shift the
286 advantage back to foreign manufacturers.

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287 EPA seems intent on locking in a long list of new regs
288 that will bind future administrations. Along with the Clean
289 Power Plan, EPA has proposed new ozone standards that may
290 prove to be the most expensive rule ever. I would like to
291 see EPA focus on its current responsibilities before taking
292 on new ones. The agency is working on this new ozone rule
293 even though it is well behind schedule implementing the
294 existing standard. And the agency routinely misses its
295 deadlines under the RFS, making this problematic program even
296 more difficult. And I remember your testimony last year,
297 when we thought we would have an answer last spring.

298 While we do have our clear differences, your testimony
299 today also presents an opportunity to explore areas of common
300 ground. For example, we can embrace much of the EPA rule on
301 coal ash, but go a step further and place permitting
302 authority in the states. This should work for EPA, making
303 sure that the EPA's control standards are effectively
304 enforced. Should also work much better for the states, who
305 will have explicit benchmarks to meet, and the authority to
306 manage the implementation. It would also work for the people
307 responsible for handling the combustion residuals every day,
308 including plant operators, recyclers, and other job creators,

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309 who will be given the opportunity and the regulatory
310 certainty that they need.

311 Likewise, it was clear last year that your goals, and
312 ours, for TSCA reform overlap. So let us sit down and work
313 together on good legislation that is bipartisan to improve
314 safety for the public, and to ensure a robust interstate
315 market for chemicals and products that contain them. Thanks
316 for being with us today. Yield back.

317 [The prepared statement of Mr. Upton follows:]

318 ***** COMMITTEE INSERT *****

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319 Mr. {Whitfield.} Gentleman yields back. At this time
320 recognize the Ranking Member, Mr. Pallone of New Jersey, for
321 3 minutes.

322 Mr. {Pallone.} Thank you, Chairman Whitfield and
323 Shimkus, and also our Ranking Members, Rush and Tonko. And
324 thank you, Administrator McCarthy, for being here today.

325 A clean environment is not a luxury. It is essential to
326 public health, and to a strong economy, and the EPA is on the
327 front lines of the effort to make our air safer to breathe,
328 and our water safer to drink. The President's fiscal year
329 2016 budget funds the EPA at 8.6 billion, an increase of more
330 than 450 million over the fiscal year 2014 enacted level, and
331 that is the minimum amount, in my opinion, that EPA needs to
332 begin to address the many environmental challenges we are
333 facing today, which happen to include the greatest known
334 environmental threat and challenge to our planet, and that is
335 climate change.

336 Meanwhile, funds requested for EPA represent a small
337 portion of the overall Federal budget, less than 1/4 of one
338 percent, yet over 40 percent is shared with the states and
339 tribes to help them implement Federal environmental laws and

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340 achieve national goals, and those funds support local
341 economies and communities big and small. For example, the
342 budget includes significant funding for superfund and brown
343 fields cleanup. In addition to protecting human health and
344 the environment, these cleanup projects are also promoting
345 substantial economic growth, and gains in community and
346 property value.

347 According to a recent analysis, on-site businesses and
348 organizations on current and former superfund sites in just
349 one of EPA's nine regions provides over 6,200 jobs, and
350 contribute an estimated \$334 million in annual employment
351 income. Another study found that properties within three
352 miles of superfund sites experienced an 18.6 percent to 24-
353 1/2 percent increase in value when the sites are cleaned up.
354 The fiscal year 2016 budget would also invest in our Nation's
355 aging drinking water infrastructure by providing over a
356 billion for state revolving funds under the Safe Drinking
357 Water Act, and these funds will support needed infrastructure
358 projects for public drinking water systems well beyond this
359 fiscal year.

360 Also important, I want to commend the President for
361 prioritizing actions to reduce the impacts of climate change

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362 in this budget. The budget provides funding for EPA's Clean
363 Power Plan, including money to help states develop their own
364 strategies, and request a new Clean Power State Incentive
365 Fund for state efforts to go above and beyond their carbon
366 pollution reduction goals in the power sector. Some say the
367 Clean Power Plan is problematic for an economy, but the
368 reality is that over the past 40 years, clean air regulations
369 have produced tremendous public health benefits, while also
370 supporting America's economic growth.

371 And close to home, I appreciate the efforts to help
372 smaller communities build climate resiliency. My district
373 has the dubious distinction of being one of the hardest hit
374 by Super Storm Sandy, and the EPA's plan can help communities
375 integrate climate adaptation planning into their efforts to
376 upgrade their infrastructure. This planning will be
377 essential to protecting the economies of communities facing
378 the devastating costs of climate change.

379 This is a sound budget. I support it, and I look
380 forward to learning from Administrator McCarthy. Thank you.

381 [The prepared statement of Mr. Pallone follows:]

382 ***** COMMITTEE INSERT *****

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383 Mr. {Whitfield.} Thank you very much, Mr. Pallone. At
384 this time that concludes the opening statements, so, at this
385 time, Ms. McCarthy, you are recognized for your 5 minutes of
386 testimony. Thank you.

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387 ^STATEMENT OF THE HONORABLE GINA MCCARTHY, ADMINISTRATOR,
388 U.S. ENVIRONMENTAL PROTECTION AGENCY

389 } Ms. {McCarthy.} Thank you Chairman Whitfield and
390 Shimkus. Thank you Ranking Members Rush and Tonko, and the
391 members of the committee for giving me the opportunity today
392 to appear before you to discuss the Environmental Protection
393 Agency's proposed fiscal year 2016 budget. I am joined by
394 the agency's acting Chief Financial Officer, David Bloom.

395 The EPA's budget request of \$8.592 billion in
396 discretionary funding for the 2016 fiscal year provides the
397 resources that are vital to protecting human health and the
398 environment, while building a solid path forward for
399 sustainable economic growth. Since 1970, when the EPA was
400 founded, we have seen over and over again that a safe
401 environment and a strong economy go hand in hand.

402 This budget supports essential work to address climate
403 change, improve air quality, protect our water, safeguard the
404 public from toxic chemicals, support communities'
405 environmental health, maintain core enforcement strength,
406 support needed research, and work towards a sustainable

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407 future for all Americans. Effective environmental protection
408 is a joint effort of EPA, states, and our tribal partners.
409 We are setting a high bar for continuing our partnership
410 efforts, and looking for opportunities for closer
411 collaboration and targeted joint planning and governance
412 processes through efforts like e-enterprise governance
413 approach. That is why the largest part of our budget, \$3.6
414 billion, or 42 percent, is provided directly to state and
415 tribal partners.

416 The fiscal year 2016 request includes an increase of
417 \$108 million for state and tribal categorical grants. This
418 budget requests \$1.1 billion to address climate change and
419 improve air quality. These resources will help protect those
420 most vulnerable to climate impacts and the harmful health
421 effects of air pollution through common sense standards,
422 guidelines, and partnership programs.

423 Climate change is not just an environmental challenge.
424 It is a threat to public health, our domestic and global
425 economy, and to national and international security. The
426 request supports the President's climate action plan, and in
427 particular the Clean Power Plan, which establishes carbon
428 pollution standards for power plants. In addition, the

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429 President's budget calls for a \$4 billion Clean Power State
430 Incentive Fund to support state efforts to accelerate carbon
431 pollution reductions in the power sector.

432 Protecting the Nation's waters remains a top priority
433 for EPA. In fiscal year 2016 we will finalize and support
434 implementation of the Clean Water Rule, which will clarify
435 the types of waters covered under the Clean Water Act, and
436 foster more certain and efficient business decisions to
437 protect the Nation's waters. Recognizing the need for water
438 infrastructure, the SRF and related efforts are funded at
439 over \$2.3 billion, and we will work with our partners to help
440 communities by focusing on issues such as financial planning
441 for future public infrastructure investments, and expanded
442 efforts with states to identify financing opportunities for
443 resilient drinking water, water, and storm water
444 infrastructure. Last month the agency launched the Water
445 Infrastructure and Resiliency Finance Center. It is a key
446 component of our expanded efforts moving forward.

447 We are proposing a multifaceted effort to help our
448 communities, including low income neighborhoods, rural
449 communities, and communities of color. This includes
450 targeted funding, and on the ground community assistance

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451 through EPA regional coordinators, and a network of circuit
452 riders. An investment of \$16.2 million will help local
453 communities improve safety and security at chemical
454 facilities to prevent and prepare for oil spills. These
455 efforts represent a shared commitment among those with a
456 stake in chemical facility safety and security, ranging from
457 facility owners to first responders. The fiscal year 2016
458 budget request will let us continue to make a real and
459 visible difference to communities every day. It will give us
460 a foundation to improve infrastructure across the country,
461 and it will sustain state, tribal, and Federal environmental
462 efforts all across our programs.

463 With this proposed budget, the President is not only
464 sending a clear signal about the resources EPA needs to work
465 effectively and efficiently with states and tribes to protect
466 public health and the environment, it is also a part of an
467 overall Federal budget proposal that does not accept the bad
468 public policy embodied in sequestration, and does not hold
469 back needed resources in non-defense spending in order to
470 increase needed defense spending, or vice-versa. Instead,
471 the President's proposed fiscal year 2016 budget finds a path
472 forward to avoid sequestration, and properly support both

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473 domestic and national security interests.

474 Mr. Chairman, I thank you for the opportunity to
475 testify, and I look forward to answering your questions.

476 [The prepared statement of Ms. McCarthy follows:]

477 ***** INSERT 1 *****

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|
478 Mr. {Whitfield.} Well, thank you very much for your
479 testimony, Ms. McCarthy, and I will recognize myself 5
480 minutes for questions.

481 First question I would just ask you is how confident are
482 you that you can defend the use of 111(d) to implement the
483 existing coal plant rule?

484 Ms. {McCarthy.} I am sorry, could you repeat that
485 question? Sorry.

486 Mr. {Whitfield.} How confident are you that you can
487 successfully defend the use of 111(d) to implement the
488 existing coal plant--

489 Ms. {McCarthy.} Thank you.

490 Mr. {Whitfield.} --rule?

491 Ms. {McCarthy.} I feel very confident. One of the
492 reasons I say that is because of the extensive outreach that
493 the agency has done to each and every state, to all the
494 stakeholders, including the environmental and energy
495 stakeholders. I feel confident that we are seeing plans
496 develop now that will be very sound, and that we can move
497 this forward in a way that will both be beneficial--

498 Mr. {Whitfield.} So you think the outreach would pre-

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499 empt what the explicit language says? That is your position-

500 -

501 Ms. {McCarthy.} I think the outreach has helped inform
502 the explicit language--

503 Mr. {Whitfield.} Okay.

504 Ms. {McCarthy.} --so that it is reasonable and fair,
505 and it is going to allow states to move forward.

506 Mr. {Whitfield.} Now, in your submission, your budget
507 document, you talk about further efforts are required to put
508 the country on an emission trajectory consistent with the
509 President's long term climate goals. Now, I assume that you
510 are talking about the commitments that he made in Copenhagen
511 and in China, in which he said that he wanted to reduce
512 carbon dioxide emissions in America by 17 percent below 2005
513 levels by 2020, and then 26 to 28 percent below those level
514 by 2025. Is that correct?

515 Ms. {McCarthy.} I think I am referring to the
516 President's understanding that climate change is a
517 significant issue that the Administration has the authority
518 and responsibility to address, and I am trying to make sure
519 that we deliver our portion of that plan effectively.

520 Mr. {Whitfield.} Well, how did they decide on 17

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521 percent below 2005 levels by 2020?

522 Ms. {McCarthy.} That was an international goal that the
523 U.S. government put forth in those--

524 Mr. {Whitfield.} So the U.S.--

525 Ms. {McCarthy.} I--

526 Mr. {Whitfield.} --government presented that? That was
527 what the goal was?

528 Ms. {McCarthy.} Yes, as part of the--

529 Mr. {Whitfield.} And how was that determined by the
530 U.S. government? How did they reach that conclusion?

531 Ms. {McCarthy.} I think you would have to speak with
532 the Department of State to know the ins and outs of that
533 discussion.

534 Mr. {Whitfield.} Have you had any discussions with them
535 about that--

536 Ms. {McCarthy.} Certainly. We have talked about the
537 rules that the agency had underway--

538 Mr. {Whitfield.} I mean--

539 Ms. {McCarthy.} --at that time, and--

540 Mr. {Whitfield.} I mean, I could make the argument it
541 is pretty arbitrary. Could I make that argument or not?

542 Ms. {McCarthy.} I think that what we are talking about

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543 now, and the plan that is before you, the budget plan, is
544 very concrete. Authorities that the EPA has are
545 responsibilities, and will be concrete steps moving forward
546 that are measurable.

547 Mr. {Whitfield.} Yeah, but one thing that bothers us,
548 when you testified on the Senate in July of 2014, you had
549 mentioned that this is not about pollution control. You said
550 it in your statement, this is not about pollution control.
551 So this must be about honoring the President's commitment.

552 Ms. {McCarthy.} My statement was referring to the fact
553 that, when you seek to address carbon pollution, there are
554 many ways in which it is an investment opportunity, instead
555 of an end of pipe pollution control technology.

556 Mr. {Whitfield.} So, in other words, this is about
557 investment opportunities, from your perspective?

558 Ms. {McCarthy.} What I am suggesting is that states can
559 look at this as an opportunity--

560 Mr. {Whitfield.} But it is not--

561 Ms. {McCarthy.} --to invest in their--

562 Mr. {Whitfield.} But it is not about pollution control?

563 Ms. {McCarthy.} It is not about the installation of
564 pollution control technology.

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565 Mr. {Whitfield.} All right. Would the President's
566 Clean Power Plan meet his international commitments without
567 the adoption of these rules that you are proposing?

568 Ms. {McCarthy.} I think that the President has
569 established some aggressive goals for this Nation that are
570 commensurate with our interests in addressing climate
571 domestically, and also meeting our commitment internationally
572 to address this issue. But EPA is not focusing our legal
573 efforts--

574 Mr. {Whitfield.} Um-hum.

575 Ms. {McCarthy.} --on any particular international or
576 domestic goal. They are just implementing the authorities
577 under the Clean Air Act that are given to us.

578 Mr. {Whitfield.} See, the reason many of us in Congress
579 are so upset about this is that the cap and trade system was
580 rejected by the Congress, and yet the President goes out and
581 makes international commitments, does not consult with
582 Congress, comes back, announces, at his Georgetown speech,
583 this is my plan, and then EPA follows up, and we are going to
584 issue these regulations to meet the President's plan so that
585 he could meet his international agreements.

586 Ms. {McCarthy.} Well, the Clean Power Plan is a direct

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587 application of the authority that Congress gave us to look at
588 how to establish a best system of emission reductions for the
589 power sector to address carbon pollution, which is a
590 regulated pollutant under the Clean Air Act.

591 Mr. {Whitfield.} I want to ask more questions, but my
592 time is out, so--

593 Ms. {McCarthy.} Thank you, sir.

594 Mr. {Whitfield.} --at this time I recognize Mr. Rush
595 for 5 minutes.

596 Mr. {Rush.} Again, I am going to thank you,
597 Administrator McCarthy. Also, I want to express my gratitude
598 for the meeting that I had with Acting Assistant
599 Administrator Janet McKean last January, I believe it was,
600 where we discussed my concerns regarding the nuclear
601 provision in the proposed 111(d) rule. And as I stated in my
602 opening statement, it is important that the finalized rule
603 gives new credit to all zero emission sources of energy,
604 which not only includes renewables such as solar, wind,
605 hydro, and geothermal, all of which I fully support, but also
606 nuclear power generation.

607 As you know, my home State of Illinois is home to the
608 highest number of nuclear reactors, 11, that provide up to 48

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609 percent of the State's electricity. These carbon-free
610 nuclear generators run all above 90 percent capacity, which
611 is extremely efficient in comparison to any other type of
612 energy source. The goal of the Clean Power Plan is to reduce
613 carbon emissions, while also ensuring that states can
614 continue to provide reasonably priced safe, reliable
615 electricity to its consumers, then nuclear power must play a
616 central role in helping to achieve this objective.

617 While I realize that there are other market-based
618 considerations that are resultant in nuclear being somewhat
619 less competitive, I feel as though the EPA must work to
620 finalize a rule that incentivizes states to preserve nuclear
621 power in their energy portfolios by valuing nuclear
622 generation on par with other common free sources. It is
623 critical that the final 111(d) rule helps promote the
624 continued use of zero emission generation, such as both
625 renewable and nuclear energy if we are actually going to
626 achieve the carbon reductions that the regulation was
627 intended to produce.

628 My question to you, Madam Administrator, would you agree
629 that nuclear power must play a vital role in the Clean Power
630 Plan, in that it allows states to provide zero emissions-

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631 based loan power generation that is affordable, safe, and
632 reliable?

633 Ms. {McCarthy.} I think it is a part of every state's
634 strategy moving forward, yes.

635 Mr. {Rush.} Can you assure the subcommittee that EPA
636 has taken into account the concerns of states like Illinois,
637 who might be negatively impacted if nuclear power is not
638 fully credited in a state's plan to meet its charted carbon
639 reductions?

640 Ms. {McCarthy.} I certainly agree that nuclear power is
641 zero carbon, and it is an important part of the base load for
642 many of the states, and it should be considered by those
643 states carefully in the development of their plans.

644 Mr. {Rush.} I want to thank you. I also would like to
645 continue to engage your office on this issue--

646 Ms. {McCarthy.} Yeah.

647 Mr. {Rush.} --to make sure that nuclear power is
648 appropriately valued, due to its carbon-neutral emissions, in
649 any kind of rule that is proposed.

650 Moving along, Madam Administrator, another keen priority
651 for me is the issue of environmental justice, and making sure
652 that states are provided adequate direction in order to

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653 achieve the interests of low income--for low income and
654 minority communities. In cases where states may not be sure
655 how to conduct environmental justice analysis, then I believe
656 that it would be very helpful if the EPA provided states with
657 guidance, technical assistance, and resources to help protect
658 their most vulnerable communities which we all know have the
659 least amount of affluence, and influence, to help themselves.

660 Can you speak to this issue and assure me that, one, EPA
661 is indeed listening, and working with the environmental
662 justice groups as the agency prepares to finalize the rule,
663 and two, the agency will provide states with tools and
664 resources to help identify and protect these communities?

665 Ms. {McCarthy.} I can assure you of that, Ranking
666 Member, and I will also point out that our environmental
667 justice budget is given an increase of \$7.3 million this
668 year, which will go a long way to helping us provide those
669 tools and technical assistance.

670 Mr. {Rush.} Thank you very much.

671 Mr. {Whitfield.} Gentleman's time has expired. At this
672 time I recognize the gentleman from Texas, Mr. Barton, for 5
673 minutes.

674 Mr. {Barton.} Thank you, Mr. Chairman. Thank you

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675 again, Madam Administrator. I could really have some fun
676 with you today, but you are too nice a person.

677 Ms. {McCarthy.} For a short period of time, anyway.

678 Mr. {Barton.} Yeah. You have always been responsive
679 professionally, and at least accommodating to take my phone
680 calls, and to visit with me. So I am not going to
681 grandstand, but I do have a question that is--there are
682 several, but the first one, the President made this big
683 announcement about China, and ballyhooed it as a major
684 breakthrough, and a major agreement, but I am told there is
685 actually no written agreement, there is no signed document.
686 Is that true?

687 Ms. {McCarthy.} I am not aware that that is the case.
688 I don't know. I have not verified that.

689 Mr. {Barton.} Okay. Well, I have it on good authority,
690 from the professional staff to the majority of this
691 committee, that, in reality, all it was was a press release.
692 Now, if that is true, and I am going to say if, that we can't
693 find any copy, nor can we obtain a copy of any document that
694 was officially signed, can you check that out, and let us
695 know? It is one thing to have a disagreement about policy.
696 It is another thing to have a disagreement over what are in

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697 these documents when our President signs things.

698 The Kyoto Accord, as you well remember, was signed by
699 the Vice-President on behalf of President Clinton, but it
700 never was ratified by the Senate. In this case, we don't
701 even have something that we can debate the pros and cons of.
702 And, given the fact that this is a fairly visible issue, I
703 think it is a fair question. If there is a signed agreement,
704 let us see it. Do you agree with that?

705 Ms. {McCarthy.} Well, my understanding is that it was a
706 commitment at the highest levels in both countries, and that
707 the decisions was made to ensure that the actions that are
708 commensurate with those obligations--captured in already
709 existing agreements that we have with the country, and that
710 we will have an action plan moving forward developed through
711 our formal negotiation process.

712 Mr. {Barton.} Is that a long answer to say there is no
713 signed agreement?

714 Ms. {McCarthy.} No, there is very much a commitment,
715 and that was what was--

716 Mr. {Barton.} A commitment?

717 Ms. {McCarthy.} --announced, and we have agreements to
718 work towards that commitment to--

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719 Mr. {Barton.} Okay.

720 Ms. {McCarthy.} --actually put the actions in. And the
721 work we are already--

722 Mr. {Barton.} Well, whatever--I mean, when the
723 President of the United States, or the Secretary of State, or
724 you, as the Administrator of the EPA, represent the United
725 States in international exchanges, if agreements are made,
726 something is signed. Something is signed. You don't just
727 stand up and say, you know, we have this agreement, and hug,
728 and everybody just loves each other. You actually have a
729 document, and if it needs to be ratified by the Senate or the
730 House, is a commitment.

731 And what you have here, I am told, is a press release, a
732 photo op, which is not unusual for this President, I will
733 grant you. But in this case, a 30 year agreement should
734 actually be documented. That is all. So if there is
735 something that is signed, you will get it to the committee?

736 Ms. {McCarthy.} Well, I am sure that there was an
737 agreement that was announced, and I have seen those
738 documents.

739 Mr. {Barton.} Okay.

740 Ms. {McCarthy.} I think--

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741 Mr. {Barton.} You have seen--

742 Ms. {McCarthy.} --at the highest level--

743 Mr. {Barton.} You have seen documents that--

744 Ms. {McCarthy.} --by those agents.

745 Mr. {Barton.} --Obama, and whoever the Chinese official
746 is, you have actually seen a signed--

747 Ms. {McCarthy.} I--

748 Mr. {Barton.} --document?

749 Ms. {McCarthy.} I have seen the documents expressing
750 both of their commitments to this goal, and I am well aware
751 that we have ongoing--

752 Mr. {Barton.} All right. But you haven't seen the
753 signed--

754 Ms. {McCarthy.} --action items can be documented--

755 Mr. {Barton.} Okay.

756 Ms. {McCarthy.} --and tracked.

757 Mr. {Barton.} I can take you over to the National
758 Archives and show you the signed Declaration of Independence.
759 I can show you lots of documents that have signatures on
760 them. You and I can agree that I am not going to go out and
761 rob a bank. And you can agree that you are not going to rob
762 a bank, and we can both hold a press conference, we have

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763 agreed we are not going to rob a bank.

764 Ms. {McCarthy.} I don't think that this has been
765 discussed as that type of a binding agreement. I think it
766 has been discussed as a path forward that is very--

767 Mr. {Barton.} I have got 30 seconds left, so I am
768 going--

769 Ms. {McCarthy.} Okay.

770 Mr. {Barton.} --to switch gears. Renewable fuel
771 standards, we have a situational mandate that simply can't be
772 met. You have said publicly and privately that you want to
773 fix it, and you have promised the Chairman of the Committee,
774 and I think even in a hearing, that you would have a program
775 to fix it. We have yet to see that. When can we expect to
776 see something that gives real relief to this RFS mandate that
777 simply can't be met?

778 Ms. {McCarthy.} Well, I think, Congressman, you know
779 that I have a real commitment to moving this issue forward.
780 I wished it could have happened last year. The approach that
781 EPA took received considerable comment, and so you will see
782 something very soon, in the spring, that will address that
783 issue, and hopefully move us forward on a--

784 Mr. {Barton.} Can you give us a date very soon this

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785 spring? I mean, by the end of March?

786 Ms. {McCarthy.} I don't have a particular timeline,

787 Senator--I mean Congressman. I--

788 Mr. {Barton.} Yeah, don't profane--

789 Ms. {McCarthy.} I was giving you a little boost. I

790 just want to make sure that we cross our T's and dot our I's.

791 I know we were not successful last year as I would like us to

792 be, and I really want to get this out in a strong way, and

793 make sure that it looks forward.

794 Mr. {Barton.} You are--

795 Ms. {McCarthy.} We both have real interest in this.

796 Mr. {Barton.} All right. Well, keep us informed.

797 Mr. {Whitfield.} Senator's time has expired. At this

798 time I recognize the gentleman from New York, Mr. Tonko, for

799 5 minutes.

800 Mr. {Tonko.} Thank you, Chair. And, Administrator

801 McCarthy, again, welcome, and thank you for your leadership,

802 and for joining us this morning. I want to focus on drinking

803 water programs.

804 I am pleased to this year's budget includes a modest

805 increase over the current year's funding level for the

806 Drinking Water State Revolving Loan Fund. It seems every

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807 week I hear about significant water main breaks across our
808 country. A few weeks ago, or over the last few weeks,
809 several have hit my district, including my hometown of
810 Amsterdam.

811 While I am pleased the Administration is asking for more
812 funding for the primary account dedicated to supporting
813 drinking water infrastructure, I am concerned that we are
814 continuing to fall further and further behind on the
815 maintenance and upkeep of these systems. It costs far more
816 to deal with a pipe once it has burst than it is to have a
817 systematic program of repair and replacement of
818 infrastructure that takes care of our systems. Also, we have
819 many communities that are not able to take on more debt, so a
820 loan program isn't going to do it for them. They do need
821 grants.

822 So in this agency's budget, there is mention of new
823 technologies, and new financing mechanisms that the agency
824 will be exploring. For example, the new Water Infrastructure
825 and Resilience Finance Center won't provide funding, but will
826 provide assistance to communities seeking outside funding for
827 their projects. Is that correct? Is my interpretation of
828 that budget correct?

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829 Ms. {McCarthy.} For this year we are standing up the
830 program itself, yes, but we are also looking at what other
831 states and localities are doing so that we can share that
832 information effectively, and see if we can't duplicate some
833 of those public/private partnerships that are happening
834 already.

835 Mr. {Tonko.} Okay. Well, that is leading us in the
836 right direction. I have seen estimates of water leakage from
837 drinking water systems that range anywhere from 30 to 50
838 percent. This is treated water that is leaking, so it
839 represents both lost revenues, because that water is never
840 delivered to a customer, and it is lost investment, because
841 the utility paid to purify that water. So water and dollars
842 are flowing out of these pipes.

843 Programs like Water Sense, that encourage water
844 conservation by customers are good, but if the biggest water
845 loss is from the delivery system, we need to address this.
846 Does the agency have some options for helping utilities to
847 identify these leaks and address them?

848 Ms. {McCarthy.} Well, we are--actually a fairly
849 comprehensive program. It begins with our Office of Research
850 and Development, that conducts research on what types of

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851 technologies are available to identify where those leaks are
852 happening. And then we try to provide technical assistance
853 out of our programs to help identify opportunities for
854 reducing those leaks, so we will be looking at this.

855 And you are absolutely right, that as the climate
856 changes, our water challenges get considerable. And if you
857 look at what is happening in the western part of the U.S.,
858 there is a desperate need for water conservation, and the
859 last thing any of us would want to do was to see water that
860 is suitable for drinking being leaked out of the system.

861 Mr. {Tonko.} Right. It is indeed a precious commodity,
862 and we need to have a good collaborative effort to address
863 those issues. The best way to address the high cost of
864 treating drinking water, in my opinion, is to ensure the
865 source water is as clean as possible to begin with. I
866 support the Waters of the U.S. rule because I believe it is
867 critical to efforts at source water protection. What other
868 initiatives is the agency putting considering to assist
869 communities with preventing water pollution and protecting
870 source waters?

871 Ms. {McCarthy.} Yeah. In a number of different
872 directions. One of our biggest concerns is that we see a lot

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873 of spills near source waters and in source waters that are
874 challenging us, from a drinking water perspective. We also
875 see new pollutants coming in. So we are looking with states
876 to ensure that they get the guidance they need, and that we
877 do our job, in terms of setting national standards, so that
878 the states who have the primacy, in terms of establishing
879 their own water quality standards, and identifying and
880 categorizing their own waters, have the information they need
881 to protect themselves.

882 We know we have had some recent spills that indicate
883 that it is not enough, so we are trying to identify what
884 other assistance we can give to states, and we are also
885 trying to get them to think a little bit more creatively
886 about how they plan their water infrastructure needs so that
887 drinking water sources are protected. Plus we also get an
888 opportunity to move forward with some of the challenging
889 storm water issues that are contributing to some of the
890 pollution that is entering into our drinking water supplies.

891 Mr. {Tonko.} Well, again, we appreciate the partnership
892 that the agency has with the states. When you ask for those
893 dollars in the budget, the budget increases somewhat. We
894 know that a lot of those efforts go toward our states, so we

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895 appreciate that. And, again, thank you for your input here
896 this morning. With that, I yield back, Mr. Chair.

897 Mr. {Whitfield.} Gentleman yields back. At this time
898 recognize the gentleman from Illinois, Mr. Shimkus, for 5
899 minutes.

900 Mr. {Shimkus.} Thank you, Mr. Chairman. Administrator,
901 again, welcome. Do you agree that--there are 84,000
902 chemicals listed, approximately, in the TSCA inventories--

903 Ms. {McCarthy.} Yes.

904 Mr. {Shimkus.} --is that the number? How many do you
905 think are currently in commerce? Of the 84 listed, how many
906 are actually used in commerce?

907 Ms. {McCarthy.} I am sorry, I don't have the exact--

908 Mr. {Shimkus.} Yeah, and, I mean, that is part of the
909 problem. That is why we are trying to move in a bicameral,
910 bipartisan nature on TSCA, to try to get a handle on this.
911 If we work with the industry on chemical data reporting, that
912 should help us get a better idea of what that number is, do
913 you agree?

914 Ms. {McCarthy.} Yes.

915 Mr. {Shimkus.} So, in your budget plan, you have--
916 original--83 work plan chemical risk assessments that you

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917 want done by 2018. If you--I look at the budget report of--
918 we have got, like--five are completed, five to 10 in '15,
919 maybe 10 in '16, which gives us 25. Take that from 83, that
920 is still 69 that, budget-wise, we don't seem to be able to
921 get in in a timely manner.

922 I just raise this because I appreciate the effort, but,
923 again, I just want to use this opportunity, as I think we can
924 get there, and this is a perfect example of how we can work
925 with you, and work with my colleagues on the other side, to
926 move this forward. And so--as I mentioned a couple times.

927 I want to move to 111(d) debate just a little bit. And
928 this is where we appreciate some of FERC's responsibility,
929 because there is concern that, under 111(d), coal fire
930 generation, there is going to be some decommissioning. And,
931 as you know, they are major generators. They are a base load
932 production. Across the country nuclear power is also
933 stressed, and you can look at my own state, the State of
934 Illinois, where the state is trying to go through some
935 gyrations to make sure that nuclear power is still online.
936 Has the EPA taken into consideration the base load loss of
937 not just 111(d), but what could happen if we lose nuclear
938 power, and what do you think could be used to supplant that?

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939 Ms. {McCarthy.} Yeah. We actually have looked at that
940 issue, and we have received a lot of comment on this as well,
941 because the way in which the 111(d) analysis looks at this
942 issue is it indicates that there is likely to continue to be
943 over 30 percent generation through coal, even in 2030, at the
944 end of the target timeline under 111(d).

945 But base load coal, there is no question that there are
946 being investments made in that base load in order to make it
947 cleaner from traditional pollutants, and we expect that base
948 load to continue. And one of the biggest challenges is to
949 make sure we don't do this in a way that sends different
950 signals to the communities we all care about, the energy
951 world that is bringing reliable and cost-effective energy. I
952 want them, if they are investing in these facilities, to know
953 that they can continue, and that investment will not be
954 stranded.

955 And I think we are looking very closely at that issue
956 because there are many ways in which we can achieve these
957 goals that don't result in lower energy generation in base
958 load from coal, other than what has been projected, which is
959 still going to be very strong in 2030.

960 Mr. {Shimkus.} And we have talked about the mid-term

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961 standards before, and I know you have had a lot of input from
962 the industry, and I would just hope that you would really
963 look at those, because that could be a tipping point of
964 moving things too fast, where if the end goals can be reached
965 without really upsetting the apple cart in the mid-term, and,
966 you know, we have talked about it--

967 Ms. {McCarthy.} Mr. Chairman--

968 Mr. {Shimkus.} --and I know you have had--

969 Ms. {McCarthy.} Yeah. We have put out some ideas for
970 this, and we have some great comments in that will allow us
971 to address this issue pretty effectively.

972 Mr. {Shimkus.} And the last thing I want to do is--I
973 also want to just kind of weigh in on the RFS positively,
974 hoping that we do get a standard. And I have already talked
975 to the folks in my district who are concerned, and say '14,
976 '15, and '16 will have something. I am sure that will be
977 highly fought and angered on both sides, no matter what that
978 is.

979 But it brings me to this debate on biodiesel, and the
980 EPA's authorization of importation of Argentine biodiesel
981 without really having the carbios established. Is this a
982 point of one hand not knowing what the other hand is doing,

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983 and then how do we put that supply in as part of the
984 calculation for when you do '14, '15, and '16?

985 Ms. {McCarthy.} Well, RFS is going to be looking at the
986 range of availability of fuel supplies of the biodiesel fuel
987 supplies that are available both domestically and
988 internationally, which is what the rule requires.

989 In terms of carbio itself, you know, that decision, I
990 think, was a little bit misunderstood, and we can certainly
991 talk about this, but there was already biodiesel coming in
992 from Argentina. What we approved was actually a more
993 stringent way of tracking that to ensure that it was a
994 renewable fuel consistent with the underlying RFS principles.

995 And so it was not intended to open up a new market. It
996 was intended to reflect the way in which the companies were
997 assuring their compliance in a way that was more stringent
998 than others had already been doing. And we think it is a
999 model moving forward to make sure that everybody is bringing
1000 into this country the kind of fuel that we are trying to
1001 support domestically for production purposes.

1002 Mr. {Whitfield.} Gentleman's time has expired. At this
1003 time I recognize the gentleman from Texas, Mr. Green, for 5
1004 minutes.

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1005 Mr. {Green.} Thank you, Mr. Chairman, and Ranking
1006 Member for holding the hearing. Administrator McCarthy,
1007 thank you for being here today, and it is always good to see
1008 you before our subcommittee. To say that EPA has a lot on
1009 its plate is an understatement. The rules and regulations
1010 promulgated by the agency seem to affect every sector of our
1011 Nation, and I am happy to ask some questions about the
1012 balance we are trying to strike between protecting the
1013 environment, but helping our business and industrial sector
1014 capitalize on what is required to be done.

1015 On April the 12th the EPA released the new source
1016 performance standards for volatile organic chemicals from the
1017 oil and gas industry. The 2012 NSPS targeted hydraulic
1018 fractured natural gas wells. The rule targeted VOC emissions
1019 reductions through green completion, and expected a yield of
1020 95 percent reduction, including an estimated 1.7 million tons
1021 of methane. My first question is, the VOC in NSPS was
1022 supposed to be implemented in a two-step process. Is this
1023 accurate, that the NSPS won't be implemented until the end of
1024 2015?

1025 Ms. {McCarthy.} My understanding is--and I am sorry,
1026 Congressman, I may be counting wrong, but I think that is

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1027 right for the full implementation we did recognize in that
1028 rule that there was equipment that needed to be manufactured
1029 and installed, and we worked with the industry to make sure
1030 we weren't being overly aggressive about the ability to have
1031 the technologies available for full implementation.

1032 Mr. {Green.} Okay. Has the EPA actually quantified how
1033 much of the VOC reduction the NSPS has actually yielded to
1034 this point?

1035 Ms. {McCarthy.} We do have a good signal from our
1036 greenhouse gas reporting program that it has already been
1037 tremendously effective at reducing carbon pollution, because
1038 carbon pollution is reduced as you are capturing those
1039 volatile organic compounds. So we do have a very good sense
1040 that this is being effective already.

1041 Mr. {Green.} I understand it is already about 190 to
1042 290,000 tons--

1043 Ms. {McCarthy.} That is right.

1044 Mr. {Green.} --is the estimate. Has the EPA quantified
1045 methane reductions as a co-benefit?

1046 Ms. {McCarthy.} We have, and I can provide those
1047 numbers. I don't have them at the tip of--

1048 Mr. {Green.} Okay. Well, I--

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1049 Ms. {McCarthy.} --my tongue--

1050 Mr. {Green.} --think I have them. It is about 73
1051 percent decrease--

1052 Ms. {McCarthy.} Excellent.

1053 Mr. {Green.} --of that, so--in January of this year,
1054 the White House and EPA released a strategy for reducing
1055 methane and ozone pollution from the oil and gas industries.
1056 The release stated potential sources that would be regulated
1057 are hydraulic fractured oil wells, pneumatic pumps, leaks as
1058 well from well sites and compression stations. Anyone who
1059 has been on a rig knows you put a hole in the ground and find
1060 oil, you are also most likely to find natural gas--

1061 Ms. {McCarthy.} Yes.

1062 Mr. {Green.} --and the Energy Information Agency states
1063 that more than half of all completed wells produce both oil
1064 and gas. Does the EPA believe that there is an overlap
1065 between these two rules?

1066 Ms. {McCarthy.} We believe that there are synergies
1067 between the two rules, and we are going to make sure that we
1068 do not duplicate efforts, but we actually provide a good
1069 signal for those that are both producing oil and natural gas
1070 as to what their regulatory obligations are.

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1071 Mr. {Green.} Okay. In 2014 the EPA estimates indicated
1072 almost \$200 million in additional gas could be captured and
1073 sold--

1074 Ms. {McCarthy.} Yeah.

1075 Mr. {Green.} --from the natural gas sector. Recently,
1076 producers in West Texas have started using modular equipment
1077 to capture the methane, separate the gas into the various
1078 components, and either sell as a product, or power back to
1079 the producer. This approach has effected an economically
1080 efficient way to encourage change. Methane is a product that
1081 we need to use. Aside from using it on-site, additional
1082 capture is going to require additional pipelines.

1083 In the budget, DOE has set aside some, but not enough,
1084 money to encourage additional investment in modular
1085 applications in pipeline infrastructure. Has the EPA done
1086 anything similar?

1087 Ms. {McCarthy.} EPA is working with DOE on the
1088 quadrennial energy review to take a look at what pipelines
1089 need to be constructed in order to make sure that we can
1090 still continue to enjoy the inexpensive natural gas and the
1091 oil that is making us solid domestically.

1092 Mr. {Green.} Recently the White House Council on

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1093 Environmental Quality released a revised draft guide,
1094 covering how Federal departments and agents should consider
1095 the effects of the greenhouse gas emissions and climate
1096 change in their NEPA studies. What are your views on how
1097 this guideline will affect what EPA is already doing to
1098 measure climate impacts from major Federal actions under
1099 NEPA? Specifically, how will EPA measure climate impacts
1100 under NEPA stemming from the construction of new natural gas
1101 pipelines?

1102 Ms. {McCarthy.} I think that it provides us an
1103 opportunity to be clear that NEPA is a flexible tool, and
1104 that greenhouse gases should be looked at which it is
1105 appropriate to do so, and when the impacts are significant
1106 enough to warrant it, and it provides us good guidance moving
1107 forward so everybody will know the data that is necessary to
1108 move these projects forward.

1109 Mr. {Green.} Thank you. Mr. Chairman, I have one more
1110 question. I will submit it, on the superfund budgets for
1111 this year. We have some superfund sites in my area, and the
1112 budget cuts may impact us being able to clean those up. But
1113 I thank you for your time.

1114 Mr. {Whitfield.} Thank you. At this time recognize the

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1115 gentleman from Texas, Mr. Olson, for 5 minutes.

1116 Mr. {Olson.} I thank the Chair, and welcome

1117 Administrator McCarthy. Pardon me, a little frog in my

1118 throat.

1119 Ms. {McCarthy.} It is good to see you, Congressman.

1120 Mr. {Olson.} You as well. Ma'am, as you know, your EPA

1121 is taking comments on mass new standards for ozone--

1122 Ms. {McCarthy.} Yes.

1123 Mr. {Olson.} --otherwise known as smog.

1124 Ms. {McCarthy.} Um-hum.

1125 Mr. {Olson.} In Houston, we have been fighting this

1126 issue for decades. We have made huge strides in cleaning up

1127 our air. But the proposal the EPA has released will land

1128 like a ton of bricks, ton of foreign smog, on most of the

1129 country. Could I have a slide, please, first slide? If you

1130 want any of these slides, I mean, I can give you a copy, hard

1131 copy, if you can't read the slides when they come up here.

1132 [Slide]

1133 This first slide is your estimate of counties that will

1134 violate the proposals you have out there. Any shade of blue

1135 is bad. Blue counties would have a hard time getting permits

1136 for new factories or energy exploration, even highway

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1137 construction. As--the Texas Department of Transportation,
1138 creating an infrastructure mess on your proposal. Without
1139 objection, sir, I would like to enter these--record.

1140 Mr. {Whitfield.} Without objection.

1141 [The information follows:]

1142 ***** COMMITTEE INSERT *****

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|

1143 Mr. {Olson.} Thank you. I would like to tackle this
1144 ozone issue with some Chairman Dingle inspired questions that
1145 require yes or no answers. Next slide, please.

1146 [Slide]

1147 This slide is from page 209 of your regulatory impact
1148 analysis. If you can't see that, ma'am, I have something for
1149 you right here, if you would like to--

1150 Ms. {McCarthy.} I am having a little bit of a hard time
1151 reading it. And I can't say I recognize it specifically on
1152 that exact page.

1153 Mr. {Olson.} 209. Yes or no, does this slide show that
1154 half the technology our communities need to meet the 65 parts
1155 per billion standard doesn't yet exist in the eastern part of
1156 America? Yes or no?

1157 Ms. {McCarthy.} I am sorry, I don't understand the
1158 question.

1159 Mr. {Olson.} The question, ma'am, is if we go to 65
1160 parts per billion, you can't achieve that with current
1161 technology? Doesn't that slide show this? I mean, look at
1162 that slide.

1163 Ms. {McCarthy.} Actually, the slide--it doesn't

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1164 indicate that--the numbers that we look at on ozone are based
1165 on 2014 to 2016. That is how this rule would work. And, in
1166 fact, it shows that--

1167 Mr. {Olson.} I am sorry, ma'am, the question is yes or
1168 no. If you disagree, say no.

1169 Ms. {McCarthy.} I can't answer it the way you phrased
1170 it, sir. But I do know that with the national rules we are
1171 doing, and the reductions we are achieving in NOCs and VOCs,
1172 that almost all counties will achieve an ozone standard at
1173 70, with the exception of about nine in the State of
1174 California will continue to be challenged, but--

1175 Mr. {Olson.} Okay. I am sorry, ma'am, I have to move
1176 on here. Next--

1177 Ms. {McCarthy.} Okay.

1178 Mr. {Olson.} --slide, please.

1179 [Slide]

1180 Another big issue is background ozone.

1181 Ms. {McCarthy.} Yes.

1182 Mr. {Olson.} Smog occurrences can be natural, like
1183 forest fires, but they can be foreign too, like from Mexican
1184 crop burning annually. The last time I showed you the slide
1185 of Chinese smog pouring into our country. I want to focus on

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1186 another slide. Next slide, please.

1187 [Slide]

1188 This is your map. It shows how much ozone in our
1189 country comes from ``background sources'', compared to
1190 American sources. Anywhere from over 50 to 80 percent of
1191 ozone is outside of our control. You are asking us to do the
1192 impossible, control what we can't control. Look at that map.
1193 Again, yes or no, am I correct that there are almost no parts
1194 of the country where Americans are contributing to more than
1195 half the ozone?

1196 Ms. {McCarthy.} I don't know the answer to that
1197 question, sir.

1198 Mr. {Olson.} Okay. Yes or no, am I correct that
1199 Chinese emissions have increased in recent years, gone up?

1200 Ms. {McCarthy.} That is true.

1201 Mr. {Olson.} That is yes?

1202 Ms. {McCarthy.} That I am aware of.

1203 Mr. {Olson.} I would like to submit for the record
1204 whether EPA's budget allows more staff to handle petitions on
1205 foreign pollution, like from China. Someone can do that for
1206 me?

1207 Ms. {McCarthy.} Actually, not states are being asked to

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1208 reduce emissions that are background levels coming from
1209 another country, so we will be working--

1210 Mr. {Olson.} You don't know how your budget addresses
1211 foreign sources of ozone? Can I get that from you sometime
1212 in the near future--14 seconds left here, I want to talk
1213 about the exceptional impacts rule.

1214 Ms. {McCarthy.} Yeah.

1215 Mr. {Olson.} It allows the EPA to remove some natural
1216 resources of ozone from its calculations. And, yes or no,
1217 you rely on the exception rule to make these rules
1218 achievable? Is that a weapon you have to make your new
1219 standards viable? Exception of resources? Can that make
1220 these new standards viable? Because--

1221 Ms. {McCarthy.} I think you are--

1222 Mr. {Olson.} --right now, they are not viable.

1223 Ms. {McCarthy.} I think you are referring to
1224 exceptional events--

1225 Mr. {Olson.} Yes, ma'am.

1226 Ms. {McCarthy.} --which has been part of our program
1227 since day one, and we are trying to make sure that states can
1228 easily access our ability to have exceptional events
1229 documented so that they can make sure that they don't

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1230 interfere with the state plans for implementing the rule.

1231 Mr. {Olson.} And one question I will submit for the
1232 record, one final thing, Mr. Chairman, ask unanimous consent
1233 to introduce a document from the Texas Council of
1234 Environmental Quality that goes into great detail about the
1235 exceptional events process in my home state, the fact that we
1236 are 0 for 10 the past 5 years. Only three have been
1237 answered. Seven have not been answered. So, again, that is
1238 not viable to control ozone. In our--

1239 Ms. {McCarthy.} Well, Congressman, I am--

1240 Mr. {Olson.} --real experience in--

1241 Ms. {McCarthy.} --happy to work on--

1242 Mr. {Olson.} --Texas we are 0 for 10.

1243 Ms. {McCarthy.} Okay.

1244 Mr. {Whitfield.} Without objection.

1245 [The information follows:]

1246 ***** COMMITTEE INSERT *****

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|
1247 Mr. {Whitfield.} At this time I recognize the gentleman
1248 from New Jersey, Mr. Pallone, for 5 minutes.

1249 Mr. {Pallone.} Thank you, Mr. Chairman. Madam
1250 Administrator, with just a small fraction of the Federal
1251 budget, the EPA tackles the enormous task of protecting
1252 communities across the country, ensuring clean air to breathe
1253 and safe water to drink, and they do all this by partnering
1254 with states and localities, providing essential funds for
1255 environmental protection at all levels. I just wanted to
1256 highlight a few of these important activities.

1257 First, I would like to discuss the work EPA does to
1258 clean up land and protect vulnerable communities. This
1259 budget includes more funding for superfund cleanups than last
1260 year. What might that funding mean for minority communities
1261 and low income communities living around superfund sites?
1262 Are there other resources included in the budget for
1263 vulnerable and overburdened communities also, beyond the
1264 superfund?

1265 Ms. {McCarthy.} Yeah. I think there are significant
1266 resources in this budget to help communities that have been
1267 underserved, or have been left behind in some of our national

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1268 efforts to reduce pollution. This will help us get at
1269 potentially another 25 sites, moving forward to cleanups that
1270 are going to be ready for the cleanup stage in the coming
1271 year. So it is an increase in our superfund budget that is
1272 going to be significant.

1273 And we all know that many of the communities surrounding
1274 superfund sites actually are low income areas. They are
1275 communities of color that deserve to have the same
1276 protections as everybody in this country enjoys. And that is
1277 what this is all about.

1278 Mr. {Pallone.} I appreciate that. I think this funding
1279 is so important for health safety and the economies of these
1280 communities. And I would suggest to the Chairman that the
1281 committee, at some point, hold a hearing on environmental
1282 justice to learn more about the risks that these communities
1283 face.

1284 Another source of risk for people in these communities,
1285 and all communities, are unsafe and untested chemicals in our
1286 products and our environment, and that is why I believe that
1287 TSCA should be a priority, or strengthening TSCA should be a
1288 priority. This budget includes significant funding for
1289 chemical risk assessment and management, and for

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1290 computational toxicology. Can you briefly describe how
1291 funding for computation toxicology and chemical risk
1292 assessment will protect human health and the environment?

1293 Ms. {McCarthy.} Nice job. Yes, I can. In fiscal year
1294 2016, EPA is requesting an increase of 12.4 million for
1295 computational toxicology research. I think, you know, that
1296 this is an important step forward because it really
1297 strengthens our ability to get more chemicals assessed in a
1298 quick way. It has potential to significantly eliminate
1299 animal testing, which takes a very long to actually reap the
1300 benefits we need to ensure that we can do these chemical
1301 assessments quickly.

1302 It is a significant step forward, and it is cutting edge
1303 science being done at EPA, and it is a wonderful opportunity
1304 for us to address the toxicity in chemicals, and make sure
1305 that our public health is being protected.

1306 Mr. {Pallone.} Well, thank you. And, again, I would
1307 suggest to the Chairman and the Committee that there be a
1308 hearing on computational toxicology to better understand
1309 these techniques, and their potential to change the debate on
1310 TSCA reform.

1311 Last, I just wanted to touch on one of the greatest, if

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1312 not the greatest, environmental challenge of our time. The
1313 EPA has provided tremendous leadership to understand,
1314 address, and mitigate the effects of climate change, and
1315 Congress has not been a partner in those efforts. Instead,
1316 Congressional Republicans have taken every opportunity to
1317 undermine them.

1318 So, Administrator McCarthy, we are hearing lots of
1319 negative claims about the Clean Power Plan, and the new ozone
1320 standards, but both of these rules are just in the proposal
1321 stage. And at every turn I hear about how you have an open
1322 door policy, and are a great listener. I also know that
1323 industry claims about costs and economic effects are
1324 frequently overstated, and the benefits of acting are usually
1325 understated. I think we need to act on climate change, and
1326 the Clean Power Plan is a key part of that, but some just
1327 want to criticize.

1328 I just want to put you on the spot here and ask you if
1329 you are fully committed to developing a workable plan with
1330 states and industry that ensures reliability of the grid, and
1331 will you work with members on that, and would you be willing
1332 to testify before the Committee about your plan?

1333 Ms. {McCarthy.} Yes, I am, Mr. Chairman.

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1334 Mr. {Pallone.} All right, I appreciate that. Thank
1335 you, Mr. Chairman. I yield back.

1336 Mr. {Whitfield.} Gentleman yields back. At this time
1337 recognize the gentleman from Pennsylvania, Mr. Pitts, for 5
1338 minutes.

1339 Mr. {Pitts.} Thank you, Mr. Chairman.

1340 Madam Administrator, when the EPA wrote the rules for
1341 RFS 2 in 2010, it acknowledged that the reasons for placing
1342 the compliance obligation on refiners who don't blend
1343 renewable fuel, instead of on blenders who do, was an
1344 outdated holdover from the 2007 RFS 1 rules. Changing the
1345 definition of obligated party could help to advance the goals
1346 of the program, and correct some of the problems we are
1347 seeing with the current program. EPA did a significant
1348 amount of work on this issue in 2009 and 2010.

1349 My question is, do you agree it would be timely and
1350 useful to include and accept public comment on a proposal to
1351 shift the compliance obligation as part of the current 2014,
1352 2015, 2016 rulemakings?

1353 Ms. {McCarthy.} Well, I do know that that is a comment
1354 that we received on the 2014 proposal we put out last year.
1355 It is my interest to make sure that we move forward with the

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1356 2014 rule as quickly as we can. I think it is important for
1357 the stability of the renewable fuel industry. But I am sure
1358 we will be looking at those comments closely as we move
1359 forward.

1360 Mr. {Pitts.} One of the problems with this program is
1361 that it requires the EPA to make predictions each year on two
1362 highly uncertain things, first, how much transportation and
1363 fuel will be consumed in the following year, and second, how
1364 much renewable fuel will be used. When EPA gets these
1365 predictions wrong, as it did in 2013, the result is
1366 exorbitant prices for--economic hardships for merchant
1367 refiners, and windfall profits for blenders. CBO has told us
1368 escalating RFS mandates will lead to higher gas prices at the
1369 pump.

1370 EPA's decision to delay the 2014 rule until 2015 created
1371 unnecessary uncertainty for all stakeholders, but there may
1372 be a silver lining. For 2014, EPA won't have to guess how
1373 much transportation or renewable fuel was used. The year
1374 will be over, and EPA can set the standard based on what
1375 actually happened. So my questions are will EPA set the 2014
1376 mandates based on the actual consumption of transportation
1377 and renewable fuels?

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1378 Ms. {McCarthy.} Actually, sir, I am not able to answer
1379 that question because we are not yet through an interagency
1380 review, and able to release it finally. But we will be
1381 addressing that question clearly.

1382 Let me just say that the courts have been very clear to
1383 us that we need to follow the direction of the EIA in terms
1384 of our projections, and we have been true to doing that, and
1385 we will make sure that we continue to do that. And we will
1386 also move forward with 2014, recognizing that it wasn't
1387 completed as a final rule in time to generate the incentive
1388 to go beyond what was already generated, and I recognize
1389 that.

1390 Mr. {Pitts.} Will EPA combine the 2014, 2015, 2016
1391 mandate? If so, do you believe EPA has the statutory
1392 authority to do so? If you do, I would like to have you cite
1393 the authority.

1394 Ms. {McCarthy.} Yeah, we do know that the statute
1395 requires us to put out annual levels, but there is a great
1396 interest in making sure that we send signals to the market in
1397 a way that allows all of the participants to be prepared for
1398 the numbers that might come forward.

1399 Mr. {Pitts.} Earlier this year EPA tied the 2013

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1400 compliance deadline to the issuance of the final 2014 rule,
1401 and this allowed obligated parties to make informed decisions
1402 about using 2013--for 2013--or 2014 compliance. And the
1403 rationale for delaying the 2013 compliance deadline is
1404 equally applicable to 2014, and each year following. Will
1405 EPA tie the 2014 compliance deadline to the issuance of a
1406 final 2015 rule? And what about subsequent compliance
1407 deadlines?

1408 Ms. {McCarthy.} As you indicate, Congressman, we know
1409 that this is an issue that is important. We have addressed
1410 it before. We are going to continue to address that issue
1411 moving forward in our proposed rules.

1412 Mr. {Pitts.} Well, how will the compliance deadline be
1413 impacted if EPA combines the 2014, 2015 rules?

1414 Ms. {McCarthy.} Those are issues that we would need to
1415 resolve if we intend to do that. I did not indicate that.
1416 But certainly we know that, in a market as large as this, and
1417 for research and investment purposes, it is difficult to
1418 always wait for an annual rule to come out and be finalized,
1419 and we want to make sure that we are providing as much signal
1420 as we can moving forward.

1421 Mr. {Pitts.} Thank you. My time has expired.

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1422 Mr. {Whitfield.} At this time we will recognize the
1423 gentlelady from California, Ms. Capps, for 5 minutes.

1424 Mrs. {Capps.} Thank you for recognizing me. And before
1425 I begin, it is always a pleasure to have former colleagues
1426 join us. Pleased to have you in the audience today.
1427 Administrator McCarthy, thank you for your testimony, and for
1428 being here today, and I want to address several topics,
1429 mostly around climate change, the effects of which are far
1430 reaching, interconnected impacts on our environment, human
1431 health, and the economy, and I am pleased that you have made
1432 this at EPA such an important priority. I want to address
1433 the fact that there are both large scale and smaller scale
1434 efforts in the community level, which are important in
1435 addressing climate change.

1436 In your fiscal year 2016 budget for EPA, budget request,
1437 you propose implementing a locally targeted effort, with
1438 regional coordinators, and the so-called circuit riders, to
1439 ensure that communities have the resources. In other words,
1440 being there on the site to see. Will you please briefly
1441 describe this proposal, and how will it help our local
1442 communities?

1443 Ms. {McCarthy.} I will. This is an effort to try to

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1444 work with communities and states, frankly, at the community
1445 level to look at climate resilience. We are learning a lot
1446 as we go across the country and talk about these issues, and
1447 we have identified having circuit riders, which are trained
1448 individuals in this particular field, and have them more
1449 nimble and available to go out to communities moving forward
1450 who are considering issues that would have the wealth of
1451 tools at their fingertips that EPA and others have provided.

1452 We think it is a real opportunity to stretch our
1453 resources, and make them accessible to local communities in a
1454 way that will be much more productive than we have before,
1455 and we are requesting resources to support that.

1456 Mrs. {Capps.} Thank you. EPA's Clean Power Plan is a
1457 very commendable effort to address both air quality and
1458 climate change. And, you know, there are numerous studies
1459 through EPA, but in other sources too, showing that the Clean
1460 Power Plan will be able to significantly address public
1461 health through reducing carbon pollution, and from the co-
1462 benefits of improved air quality. Can you elaborate? Give
1463 us a comparison here. What are the expected human health
1464 benefits from such a Clean Power Plan?

1465 Ms. {McCarthy.} Yeah. The human health benefits relate

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1466 to a number of things. One is that we know that vectors of
1467 disease are changing, in terms of their territories. We know
1468 that allergy seasons are getting larger. We know that ozone
1469 is going to be a more difficult issue moving forward as the
1470 weather gets warmer, and there is more ozone being produced.
1471 And all of these things directly relate to people's health.

1472 So climate change is a significant public health
1473 problem. It should not be looked at as simply a natural
1474 resource issue--

1475 Mrs. {Capps.} Um-hum.

1476 Ms. {McCarthy.} --and it also is clearly an economic
1477 challenge--

1478 Mrs. {Capps.} Um-hum.

1479 Ms. {McCarthy.} --particularly for those families that
1480 are struggling with their kids that have asthma.

1481 Mrs. {Capps.} Right.

1482 Ms. {McCarthy.} We have significant responsibility to
1483 protect those children, and give them a future that we can be
1484 proud of.

1485 Mrs. {Capps.} Agreed. And now to address the concerns
1486 that many of my colleagues have raised regarding the costs of
1487 implementation, and the costs of energy that they believe

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1488 will affect lower and--

1489 Ms. {McCarthy.} Yeah.

1490 Mrs. {Capps.} --middle-class families--income families.

1491 We, of course, want to keep energy affordable, so could you

1492 give us a comparison of the costs and benefits of the Clean

1493 Power Plan?

1494 Ms. {McCarthy.} In 2030, the benefits of the Clean

1495 Power Plan will range anywhere from 55 to \$93 billion in

1496 benefits, compared to costs of 7.3 to 8.3 billion. It is a

1497 significant benefit. And the one thing I want to make clear

1498 of, again, is that I consider these to be investments in the

1499 future. I consider these to be investments in clean economy

1500 and job growth.

1501 Mrs. {Capps.} Once the investments are made, they keep

1502 giving--

1503 Ms. {McCarthy.} They certainly--

1504 Mrs. {Capps.} --and they keep benefitting. Just one

1505 final question. These are important priorities, but also

1506 important is clean drinking water. And, in a way, it

1507 relates, but there are so many challenges today to the

1508 availability of safe drinking water. And I think of the lack

1509 of it in California, where--

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1510 Ms. {McCarthy.} Yeah.

1511 Mrs. {Capps.} --drought is such a problem. How does
1512 this budget provide for the enhanced resiliency that our
1513 water infrastructure needs in--for various needs across this
1514 Nation, again, highlighting the local communities?

1515 Ms. {McCarthy.} Yeah. Again, we are working with local
1516 communities to help coordinate their response to climate
1517 change, and we are also significantly boosting our
1518 contribution to drinking water SRF funds. Because we know
1519 that it is not just about thinking of these things, it is
1520 about actually supporting it, bringing dollars to the table.

1521 And we are really excited about the new finance center
1522 as well, and our ability to bring private dollars to the
1523 table. This is an economic challenge that isn't just the
1524 responsibility of the Federal, or local, or state
1525 governments. This is the responsibility of the business
1526 community as well.

1527 Mrs. {Capps.} So you--

1528 Mr. {Whitfield.} Gentlelady's time--

1529 Mrs. {Capps.} Yes.

1530 Mr. {Whitfield.} --has expired.

1531 Mrs. {Capps.} Sorry. Thank you.

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1532 Mr. {Whitfield.} It is all right. I also want to
1533 welcome our former colleague, Kenny Holchoff. I might say
1534 that, since he has left, I don't think the Republicans have
1535 won one baseball game, but we are delighted he is back today.

1536 At this time I would like to recognize the gentleman
1537 from Pennsylvania, Mr. Murphy, for 5 minutes.

1538 Mr. {Murphy.} Thank you, Mr. Chairman. Welcome here,
1539 ma'am.

1540 Ms. {McCarthy.} Thank you.

1541 Mr. {Murphy.} When the EPA came out with their rule on
1542 new source performance standards, you cited a number of
1543 examples to show the EPA's standards are feasible. I want to
1544 run over some of these examples, and let you just respond
1545 with a yes or no if you are aware of them. For example, yes
1546 or no, are you aware that the partially funded Kemper Project
1547 is \$3 billion over budget?

1548 Ms. {McCarthy.} I am aware that it is over budget, yes.

1549 Mr. {Murphy.} Okay. And you are aware that the Future
1550 Gen project in Illinois was discontinued?

1551 Ms. {McCarthy.} I am aware of that.

1552 Mr. {Murphy.} Okay. And you are aware that the Texas
1553 Clean Energy Project hasn't broken ground yet?

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1554 Ms. {McCarthy.} I am not exactly up to speed on that
1555 one, sorry.

1556 Mr. {Murphy.} Okay. But something that was cited in
1557 the report. You are aware that the Hydrogen Energy
1558 California Project doesn't use coal, but actually uses
1559 petroleum coke? Are you aware of that?

1560 Ms. {McCarthy.} No, sir.

1561 Mr. {Murphy.} Okay. Are you aware that the final
1562 project the EPA cited for providing techno-feasibility for
1563 new coal fired power plants was a 110 megawatt boundary dam
1564 facility in Saskatchewan, Canada? It is not actually a new
1565 plant at all, but is, in fact, a retrofit. Are you aware of
1566 that?

1567 Ms. {McCarthy.} I am aware that it is a good example of
1568 one that is up and operating pretty effectively, and better
1569 than they thought.

1570 Mr. {Murphy.} But it is a retrofit, and it is not the
1571 United States. And the Canadian Center for Policy
1572 Alternatives, which supports the CCS mandates, issued a
1573 report this month stating that the boundary dam project was
1574 twice as expensive as alternate generating methods, which
1575 will make it significant more expensive for families, and may

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1576 jeopardize the owner's financial viability to even complete
1577 it. Are you aware of that?

1578 Ms. {McCarthy.} I haven't seen that, sir.

1579 Mr. {Murphy.} Okay. So, in this 2005 Energy Policy Act
1580 behind me, which talks about--it has to be adequately
1581 demonstrated. And references have been made before in the
1582 Federal Register--it said you have to use the best system of
1583 emission reduction adequately demonstrated available to limit
1584 pollution. But it appears in all the projects that I just
1585 went over, that are cited by the EPA, they haven't been
1586 completed, some haven't been started, one has been
1587 discontinued, one isn't even in this country, and none of
1588 them are large scale. As to one of them, for example, only
1589 captures 13 percent of the EPA--excuse me, of the carbon.

1590 So my concern is--and you have said you want to stay
1591 true to the rule, and the courts, et cetera--

1592 Ms. {McCarthy.} Yes.

1593 Mr. {Murphy.} --but I am not sure that the EPA is
1594 actually following the law on this. So I want to know, are
1595 you reviewing anything to withdraw the rule and start over,
1596 so you can really adhere to projects which are viable, and
1597 can work us towards this goal?

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1598 Ms. {McCarthy.} I think the projects you identified are
1599 a number of projects that have been moving forward, and we
1600 can talk about each one that I am familiar with, which are
1601 most. But the record that EPA produced in our proposed rule
1602 went well beyond data from those facilities. We feel very
1603 confident that this technology is available. We feel very
1604 confident that the use of CCS technology, at the levels that
1605 we are proposing it, will be a viable option for coal to
1606 continue to be part of the future of this and other
1607 countries, and that we are supporting investment in CCS
1608 through our Department of Energy--

1609 Mr. {Murphy.} Well, and then this is where you go back-
1610 -and, Mr. Griffin, could you slide a little bit? This is
1611 where you refer to this investment opportunity issue. I am
1612 not sure, what does investment opportunity translate to?

1613 Ms. {McCarthy.} It means that--

1614 Mr. {Murphy.} States putting money in--

1615 Ms. {McCarthy.} Generally pollutants are captured by
1616 end of pipe pollution controls, which are often direct costs
1617 for facilities. We have designed our Clean Power Plan in a
1618 way that allows you to invest in renewable energy, invest in
1619 energy efficiency, make decisions at the state level that are

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1620 consistent with--

1621 Mr. {Murphy.} Well, the key--

1622 Ms. {McCarthy.} --your energy economy--

1623 Mr. {Murphy.} --operative word here is you invest, but
1624 we want to make sure that things are--these viable, that
1625 people can actually do them.

1626 Ms. {McCarthy.} That is--

1627 Mr. {Murphy.} And what you are citing here are projects
1628 that people are saying are either going to bankrupt the
1629 company, or stopped, haven't been going on. So I am not
1630 sure, when you say investment opportunity, with someone
1631 else's money, it is a problem. But let me bring something
1632 up, because one of those agencies that--

1633 Ms. {McCarthy.} --in new coal, other than investing in
1634 this--

1635 Mr. {Murphy.} But you have to make investments--things
1636 that can really work. We can make up Alice in Wonderland
1637 here, but I want to make sure it works.

1638 Are you aware that in September 2013 the National Energy
1639 Technology Labs alerted the EPA in writing that your
1640 estimates are outdated? NETL comments, ``We believe current
1641 cost of CCS is not accurately represented.'' They even

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1642 included update data for inclusion in the rule. They found
1643 that CCS would cost an average of \$170 per megawatt, and at
1644 the high end, \$213 per megawatt. That is about 30 to 60
1645 percent higher than the cost estimate EPA put out there. So
1646 I am wondering why you are ignoring what this other Federal
1647 agency is saying. It would be facts out there that you
1648 should be paying attention to.

1649 Ms. {McCarthy.} Sir, you are citing a document that was
1650 prior to our putting out the proposal. We worked very
1651 closely with NETL back and forth on how we would best
1652 represent the costs associated with these technologies, and I
1653 believe we included the--our best judgment. And our
1654 technology folks are very good, and we align very well with
1655 the DOE, and put the best proposal forward.

1656 And we are looking at all those comments. You are
1657 citing a proposal, not a final, and we will certainly take
1658 consideration of all those issues as we--

1659 Mr. {Murphy.} And I hope you will pay attention to law,
1660 which says it has to be adequately demonstrated. And I am
1661 not sure we are there yet, so I look forward to talking with
1662 you more.

1663 Ms. {McCarthy.} I understand.

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1664 Mr. {Murphy.} I will submit more questions for the
1665 record.

1666 Mr. {Murphy.} Gentleman's time--

1667 Ms. {McCarthy.} Thank you, sir.

1668 Mr. {Murphy.} --has expired. At this time we will
1669 recognize the gentlelady from Florida, Ms. Castor, for 5
1670 minutes.

1671 Ms. {Castor.} Thank you, Mr. Chairman. Administrator
1672 McCarthy, thank you for joining us today, and thank you for
1673 your important work in protecting America's public health,
1674 and our natural environment.

1675 American families and businesses continue to save money
1676 at the gas pump in part because of the improvement in the
1677 fuel economy in the vehicles that we drive. I found this
1678 good infographic from energy.gov that provides a historic
1679 look at the standards, because they are set periodically to
1680 ensure that vehicles are keeping up with the times, and this
1681 is a nice little snapshot. It says 1978 the standard was 18
1682 miles per gallon. Boy, that seems outdated now. 1985, 27.5
1683 miles per gallon. Then 2011, up to 30.2 miles per gallon.
1684 And 2016, 35.5 miles per gallon.

1685 Now, I really appreciate that the Administration has

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1686 continued to push here, because what we have seen is
1687 revolutionary in the types of vehicles that are available to
1688 consumers right now. So you have the benefits that, when you
1689 get better gas mileage, you are reducing carbon pollution.
1690 The transportation sector is almost 50 percent of carbon
1691 pollution. You are putting money right back into the pockets
1692 of American families because they are getting more miles per
1693 gallon, and then it is reducing fuel costs for businesses.

1694 Do you have any recent hard data on the savings for
1695 American families and businesses? And then I want to talk
1696 about what the future goals are.

1697 Ms. {McCarthy.} Well, we certainly can talk about what
1698 the projections are, relative to the rules that we have done
1699 in the first term of this Administration. But I think the
1700 proof in the pudding, if you will, is that you can't see a
1701 car commercial where they don't talk about energy efficiency,
1702 because the car companies now know that everyone wants fuel
1703 efficient vehicles, and that we have designed our rules that
1704 allow even SUVs to become more fuel efficient, and remain
1705 part of the fleet, if people need that--the sort of
1706 characteristics that those vehicles provide.

1707 So we know that people are already going further on a

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1708 dollar driving their vehicles, and we know that by the end of
1709 2025 we will have doubled the ability to actually make that
1710 dollar go far, to provide essential services to our families,
1711 so--

1712 Ms. {Castor.} Because the goal for 2025 is 54.5--

1713 Ms. {McCarthy.} That is right.

1714 Ms. {Castor.} --and I know the Administration has set
1715 the first ever fuel economy standards for medium and heavy
1716 trucks. Just last week--

1717 Ms. {McCarthy.} Yeah.

1718 Ms. {Castor.} --the President called on EPA to develop
1719 and finalize the next phase of these standards, building on
1720 the success of the initial fuel economy standards for heavy
1721 duty vehicles. What are the expected benefits of the new
1722 standards? What cost savings will consumers see?

1723 Ms. {McCarthy.} Yeah. Well, on the heavy duty
1724 vehicles, we put forth a first phase, if you will,
1725 recognizing there was a lot of ongoing work to make our heavy
1726 duty vehicles more efficient. I think it might surprise
1727 people to know that the long term truckers get about six
1728 miles per gallon, so they are dying for more efficiency in
1729 the system as well.

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1730 I do not have those exact figures yet, but we know we
1731 can make a significant leap forward. But we are working with
1732 the industry now to put together a proposal that recognizes
1733 that the challenge in this industry to is to try to take
1734 advantage of the new technologies that are available that can
1735 increase fuel efficiency, but we also recognize that they are
1736 commercial businesses that need to remain viability and
1737 affordable. And we are trying to make sure that we recognize
1738 that balance as we work with DOT to put these rules forward.

1739 Ms. {Castor.} Thank you very much. I have another
1740 quick question on your new proposed incentive fund under the
1741 Clean Power Plan. You know, coming from the State of
1742 Florida, the costs of the changing climate are kind of scary
1743 as we look out in future decades.

1744 And I wanted to ask you particularly about water
1745 infrastructure and waste water infrastructure, because--think
1746 of all the coastal areas and local governments in Florida.
1747 They are looking at having to do very significant retrofits.
1748 I am not sure that your new incentive fund would allow us to
1749 go to that pot of money for those kind of water
1750 infrastructure, waste water infrastructure, updates and
1751 retrofits. Are we--is that a possibility, or do we need to

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1752 look at the more traditional revolving loan program?

1753 Ms. {McCarthy.} No. There are actually climate
1754 resiliency funds set aside in other parts of the budget, and
1755 why don't I make sure that I provide you the information?
1756 The incentive fund that I was referring to was to try to make
1757 it attractive, and encourage states to go further or faster
1758 than the rules require, because we still want to make sure
1759 that they are reasonable for everybody, but some states are
1760 prepared and ready to move forward faster. And we want to
1761 make sure that those states are rewarded for that.

1762 Ms. {Castor.} Would that include things like smart
1763 meters? Like, my state has been very slow going in trying to
1764 empower the consumers to control their thermostat, and things
1765 like that.

1766 Ms. {McCarthy.} We haven't yet defined fully because we
1767 want to make sure we work with states about what the best way
1768 to do it is. But what you have to articulate is that that is
1769 an opportunity to reduce demand--

1770 Ms. {Castor.} Um-hum.

1771 Ms. {McCarthy.} --for electricity, or, in other words,
1772 get more efficient, which that clearly would. Or else you--
1773 but there is lots of flexibility to use it for direct

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1774 infrastructure improvements as well. So it all just has to
1775 be tied back to that carbon pollution standard.

1776 Mr. {Whitfield.} Gentlelady's time has expired. At
1777 this time recognize the gentleman from Ohio, Mr. Latta, for 5
1778 minutes.

1779 Mr. {Latta.} Well, thank you, Mr. Chairman, really
1780 appreciate it. And, Madam Administrator, thanks for being
1781 with us today. I am going to kind of go back to Chairman
1782 Emeritus Dingell, if I could ask you a series of questions
1783 real quick. And I think you have been here when he has asked
1784 you the--a yes and no question.

1785 Ms. {McCarthy.} I have tried.

1786 Mr. {Latta.} Okay. But under the proposed Clean Power
1787 Plan, if a state does not file a SIP, does EPA claim
1788 authority to regulate the following under a FIP? And the
1789 first question is, does the EPA claim authority to mandate
1790 that coal fired generators run less, and that existing gas
1791 fired generators run more? And that is assumed under the
1792 Building Block 2.

1793 Ms. {McCarthy.} I am sorry, I certainly can answer
1794 those after I give them some thought, but it is hard to do a
1795 yes or no answer to that question.

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1796 Mr. {Latta.} Okay. Number two, does the EPA claim
1797 authority to mandate that fossil fuel generators run less,
1798 and that renewable generators run more? And that is assumed
1799 under Building Block 3.

1800 Ms. {McCarthy.} EPA certainly has the authority, in a
1801 Federal Implementation Plan, to establish standards for
1802 carbon pollution for those individual sources. How they
1803 choose to address those reductions of--

1804 Mr. {Latta.} Would that be--would you be saying that
1805 would be a yes, then, to the question?

1806 Ms. {McCarthy.} We have the authority to set a
1807 standard. The facility itself decides how to meet that
1808 standard.

1809 Mr. {Latta.} Okay. Let me ask this finally, then.
1810 Does the EPA claim authority to make the general public use
1811 less electricity? And that is assumed under Building Block
1812 #4.

1813 Ms. {McCarthy.} We certainly do not regulate the
1814 behavior of the public sector in this rule.

1815 Mr. {Latta.} Well, I think, as you have mentioned,
1816 especially going back to the first one, Mr. Chairman, if we
1817 could get those in writing for more of an explanation--

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1818 Ms. {McCarthy.} I am happy to--

1819 Mr. {Latta.} --I would appreciate it. In 2013 coal
1820 fueled approximately 70 percent of electricity generation in
1821 my home State of Ohio. Under the Clean Power Plan, will EPA
1822 grant a waiver of exception if there is a grid reliability
1823 risk or a high cost to the rate payer issue that would
1824 happen?

1825 Ms. {McCarthy.} Yeah. EPA does not see the rule, as it
1826 has currently been proposed, to have an impact on
1827 reliability. But as we have done in the past, we will ensure
1828 that the tools are available to us, should anything arise.

1829 Mr. {Latta.} So that would be a yes, that there would
1830 be waivers or exceptions granted?

1831 Ms. {McCarthy.} We would be able to work through the
1832 issues. Whether it is a waiver or another process, the tools
1833 are available to us, and we would--

1834 Mr. {Latta.} And, again, if we could--if--especially
1835 with those tools, because it is really important, especially
1836 in my state, because of the high usage of coal, that there
1837 would be the waivers necessary. So if you would get back to
1838 us on that?

1839 The existing ozone standards were issued in 2008, but

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1840 are just now being implemented by states, as guidance was
1841 just released last week. I have major concerns that you are
1842 going to forward proposing stricter standards before the
1843 current rule is even implemented. And then, again, am I
1844 correct that states have not fully complied with those
1845 standards from the 2008?

1846 Ms. {McCarthy.} That is correct. There are--there is
1847 quite a long horizon for states to be able to work on these
1848 issues.

1849 Mr. {Latta.} And what percentage, or how many states
1850 would have complied by now with the 2008--

1851 Ms. {McCarthy.} I am sorry, sir, I don't have that at
1852 my fingertips, but--

1853 Mr. {Latta.} Okay.

1854 Ms. {McCarthy.} --it, you know, states go through a
1855 designation process, which we have done. There is an
1856 implementation rule that has been put out as well, so we will
1857 be working on that. And it does not conflict to continue to
1858 keep looking, as the statute requires, at the standard
1859 itself, and whether it is sufficiently protected.

1860 Mr. {Latta.} Okay. Well, if you could also get back to
1861 the committee, especially what states have not complied, and

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1862 which ones have, that would be very useful to the committee.

1863 EPA has also stated that they do not know the cost to
1864 reach the current standards, and will not know until the
1865 state Clean Air Plans are submitted in 2016. And the
1866 question is how can we have any confidence in the agency in--
1867 estimates of the cost to implement the new proposed
1868 standards?

1869 Ms. {McCarthy.} Well, we actually do estimate the costs
1870 associated with strategies where we can't particularly
1871 identify it, but we do work very closely with our economists
1872 to make a good faith effort. But, again, what we are doing
1873 here is illustrating what states might do, but the rule
1874 itself, the rule that we are doing to set a standard, is only
1875 about what we believe is necessary to protect public health
1876 with an adequate margin of safety.

1877 Mr. {Latta.} Okay. And finally I would like to just
1878 ask this--back to the Clean Power Plan, Assistant
1879 Administrator McCabe has stated that transmission and
1880 distribution efficiency, or other opportunities to reduce CO2
1881 emissions beyond the building blocks. Does the EPA claim
1882 authority to require owners of transmission and distribution
1883 facilities to increase their operating efficiency, and if so,

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1884 by what authority?

1885 Ms. {McCarthy.} No. I think that Assistant
1886 Administrator McCabe was mentioning the fact that we have
1887 provided flexibility in that Clean Power Plan so that even if
1888 it is not the building blocks that are achieving the
1889 reductions in--and which--those are setting the standard,
1890 there are many ways in which states can achieve those
1891 standards outside the boundaries of those building blocks,
1892 and we are encouraging that flexibility to be considered.

1893 We are not encouraging any state to do anything that
1894 they don't consider that is right, and cost effective, and
1895 reasonable for them to do. There are just lots of choices,
1896 and it is maximum flexibility on what states want to do.

1897 Mr. {Latta.} Thank you. And, Mr. Chairman, my time has
1898 expired, and I yield back.

1899 Mr. {Whitfield.} Gentleman's time has expired. At this
1900 time recognize the gentleman from Kentucky, Mr. Yarmuth, for
1901 5 minutes.

1902 Mr. {Yarmuth.} Thank you very much, Mr. Chairman.
1903 Welcome, Administrator--

1904 Ms. {McCarthy.} Thank you.

1905 Mr. {Yarmuth.} --McCarthy. I want to start by asking

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1906 you about mountaintop removal mining, which is a process that
1907 poses very serious risk to the health and welfare of
1908 Appalachian communities. I was pleased to note that in your
1909 EPA budget justification you mentioned two recent court
1910 victories concerning mountaintop removal mining, but there is
1911 still a lot to be done. What resources will be available
1912 under this budget to help communities endangered by
1913 mountaintop removal mining?

1914 Ms. {McCarthy.} I am sorry, I don't have it broken down
1915 that way, but I am happy to take a look at this for you, and
1916 to work with your staff on getting you more specific numbers.
1917 But it is an issue that is of concern, and we have been
1918 working through these issues.

1919 Mr. {Yarmuth.} Yes, I appreciate that very much.
1920 Earlier today the--Chairman Whitfield mentioned the cap and
1921 trade bill, Waxman-Markey, which he characterized as having
1922 been rejected by the Congress, which is one way to
1923 characterize it. In fact, it did receive a majority of votes
1924 in both the House and the Senate. It was only killed because
1925 of Republicans in the Senate who filibustered that bill. Is
1926 it fair to say that if Waxman-Markey had been enacted into
1927 law, and not been stopped by Senate Republicans, that we

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1928 would not be involved with clean power rules right now?

1929 Ms. {McCarthy.} In some ways that might be the case,
1930 but I don't know that for sure, sir, because the Clean Air
1931 Act really is our responsibility to implement. It might have
1932 impacted the choice considerably, and the requirements to
1933 move forward.

1934 Mr. {Yarmuth.} Well, I want to talk a little bit more
1935 about the Clean Power Plan, and Kentucky, my home state, and
1936 the home state of the Chairman. I was really pleased to see
1937 yesterday Len Peters, who is the Secretary of Energy and the
1938 Environment in Kentucky, praising your work, the agency's
1939 work, in reaching out with--to the states on the Clean Power
1940 Plan. He said, I am from Kentucky, and I am not a climate
1941 science denier, but what EPA has done with outreach in
1942 leading up the proposed regulation, the outreach they have
1943 done, I think is incredible. He talked about your open door
1944 policy. He said, you could call them, talk to them, meet
1945 with them, and we did take advantage.

1946 He went on to say, well, we have already started the
1947 process of determining what a compliance plan would look
1948 like. I truly appreciate the outreach that the EPA has made
1949 to Kentucky and other states, and, obviously, states face

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1950 very different challenges in cutting carbon pollution. We in
1951 Kentucky are increasing our use of cleaner and less expensive
1952 fuels, such as natural gas, but we still generate most of our
1953 power from coal. I know that EPA recognizes that this is not
1954 a one-size-fits-all solution. Can you discuss how the
1955 funding in your 2016 budget request will be used to assist
1956 states with implementing the Clean Power Plan?

1957 Ms. {McCarthy.} Sure. We have, actually, a \$25 million
1958 request in our budget to work directly with the states on the
1959 implementation of this rule, and we have an overall request
1960 to ensure that we have the staff available to be able to work
1961 with the states, and to take a look quickly at the plans to
1962 make sure there is no delay in sending all the right signals
1963 about how to move this forward.

1964 Can I just say that Len Peters is a very honorable man?
1965 His advantage in Kentucky is he looks at both energy and
1966 environmental issues together, and I think it provides an
1967 advantage for the state to see that these plans can be done,
1968 and actually will provide benefits to the state, in terms of
1969 the utilization of energy supplies that are both effective
1970 for a reliable and cost-effective supply, but also can be
1971 designed to be effective in reducing pollution that impacts

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1972 their health.

1973 Mr. {Yarmuth.} Um-hum. So you obviously think that
1974 states like Kentucky, which are coal dominated, can benefit
1975 from the funds that would be appropriated--

1976 Ms. {McCarthy.} They--

1977 Mr. {Yarmuth.} --under this budget?

1978 Ms. {McCarthy.} They absolutely can, as well as the
1979 incentive fund that the President has proposed in this
1980 budget, which is \$4 billion. And I think that we have
1981 designed this in a way to recognize that Kentucky doesn't,
1982 and shouldn't, have the same standard that other states that
1983 aren't so heavily reliant on coal have. So we have designed
1984 it in a way that we think is achievable from the get-go, but
1985 also is flexible enough to allow folks like Len Peters to get
1986 his arms around it and make it work.

1987 Mr. {Yarmuth.} Okay. Well, I appreciate the
1988 flexibility that EPA has shown, and, again, the cooperation
1989 that you have exhibited with Kentucky and other states. I
1990 appreciate that very much. I yield back.

1991 Mr. {Whitfield.} Gentleman yields back. At this time
1992 recognize the gentleman from West Virginia, Mr. McKinley, for
1993 5 minutes.

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1994 Mr. {McKinley.} Thank you, Mr. Chairman, and thank you
1995 again, Administrator, for appearing before us. Let me start
1996 with a question, perhaps, directly at--has the EPA ever made
1997 a mistake?

1998 Ms. {McCarthy.} I am quite sure.

1999 Mr. {McKinley.} Do you think any of those mistakes have
2000 led to a job loss?

2001 Ms. {McCarthy.} I can't answer that question. We
2002 certainly do our best not to make mistakes in the first
2003 place, and the data--

2004 Mr. {McKinley.} Okay, but--

2005 Ms. {McCarthy.} --that we see--

2006 Mr. {McKinley.} --it is just that--

2007 Ms. {McCarthy.} --shows that job loss is not a
2008 consequence of environmental rules.

2009 Mr. {McKinley.} I want to make sure that you
2010 understand, and the public--I don't think there is a will in
2011 Congress to do away with the EPA.

2012 Ms. {McCarthy.} That is good--

2013 Mr. {McKinley.} You hear that a lot. I, you know, some
2014 of the--

2015 Ms. {McCarthy.} Thank you.

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2016 Mr. {McKinley.} I don't think there is the will to do
2017 that. I think that many of us here recognize that the EPA
2018 has helped lead the way for clean air and clean water. But
2019 there is reaching a point some place in this balance that we
2020 want the EPA to be more responsible, and to be more receptive
2021 to the impact your decisions are having on families. And I
2022 think you are missing the point. Just two examples with that
2023 is--that I could is that--the timing of your additional
2024 regulations, and the second, the use improper or flawed
2025 models that you are using.

2026 Let me just touch on the timing issue. There is an
2027 adage that we use often, and all of us have used in raising
2028 families, is just because you can doesn't mean you should.
2029 And we know the EPA has the ultimate power to issue any
2030 regulation, and you well know that Congress doesn't quite
2031 have the--we don't have the votes here to be able to overturn
2032 that. So whatever you are issuing, it is becoming the law
2033 the land with your regulation. So there is a time and place
2034 for everything, and I am just concerned that maybe the EPA
2035 has gotten a little bit more aggressive than they should be
2036 with it.

2037 I come from West Virginia, and that is part of rural

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2038 America. That is the main street. Wall Street may be having
2039 great success, but rural America, Main Street, is still
2040 struggling, and yet I keep seeing the EPA putting another
2041 regulation on top of another regulation. And the ozone rule,
2042 they barely have achieved the first--they increased that
2043 standard again. I think what it has led, by these over-
2044 regulation--in rural America it has led to people--their
2045 well-being, their mental health, is all being affected by it.
2046 I think we are having some depression in areas around the
2047 country because of the threats of regulations, what it is
2048 doing to jobs. I think we are seeing more and more people
2049 working part time. They are underemployed. It could go on,
2050 and on, and on, and I really believe it is directly
2051 attributed to the regulatory body with it.

2052 I think all of us know a Mildred Schmidt. She probably
2053 lives right next door to you. She lives next door to me in
2054 Wheeling, and someplace--Mildred Schmidt sits at her kitchen
2055 table, she wants clean air and clean water, but her first and
2056 foremost request, I want a job for my son. I can't find a
2057 job because either the coal mines are pulled back, or the
2058 steel companies, the chemical--something is shut down as a
2059 result of over-regulation. And I am struggling with that. I

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2060 have struggled with the second issue, about your poor
2061 modeling that I have heard you--the talk about.

2062 The poor modeling is with the heavy trucks. Back in
2063 2010 you said there was going to be about \$3,400, but we are
2064 seeing three times that cost, is what it is going to affect
2065 with it. We see the mercury and air toxic standard, that
2066 your prediction said that there will only be 10 gigawatts of
2067 power shut down, but the Department of Energy and others say
2068 it could be six or 10 times that amount is going to be shut
2069 down. But yet you continue to issue more regulations, even
2070 though the model is saying it doesn't work with it. You have
2071 had a model that talked about how CO2 impacts the
2072 temperatures around the globe. We know from the standard,
2073 that doesn't work.

2074 So let me just close in the time I have with this that--
2075 there is a George Mason University report, the Mercatus
2076 Group, and they say regulations can affect job creation, wage
2077 growth, and the workforce skill mismatches can result in
2078 lower labor workforce participation, and higher unemployment
2079 rate in the long run. Madam Administrator, I am torn over
2080 the disconnect about how you continue to say at the EPA that
2081 it is helping the economy, when others are saying absolutely

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2082 the opposite.

2083 We didn't come here to Congress to be bullied by radical
2084 environmentalist policies. You know, we came here, I think,
2085 to serve our Nation, but we want to preserve our economy, and
2086 the regulatory environment that we are facing here is very
2087 destructive. I hope you will take that into consideration.

2088 Mr. {Whitfield.} Gentleman's time has expired. At this
2089 time recognize the gentleman from Iowa, Mr. Loeb sack, for 5
2090 minutes.

2091 Mr. {Loeb sack.} Thank you, Mr. Chair. Great to see
2092 you, as always, Madam Administrator. I do want to take this
2093 opportunity to invite you back to the Iowa State Fair this
2094 summer, if you can make it.

2095 Ms. {McCarthy.} Terrific.

2096 Mr. {Loeb sack.} It would be wonderful for you to be
2097 there. I know there are a lot of folks, not just in the ag
2098 sector, but others who would love to see you there. I have
2099 been going back and forth between this and another
2100 subcommittee, and so the RFS, I know, probably did come up
2101 already, and I hope I am not repeating what was already
2102 asked, and asking you to repeat what you have already said.
2103 But, as you know, that is a really big issue in my state. We

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2104 have talked about this in meetings until both of us were blue
2105 in our face, probably, especially just trying to figure out,
2106 you know, what we are going to be doing going forward.

2107 As you know, EPA is required by law to set mandated
2108 levels for 2008 through 2022 for the different types of
2109 renewable fuels blended into gasoline and diesel, and we had
2110 a big issue over 2014. And now I am kind of--there are a lot
2111 of folks, you know, who are concerned about this. We are
2112 reading different things in the media. There was some
2113 article just yesterday, or the day before, and I don't know
2114 where they got their information, said that the 2014 levels
2115 are going to be set retroactively based on what actually
2116 happened in 2014, and then '15 and '16 are yet to be
2117 determined.

2118 So can you give us some clarity as to where we are with
2119 respect to the RFS? I know there are others up here who want
2120 to know about this, and who may not agree with me,
2121 necessarily. I am not going to point out anyone in
2122 particular, but we have our differences up on this panel
2123 about this as well.

2124 Ms. {McCarthy.} Well, we are doing our best to take a
2125 look at how we can move forward with 2015. And you are

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2126 right, we also are looking at how we can best send a longer
2127 term market signal. Because the biggest problem we had with
2128 not putting out the rule in 2014 was that we didn't have an
2129 opportunity to send that research signal. And I think that
2130 investments, continued investments in the sector are going to
2131 be essential.

2132 Mr. {Loebsack.} All right.

2133 Ms. {McCarthy.} So we will get this rule done. We are
2134 also looking at what we can do in the following years. We
2135 are already late in proposing 2015.

2136 Mr. {Loebsack.} Right.

2137 Ms. {McCarthy.} We have to play some catch-up here, and
2138 do it in a way that sends a signal that we recognize the
2139 statutory levels that Congress has set, and we need a
2140 trajectory to move forward here. And I think we had problems
2141 in 2014 that we have all learned from, and we will not repeat
2142 those problems again.

2143 Mr. {Loebsack.} Um-hum.

2144 Ms. {McCarthy.} And we will work with you. And I know
2145 how important it is to your state. I sat down with Governor
2146 Branstad on Friday, who reminded me--

2147 Mr. {Loebsack.} All right.

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2148 Ms. {McCarthy.} --again, and so--

2149 Mr. {Loebsack.} I am sure he did.

2150 Ms. {McCarthy.} --we will work through these issues,

2151 because I know that there are challenges there that are

2152 difficult for all of us.

2153 Mr. {Loebsack.} Yeah, and it is just--really, as you

2154 know, it is the uncertainty attached to all this. And we are

2155 not just talking about ethanol, obviously. That is the big

2156 one that--

2157 Ms. {McCarthy.} Yeah.

2158 Mr. {Loebsack.} --you know, folks talk about all the

2159 time, and it is not just that. It is biodiesel, it is second

2160 generation ethanol, cellulostics. It is a lot of different

2161 things that we are talking about here. And it does get

2162 complicated, there are no question, but it is just so

2163 important, you know, for folks to have some kind of certainty

2164 down the road so they know what it is going to be, so they

2165 can plan, you know, for their investments. And we have got a

2166 lot of folks, a lot of great people in Iowa and beyond who

2167 are involved in this industry who are planning in spite of

2168 the uncertainty, and they are doing the best they can--

2169 Ms. {McCarthy.} They are.

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2170 Mr. {Loebsack.} --biodiesel folks. That is a tough
2171 issue for them, as you might imagine too. And there we get
2172 into the credit, as well as the RFS. But those are just
2173 really tough issues, and I am just here to advocate,
2174 obviously, and push you as hard as I can to get this rule
2175 done, and make sure that we have some kind of certainty for
2176 those folks.

2177 Ms. {McCarthy.} Thank--

2178 Mr. {Loebsack.} The second issue--and thank you for
2179 your response. Second issue has to do with the Clean Power
2180 Plan, and--as you know, requires power plants to reduce
2181 emissions by 25 percent by 2030, and Iowa has already made
2182 some great strides, taking advantage of alternative energy.
2183 One of my colleagues the other day asked me, well, Iowa, you
2184 get about 25 percent of your electricity from wind. I said,
2185 27.3, as a matter of fact. And I have a lot of wind
2186 generating industries in my Congressional district. And so
2187 Iowa has gone pretty far, in fact. I think not only are we
2188 showing others how it has to be done, but we have cut
2189 emissions, and I think we need to achieve 16 percent to meet
2190 the power plan's goal.

2191 The question is, is EPA willing to work with individual

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2192 states? Are you willing to take into account, as we go
2193 forward, what individual states have done? And how is that
2194 going to play out, if that is the case?

2195 Ms. {McCarthy.} Yeah. We will work with both
2196 individual states, in terms of the analysis we have done, on
2197 a state by state basis. We have also been challenged to look
2198 at the framework, and whether or not we got it quite right.
2199 And we are looking at both of those issues, as you can--you
2200 probably know we received a lot of comments on this--

2201 Mr. {Loebsack.} Right.

2202 Ms. {McCarthy.} --but we are going to take our
2203 responsibilities seriously, both to look at the individual
2204 state numbers and the framework itself.

2205 Mr. {Loebsack.} I mean, there are a lot of folks out
2206 there doing good things. Best practices, you know, there is
2207 no question about that. I am very proud of what we have done
2208 in Iowa, as you might imagine.

2209 Ms. {McCarthy.} I am amazed at the wind generation in
2210 Iowa. It is quite a success story.

2211 Mr. {Loebsack.} Thank you, Madam Administrator. Thank
2212 you, Mr. Chair, and I yield back.

2213 Mr. {Whitfield.} At this time I recognize the gentleman

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2214 from Illinois, Mr. Kinzinger, for 5 minutes.

2215 Mr. {Kinzinger.} Thank you, Mr. Chairman, and thank you
2216 for saying my last name correctly. Hey, everybody. Thank
2217 you for being out here. Thanks for your service. Thanks for
2218 taking the time with us today.

2219 You know, nuclear power plants throughout the country
2220 provide safe, zero carbon emission. The power is--amazingly
2221 reliable source of power, capacity factors running well into
2222 90th percentile worldwide. Unfortunately, we have seen over
2223 4,000 megawatts of nuclear generation retired, with an
2224 additional 10,000 megawatts nationwide being targeted. I
2225 understand there are a number of factors influencing this
2226 portion of the energy industry, but what I don't understand
2227 is the initial emissions rate and goal set out by your
2228 administration through the Clean Power Plan. For some
2229 reason, only six percent of the state's existing nuclear
2230 fleet is able to be utilized, and that leaves states with no
2231 reason to look towards clean nuclear generation in order to
2232 comply with your order.

2233 I know this was touched on a little earlier by my
2234 colleague from Illinois, but is the EPA going to review and
2235 modify the treatment of nuclear in the final rule?

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2236 Ms. {McCarthy.} Well, we certainly have received a lot
2237 of comments, and we did tee up a proposal. I would
2238 characterize it a little differently than you may have, but
2239 it was an attempt to recognize that we realize nuclear base
2240 load that is operating today is a significant source of
2241 electricity that is zero carbon. We wanted to point that out
2242 to states. We have received a lot of comment on that. We
2243 will be taking a very close look at this issue.

2244 Mr. {Kinzinger.} Okay.

2245 Ms. {McCarthy.} And I do know how important it is for
2246 your state.

2247 Mr. {Kinzinger.} Okay. So do you have any idea why
2248 only six percent was included initially?

2249 Ms. {McCarthy.} Actually, the six percent was an
2250 attempt to recognize that there are a number of vulnerable
2251 base loads--

2252 Mr. {Kinzinger.} Right.

2253 Ms. {McCarthy.} --that have not yet committed to permit
2254 renewal. That will ensure that they remain a significant
2255 part of the base load capacity. And that was an attempt to
2256 try to capture that, to indicate that we are building those
2257 into the standard setting process because we believe that

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2258 they may be at risk, but they should be staying in, all
2259 things being equal, because we are providing an incentive for
2260 a low carbon future with this rule.

2261 People did not appreciate the way we handled it, many of
2262 them, so we are re-looking at it on the basis of the comments
2263 that came in. But it really was an attempt to recognize the
2264 value of nuclear in the current base load, and the danger of
2265 not recognizing that right now they are competitively
2266 challenged. But there is a need to look at that if you
2267 really want to make sure that we are providing an opportunity
2268 for a transition to a low carbon future that is--

2269 Mr. {Kinzinger.} Yeah, that is right--

2270 Ms. {McCarthy.} --reliable and affordable.

2271 Mr. {Kinzinger.} And especially, you know, if you want
2272 to see the price of energy skyrocket, start watching some
2273 nuclear power plants shut down, so--I appreciate that. And
2274 then also just a couple of quick ones. EPA's budget
2275 documents state that the Clean Power Plan will be implemented
2276 throughout state compliance plans that are submitted to the
2277 EPA for review and approval, with initial submittals
2278 beginning in 2016. Does the EPA plan to require initial
2279 state plans in 2016?

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2280 Ms. {McCarthy.} For many. We have also provided
2281 opportunities for longer periods of time if states are
2282 looking at doing things that require legislative approval,
2283 like interstate agreements. So we are trying to be flexible,
2284 but we certainly need a signal in 2016 that the states are
2285 making a commitment to a path moving forward, and we have
2286 tried to define what that would look like in the plan itself.

2287 Mr. {Kinzinger.} So under the Unfunded Mandates Reform
2288 Act, you are required to estimate the burden on states to
2289 develop that plan? Do you have an estimate of how much it
2290 will cost states to develop these plans? Can you supply
2291 those estimates?

2292 Ms. {McCarthy.} We actually have asked in this budget
2293 proposal for \$25 million to support that activity to states,
2294 which is hopefully going to send a signal that if we want to
2295 get this done, we need to work together, and we also need to
2296 support the efforts of the states in moving this forward.
2297 But states are pretty familiar with this type of a planning
2298 process, and I am just hoping that Congress will support that
2299 extra 25 million. But we certainly give support to the
2300 states for these types of efforts--

2301 Mr. {Kinzinger.} So the--

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2302 Ms. {McCarthy.} --and we are hoping to expand that.

2303 Mr. {Kinzinger.} So the 25 million, will that go
2304 directly to states--

2305 Ms. {McCarthy.} Yes, it would--

2306 Mr. {Kinzinger.} --help them with these plans?

2307 Ms. {McCarthy.} --in our state grants--

2308 Mr. {Kinzinger.} And so is your estimate, then, that it
2309 is \$25 million to develop state plans, or is that just a
2310 piece of what you hopefully will determine is the overall
2311 cost of--

2312 Ms. {McCarthy.} Well, we think that will provide them
2313 an opportunity to do this without weakening their ability to
2314 continue to do work in other challenges.

2315 Mr. {Kinzinger.} Okay. And if you get estimates--you
2316 may be highlighting some there, but if you get estimates, if
2317 you could just communicate that with our office, that would
2318 be great.

2319 Ms. {McCarthy.} Yeah. I would also point out that the
2320 budget includes \$10 million for us to support tools that the
2321 states would readily be able to use in their plan
2322 development. So we are doing the best we can to make sure
2323 they have both the flexibility and the resources to get this

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2324 done.

2325 Mr. {Kinzinger.} And you will--with all the comments
2326 you are getting on this, you know, put that in--especially if
2327 you made changes, put that into updating the estimates and
2328 whatnot, I would--

2329 Ms. {McCarthy.} Yeah.

2330 Mr. {Kinzinger.} --assume? Okay.

2331 Ms. {McCarthy.} Thank you.

2332 Mr. {Kinzinger.} Mr. Chairman, thank you so much, and I
2333 yield back.

2334 Mr. {Whitfield.} Thank you. At this time recognize the
2335 gentleman from Oregon, Mr. Schrader, for 5 minutes.

2336 Mr. {Schrader.} Thank you, Mr. Chairman. Thank you for
2337 being here, Madam Administrator. Appreciate--

2338 Ms. {McCarthy.} Great to be here.

2339 Mr. {Schrader.} --it very much.

2340 Ms. {McCarthy.} Thank you.

2341 Mr. {Schrader.} Like to talk a little bit about
2342 superfund site administration and funding. As you may or may
2343 not know, Portland Harbor is designated a superfund site as
2344 of 2000. It is a little bit unusual, in that both the
2345 business community people that may have contributed to some

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2346 of the problems there, as well as others in the community
2347 have stepped up--collaborative effort to try and deal with
2348 this.

2349 It has been, you know, almost 16 years now. We have
2350 gone through 10 different administrators. The goalposts have
2351 changed, depending on which administrator in our region comes
2352 in. The staff, there has been a tremendous turnover in
2353 staff, and it has been difficult to deal with these moving
2354 goalposts. We now have somewhat unrealistic standards
2355 regarding fish consumption, which seems to be the indicator
2356 species, that, you know, we are trying to grapple with,
2357 trying to work with the agency on, but it is difficult. You
2358 know, as a scientist, veterinarian, I look at these things
2359 through a scientific prism, and want to have these standards
2360 based on good science.

2361 But even beyond that, it would appear that the current
2362 regional administration has, you know, their own mindset
2363 about what is going to be done regardless of what is being
2364 talked about by the collaborative partners in our region.
2365 And we are having trouble getting this decision in--I think
2366 it was middle of 2013 there was a promise of additional help
2367 from the folks here in D.C. to maybe move things along at an

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2368 accelerated pace. And again in January there was a
2369 discussion with our own Department of Environmental quality,
2370 working with folks in D.C. to help augment Region 10's
2371 ability to get the job done.

2372 Ms. {McCarthy.} Yeah.

2373 Mr. {Schrader.} So I guess, basic questions here. You
2374 know, the decision was supposed to be coming here in 2016.
2375 We have heard it is going to be put off to 2017. We have
2376 been hearing this for a lot of years, Madam Administrator,
2377 and the uncertainty creates a big problem for economic
2378 development in our region. If we are trying to get people
2379 back to work, for trying to do the right thing for the
2380 environment, the sooner we get this decision done, the sooner
2381 we can decide whether or not it is economically feasible to
2382 work along the Portland Harbor.

2383 I would like to think that both of them are not mutually
2384 exclusive, but, again, what we are hearing from Region 10
2385 would seem to indicate it is mutually exclusive, going to the
2386 highest cost alternative, in terms of remediation, rather
2387 than some of the other remedial efforts that are actually out
2388 there. So basically, want to know, is 2017 the best case
2389 scenario, and can we hold, with all due respect, the agency's

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2390 feet to the fire, and get a record decision by--

2391 Ms. {McCarthy.} Yeah.

2392 Mr. {Schrader.} --2016?

2393 Ms. {McCarthy.} I know that Portland Harbor was an
2394 issue that came up during my confirmation process, and the
2395 interest in this. And Dennis McDonough, who is our regional
2396 administrator, is actively involved in this issue in a way
2397 that tries to make sure that it is moving forward. And so I
2398 know that we are putting the resources to this, and we will
2399 continue with this discussion. I think we have turned a
2400 better corner.

2401 Mr. {Schrader.} Good.

2402 Ms. {McCarthy.} I know that we are not only looking at
2403 making sure that we get the cleanup correct--did I say
2404 McDonough? Sorry. Dennis McDonough--

2405 Mr. {Schrader.} That is--

2406 Ms. {McCarthy.} --is the Chief of Staff of the--

2407 Mr. {Schrader.} --Chief of Staff--

2408 Ms. {McCarthy.} --President.

2409 Mr. {Schrader.} --for the President of the United
2410 States.

2411 Ms. {McCarthy.} He didn't take on added responsibility

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2412 during--since my--Dennis McLerran, I apologize. We are
2413 looking at ways that, while we may need more time to explore
2414 the final cleanup, the record of decision on this, that we
2415 will have sites ready and moving forward regardless of when
2416 that decision gets made. So we will get that decision made
2417 as quickly as possible, but we are also getting all the
2418 preliminary steps ready so that we can continue to move
2419 forward, and not sequentially think about these issues. And
2420 I think we are working really hard with Oregon to make sure
2421 that that is the case so that we don't lose any time in this
2422 process.

2423 Mr. {Schrader.} Well, with all due respect, we have
2424 lost a lot--

2425 Ms. {McCarthy.} Right.

2426 Mr. {Schrader.} --of time, and I am not convinced the
2427 current Region 10 administrator shares your enthusiasm for
2428 getting this thing done in a timely manner. And the biggest
2429 concern I have, here you have got a collaborative partnership
2430 willing to step up, and yet they are getting, what I would
2431 perceive, beaten up on a regular basis, with unrealistic
2432 requirements and expectation. Here is a group that could be
2433 a shining example of how the process could actually work,

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2434 then. Your continued attention I appreciate.

2435 Ms. {McCarthy.} You will have it. Thank you.

2436 Mr. {Schrader.} Another issue in my state, of course,
2437 is wood products.

2438 Ms. {McCarthy.} Yes.

2439 Mr. {Schrader.} We are a big--well, we would like to be
2440 a big wood producing state. That doesn't seem to be possible
2441 anymore. That is another topic for discussion. But for the
2442 wood that does come out, there is a wood composite industry
2443 that is pretty viable. I would like it to be more viable,
2444 and they have been waiting for the formaldehyde standards for
2445 composite--

2446 Ms. {McCarthy.} Yeah.

2447 Mr. {Schrader.} --wood products. The rule was supposed
2448 to be done in 2013. It is now 2 years later. Again,
2449 economic uncertainty is the enemy of business. Most
2450 businesses can adapt, as long as they know what the rules of
2451 engagement are. Can you tell me what the status of the
2452 regulation is, when it is going to be finished, and is the
2453 President aware of the final sign-off yet?

2454 Ms. {McCarthy.} I certainly am aware of the challenge
2455 that we have been facing in getting this rule finalized,

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2456 particularly as it has to do with laminates--

2457 Mr. {Schrader.} Yes.

2458 Ms. {McCarthy.} --and our ability to be able to address
2459 what is potentially a significant source of emissions, but do
2460 it in a way that is viable and effective for the industry
2461 moving forward. We are looking very hard at how we resolve
2462 that issue so this rule can come out, and I do know that we
2463 need the certainty that you are discussing. And I will go
2464 back and see if we can continue to address this issue, and
2465 get it out across the finish line.

2466 Mr. {Schrader.} All right.

2467 Ms. {McCarthy.} It has been since 2013, but this has
2468 not been without its challenges. And we keep trying to
2469 develop a testing method that will work and be cost-
2470 effective, but it remains a challenge for us. But we will
2471 see if we can't get it moving.

2472 Mr. {Schrader.} Well, thank you very--I work with the
2473 industry. I think they are on your team, in terms of wanting
2474 to get this done, so--

2475 Ms. {McCarthy.} They sure are.

2476 Mr. {Schrader.} --thank you very much, and I yield
2477 back.

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2478 Ms. {McCarthy.} Thanks.

2479 Mr. {Whitfield.} Gentleman yields back. At this time
2480 recognize the gentleman from Virginia, Mr. Griffith, for
2481 five--

2482 Mr. {Griffith.} Thank you, Mr. Chairman. Thank you,
2483 Ms. McCarthy, for being here today. Today is February 25,
2484 2015, and earlier you told Chairman Whitfield that you were
2485 confident of going forward with the Clean Power Plan under
2486 111(d). And I am just wondering--your document--your budget
2487 document also states the Clean Power Plan is President
2488 Obama's top priority for the EPA, and the central element of
2489 the U.S. domestic climate mitigation agenda. Yes or no, has
2490 there ever been a time since it was announced by the
2491 President in June of 2014 that the EPA has considered not
2492 finalizing this rule? Yes or no?

2493 Ms. {McCarthy.} No.

2494 Mr. {Griffith.} And has there ever been a time since it
2495 was announced by the President in June of 2014 that you, as
2496 the Administrator of the EPA, have considered not finalizing
2497 this rule?

2498 Ms. {McCarthy.} No, sir.

2499 Mr. {Griffith.} So then, in the case of Murray Energy

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2500 vs. EPA and Regina McCarthy, when your lawyer said that the
2501 EPA may not adopt the proposal related to final action--
2502 propose Section 111(d) related to the Clean Power Plan, your
2503 lawyers did not tell the truth, the whole truth, and nothing
2504 but the truth to the court, isn't that accurate, yes or no?

2505 Ms. {McCarthy.} Sir, the proposal as proposed may not
2506 be what we move forward with, but there has never been an
2507 indication to me, in comments that were--

2508 Mr. {Griffith.} Okay.

2509 Ms. {McCarthy.} --received--

2510 Mr. {Griffith.} But they said they may not--

2511 Ms. {McCarthy.} --that would indicate we can't do that.

2512 Mr. {Griffith.} --that they may not move forward, that
2513 wouldn't be a complete statement of accuracy, since June 2014
2514 and today you are very confident you are moving forward? You
2515 are moving forward. That was the whole argument in the case.

2516 Ms. {McCarthy.} No, many--

2517 Mr. {Griffith.} Let me move on.

2518 Ms. {McCarthy.} Many things can happen.

2519 Mr. {Griffith.} Let me move on.

2520 Ms. {McCarthy.} You asked about my confidence level,

2521 and I am--

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2522 Mr. {Griffith.} All right.

2523 Ms. {McCarthy.} --confident that we can get this done.

2524 Mr. {Griffith.} All right. Well, let me move on then,
2525 because it is interesting that your lawyers have taken
2526 several positions on this. In the case of New Jersey vs.
2527 EPA, excuse me, 517 F.3d 574 (2008), in regard to 111(d), the
2528 EPA promulgated camera regulations for existing electric
2529 generation units under Section 111(d), but, and I am quoting
2530 now from the opinion, ``But under EPA's own interpretation of
2531 the section, it cannot be used to regulate sources listed
2532 under 112. EPA thus concedes that if the electric generation
2533 units remain listed under Section 112, as we hold, then, the
2534 camera regulations for existing sources must fall, I would
2535 submit to you that the same is going''--there your lawyers
2536 have already conceded you don't have the authority to
2537 regulate under both 112 and 111(d), and yet you say you are
2538 confident in moving forward.

2539 Ms. {McCarthy.} I don't agree--

2540 Mr. {Griffith.} And let me read you--

2541 Ms. {McCarthy.} --with that--

2542 Mr. {Griffith.} --the language--

2543 Ms. {McCarthy.} --interpretation, sir.

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2544 Mr. {Griffith.} And let me read you the language of the
2545 actual code. 111(d)(1), ``The Administrator shall prescribe
2546 regulations which shall establish a procedure similar to that
2547 provided by Sections 110, under which each state shall submit
2548 to the Administrator a plan which, A, establishes standards
2549 of performance for an existing source for any air pollutant
2550 for''--``one, for which air quality criteria have not been
2551 issued, or which is not included on a list published under
2552 Section 108(a), or''--relevant section--``emitted from a
2553 source category which is regulated under Section 112.``

2554 So it would seem, from the language, from prior court
2555 cases where the EPA conceded the point, that there is not
2556 legal authority to move forward. And I know that you are not
2557 an attorney by training, but I would have to submit to you,
2558 as an attorney by training, that if you are confident of
2559 going forward under 111(d) and being upheld in the courts,
2560 your confidence is misplaced, and your lawyers are not
2561 telling you the truth, the whole truth, and nothing but the
2562 truth. Let me switch to another subject.

2563 Your budget requests tens of millions of dollars to
2564 implement the Clean Power Plan because you all have indicated
2565 you need some expertise. I assume, however, that you do work

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2566 well with the Secretary of the Department of Energy. Is

2567 that--yes or no?

2568 Ms. {McCarthy.} Yes, I do.

2569 Mr. {Griffith.} I thought you did. And so then I have
2570 to ask, why are we going to spend tens of millions of the
2571 taxpayers to give you all new employees for evaluating and
2572 capturing these compliance strategies, requires the agency to
2573 tap into technical and policy expertise not traditionally
2574 needed in the EPA, for example, nuclear, wind, solar,
2575 hydroelectric, et cetera, when the DOE already possess this
2576 expertise? Why not just work with them? And I would submit
2577 that that is what you ought to do, and that would save the
2578 taxpayers tens of millions of dollars.

2579 Do you agree with me that, if we can use the DOE as
2580 experts, instead of having the EPA open up a whole new
2581 branch, that that would be better for the taxpayers of the
2582 United States of America, yes or no? And I only have a
2583 couple seconds.

2584 Ms. {McCarthy.} I do not agree that there isn't a need
2585 for--

2586 Mr. {Griffith.} Okay.

2587 Ms. {McCarthy.} --expertise at EPA at all.

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2588 Mr. {Griffith.} All right. I think you all can share,
2589 but we disagree on that. And, lastly, you agree that health
2590 in the--and--of people and unemployment are connected with
2591 each other, that people who are employed generally have a
2592 better health standard than the unemployed sometimes don't
2593 enjoy? You would agree with that, I would think. And I
2594 would have to say to you that one of the concerns I have
2595 with--you have heard about the wave after wave of regulation
2596 from Mr.--

2597 Ms. {McCarthy.} Um-hum.

2598 Mr. {Griffith.} --McKinley, and how that is hurting
2599 employment. I picked up the unemployment statistics in some
2600 of my coal counties, and going in alphabetical order, and
2601 just hitting the first two, but Buchanan County, at the
2602 height of the recession, had an 8.9 annual unemployment rate
2603 in '09, 8.9. In '13, at the end of '13, it is 9.8, because
2604 of regulations that are putting hundreds of thousands of coal
2605 miners and related industries, their jobs are gone. This is
2606 not even counting the folks who have just gone ahead and
2607 decided to retire, or shut down their businesses, and are no
2608 longer looking for employment.

2609 That was Buchanan County. Dickinson County, height of

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2610 the recession, 2009 annual number, 9.0. Today--or 2013,
2611 10.0. Our economy is getting worse because of policies
2612 coming from your agency. And I apologize, I can't let you
2613 answer that because I have to yield back. Thank you, Mr.
2614 Chair.

2615 Mr. {Whitfield.} Gentleman yields back. At this time
2616 recognize the gentleman from Maryland, Mr. Sarbanes, for 5
2617 minutes.

2618 Mr. {Sarbanes.} Thank you, Mr. Chairman. Thank you,
2619 Administrator McCarthy, for being here. Just on the last
2620 exchange, I fear that the legal justification for the
2621 Department's regulations was impugned. I have high
2622 confidence, I want you to know, that there is a strong legal
2623 basis for the regulations and the position that you are
2624 taking. And I want to thank you generally. I want to thank
2625 the EPA, and I want to thank the Obama Administration for
2626 picking up the slack on the issue of climate change, and
2627 addressing the ravages of climate change.

2628 Unfortunately, despite the efforts of many of us here to
2629 try to move forward with a statutory response to this issue,
2630 it hasn't happened. Congress has not done the job that it
2631 should do. The EPA, again, I think, with sound legal

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2632 authority, has really taken a leadership role. And I also
2633 want to salute your agency, and the Administration generally,
2634 for the Climate Action Plan, which addresses climate change,
2635 for the Clean Power Plan, for these historic international
2636 agreements which are being undertaken, which finally gets us
2637 in a position of momentum, in terms of addressing the issue
2638 of climate change.

2639 In doing that, you are reflecting where the public is
2640 increasingly. There is polling that indicates 70 percent of
2641 Americans favor stronger limits on the amount of carbon that
2642 is emitted by power plants because they understand the health
2643 consequences of that, and they understand the impact on
2644 climate change. Over 80 percent of Americans think that the
2645 United States should take action to address climate
2646 disruption, based on a poll in 2013. This is becoming an
2647 emerging consensus on the part of public. I think they are
2648 appreciative of the efforts that you, and your agency, and
2649 the Administration are taking to address this important
2650 concern. Now, I understand the solutions are not simple.
2651 Carbon emission reductions have to be rooted in science.
2652 Aggressive goals must be set to avoid the harshest impacts of
2653 climate change, and reasonable, intelligent folks can differ

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2654 on how to deliver those results. We will continue to have
2655 the discussion in this committee.

2656 But I think there is a false dichotomy that often gets
2657 put forward, that somehow, in addressing climate change, we
2658 are going to have to undermine our economy, and I don't think
2659 that that is a fair narrative. I think we need to look at
2660 the fact that investing in clean energy infrastructure can
2661 actually produce terrific advances for our economy, and we
2662 need to get on the cutting edge of that, because our peer
2663 nations around the world are beginning to make those
2664 investments. We can be in the position of being the leader,
2665 which will actually help our economy, but not if we are
2666 asleep at the switch. So when we say, why are we doing these
2667 things? There are a lot of good answers. To protect the
2668 planet, to protect our health, public health, to protect our
2669 national security, and to protect our economy, by getting on
2670 the front end of these emerging technologies.

2671 Can you speak to what the Clean Power Act plan, the
2672 Clean Power Plan that you have put forward, and the agency
2673 has put forward, what you see in terms of the potential
2674 positive economic impact and job creation effect that that
2675 can have? Because it is an important part of the dialogue.

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2676 Ms. {McCarthy.} Thank you for raising that. I know
2677 that we feel very strongly that the way in which we have
2678 proposed this rule, to provide flexibility to use energy
2679 efficiency and renewable energy as part of not just our
2680 standard setting process, but our compliance process, allows
2681 tremendous flexibilities for states to take a look at where
2682 their energy universe is heading. Where is the market? What
2683 is the transition we are seeing towards a clean energy
2684 future, regardless of this Clean Power Plan, and how can we
2685 follow that? How can we allow every state to identify what
2686 is best for them in terms of job growth opportunities, ways
2687 to invest in their economy and grow jobs?

2688 And we believe that, because of the flexibility we
2689 provided, and because we know that the economy, and the
2690 energy system, is transitioning towards a low carbon
2691 strategy, businesses are transitioning already. Government
2692 has to follow, and recognize there are ways of addressing our
2693 climate challenge that can actually bring great economic
2694 benefit to this country, and provide the spark and innovation
2695 that we need to retain international leadership. We see this
2696 as being a path to the future, instead of continued
2697 investment in very old technologies that are not producing

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2698 more jobs, that are not being invested in. The investment is
2699 in clean technologies.

2700 Mr. {Sarbanes.} Thank you very much. Thanks for your
2701 outstanding testimony, and your work.

2702 Ms. {McCarthy.} Thank you.

2703 Mr. {Sarbanes.} I yield back.

2704 Mr. {Whitfield.} At this time recognize the gentleman
2705 from Ohio, Mr. Johnson, for 5 minutes.

2706 Mr. {Johnson.} Thank you, Mr. Chairman, and
2707 Administrator McCarthy. Thank you for being here today. I
2708 represent much of Appalachia, Ohio. That is home to several
2709 coal mines, and coal fired power plants, and home to the hard
2710 working, tax paying men and women who work in those
2711 facilities to provide for their families. These proud men
2712 and women produce the energy resources that are keeping the
2713 lights on and heating the homes of the majority of Ohio homes
2714 during this very cold winter.

2715 So can you tell us why energy rich Ohio was excluded
2716 from the public hearings on EPA's climate rules?

2717 Ms. {McCarthy.} Well, as far as I know, sir, those
2718 hearings were strategically placed around the country to
2719 ensure that people could have access to attend those. They

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2720 were very heavily--

2721 Mr. {Johnson.} Yeah, it is interesting that they were
2722 strategically placed in places where coal mining and coal
2723 operations don't exist.

2724 Ms. {McCarthy.} That is not correct, sir.

2725 Mr. {Johnson.} I have the list--

2726 Ms. {McCarthy.} Pittsburgh--

2727 Mr. {Johnson.} I have the list--

2728 Ms. {McCarthy.} --Pennsylvania's fifth--

2729 Mr. {Johnson.} How many coal mines are in Pittsburgh?
2730 I can tell you how many coal mines are in eastern and
2731 southeastern Ohio, and there are a number of them. But, you
2732 know, we can fix this.

2733 Ms. {McCarthy.} No, all I--

2734 Mr. {Johnson.} I heard my colleague from Iowa say that
2735 he invites you back to the Iowa State Fair. I would like to
2736 invite you to come to Ohio--

2737 Ms. {McCarthy.} Well--

2738 Mr. {Johnson.} --sit down and talk directly to the
2739 Ohioans who work in those coal mines, and in those power
2740 plants, who are likely to lose their jobs as a result of
2741 EPA's actions, your actions, Administrator McCarthy. You

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2742 know, they pay your salary, they pay my salary. So let me
2743 ask you, will you meet with them? I will arrange my schedule
2744 so that I can be there to be there with you, and we can have
2745 a dialogue with the people whose lives are being affected by
2746 the regulations coming out of your agency.

2747 Ms. {McCarthy.} We have been reaching out all across
2748 the country--

2749 Mr. {Johnson.} No, I am asking you, will you come with
2750 me? Because I will help set it up.

2751 Ms. {McCarthy.} Every state is asking me to go to their
2752 state.

2753 Mr. {Johnson.} I am asking you today. That is a simple
2754 question.

2755 Ms. {McCarthy.} I really--

2756 Mr. {Johnson.} Yes or no? Can I get with your--

2757 Ms. {McCarthy.} I will not make--

2758 Mr. {Johnson.} --team?

2759 Ms. {McCarthy.} --a commitment to go to your state on
2760 specific--

2761 Mr. {Johnson.} Okay. I am going to have my team--

2762 Ms. {McCarthy.} --unless you believe--

2763 Mr. {Johnson.} --reach out to your office to try to set

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2764 up that meeting, then, because I am going to take that as a
2765 yes. Is that what you just said? That you are willing to
2766 meet?

2767 Ms. {McCarthy.} No, I am always willing to talk to you,
2768 sir, but--

2769 Mr. {Johnson.} No, I am asking you will you come to
2770 Ohio and meet with the men and women--

2771 Ms. {McCarthy.} --from--

2772 Mr. {Johnson.} --reclaiming my time, Administrator
2773 McCarthy, it is a simple question. Will you arrange your
2774 schedule to come and meet with the people that are being
2775 affected in Ohio by the actions of your administration?

2776 Ms. {McCarthy.} I am happy to continue to talk to you,
2777 sir. If there is a stakeholder that we have excluded from
2778 the process, I will--

2779 Mr. {Johnson.} Will you come?

2780 Ms. {McCarthy.} --in.

2781 Mr. {Johnson.} You are not going to answer the
2782 question, so I will--on.

2783 Ms. {McCarthy.} Okay.

2784 Mr. {Johnson.} It is clear why you left those folks
2785 out, but I will set up the meeting, and we will reach out to

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2786 your team, and see if we can work that out.

2787 You know, nuclear power is our only high capacity base
2788 load generation source that emits no carbon dioxide. We have
2789 talked about that a little bit, but we are in danger of
2790 losing some units in our existing fleet for multiple of
2791 reasons. If any of them close, overall carbon dioxide
2792 emissions increase. That is a fact, because even if
2793 intermittent renewable energy, wind and solar, were to
2794 displace the power, it must be backed up by natural gas
2795 generation. So, therefore, I am concerned about how the
2796 rules treats our existing nuclear fleet. For example, plants
2797 that choose to go through the rigorous re-licensing process
2798 will not be considered the same as new nuclear units for
2799 compliance, and it seems to me that they should be.

2800 So here are my questions. Do you believe that the NRC
2801 will approve each and every nuclear re-licensing application
2802 it receives throughout the compliance period, and do you
2803 believe that every, or even most, operators will want to make
2804 the significant investment to pursue re-licensing? And
2805 before you answer that question, your new rule basically
2806 assumes a yes answer to both of those.

2807 Ms. {McCarthy.} I do not know the success of the NRC

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2808 process, in terms of re-licensing. I do know that we
2809 attempted to address nuclear energy, and point out its value
2810 in current base load, and its value in a low carbon strategy
2811 in this rulemaking, and we received a lot of comments on--

2812 Mr. {Johnson.} But you have assumed that every nuclear
2813 re-licensing application is going to be approved, and you
2814 have assumed that those nuclear facilities are going to
2815 actually go through that rigorous process, and investment to
2816 get there. And I am going to tell you, I think that is a
2817 flaw in your rulemaking. And it is something that you folks
2818 ought to look very, very closely at. And I apologize, Mr.
2819 Chairman, but I have exhausted my time as well, and I yield
2820 back.

2821 Mr. {Whitfield.} Gentleman yields back. At this time
2822 recognize the gentleman from Indiana, Dr. Buchson, for 5
2823 minutes.

2824 Mr. {Buchson.} Thank you, Mr. Chairman. Excuse me.
2825 Thank you for being here, we appreciate it.

2826 Ms. {McCarthy.} Thank you.

2827 Mr. {Buchson.} Climate is changing. It has always been
2828 changing, for centuries. We know that. I think reasonable
2829 people can continue to have a debate about the human impact

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2830 on that. That said, I think we all can agree that we should
2831 always be working towards improving our emissions as we
2832 generate power. But my position is that we should be doing
2833 this through innovation and technology development, and not
2834 through overreaching Federal regulation.

2835 Would you agree that, in general, a rule that is
2836 proposed, on any subject, really, should be based on the
2837 availability of the technology to comply with the rule? Or,
2838 if the technology isn't available, would you agree that maybe
2839 that rule needs to be revisited?

2840 Ms. {McCarthy.} Well, we certainly know that, when we
2841 rely on a technology as part of our standard setting process,
2842 that we have to do our due diligence on that technology.

2843 Mr. {Buchson.} Well, that said, and I am not going to
2844 repeat what one of my colleagues talked about on carbon
2845 capture, the Administration has taken a position that no new
2846 coal plants should be built in the United States unless they
2847 are equipped with CCS technologies, which were earlier
2848 pointed out, but right now there is nothing that has been
2849 demonstrable to be successful to accomplish that. And the
2850 one that you are quoting is not in the United States, and
2851 actually may very well not be financially successful.

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2852 But right now you are aware that Germany is building new
2853 coal plants without CCS, as is other countries in Europe, and
2854 in Japan? Does the EPA object to that?

2855 Ms. {McCarthy.} Well, the EPA certainly is looking to
2856 be able, not just EPA, but across the Administration, to
2857 provide opportunities for continued advancement of the
2858 technology, and to ensure that coal gets cleaner over time so
2859 it is part of a clean energy future.

2860 Mr. {Buchson.} And because these countries are building
2861 state of the art new power plants without CCS, shouldn't we
2862 allow them to be built in the United States?

2863 Ms. {McCarthy.} They have different energy strategies,
2864 sir. I know they are heavily investing in a variety of
2865 things, so I am not--

2866 Mr. {Buchson.} Actually, they are investing in coal,
2867 and getting out of other energy sources because the other
2868 energy sources, they can't afford them anymore. They are so
2869 subsidized by the government, the citizens can't afford to
2870 pay for the power, so they are going back to lower cost
2871 energy. That is the truth.

2872 I want to switch gears, though. I want to talk about
2873 another subject. I was a medical doctor before I was in

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2874 Congress, and--about medical incinerators. And this has to
2875 do not with just Ebola, but other things, and--

2876 Ms. {McCarthy.} Um-hum.

2877 Mr. {Buchson.} --one of the methods recommended by the
2878 CDC for treating infectious medical waste, such as Ebola, is--
2879 -and over the past 2 decades, really, the EPA has regulated
2880 hundreds of medical waste incinerators out of existence,
2881 thereby limiting options for hospitals to properly dispose of
2882 extremely dangerous material.

2883 So my question is what are our options? I mean, the EPA
2884 has limited the option. In the name of public health, what
2885 technologies are available for hospitals and first responders
2886 to deal with the threat of medical waste? Ebola waste, for
2887 example, but others? And what resources has the EPA
2888 dedicated to determine such technologies comply with its
2889 standards before we have other problems, potentially other
2890 outbreaks?

2891 Ms. {McCarthy.} Sir, I think EPA standards have ensured
2892 that our medical waste facilities can actually properly
2893 manage waste. I think, if you have been in the industry a
2894 long time, you will know that there are a lot of facilities
2895 out there that weren't properly managing normal medical

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2896 waste, never mind the challenge of Ebola contaminated--

2897 Mr. {Buchson.} Fair enough.

2898 Ms. {McCarthy.} --waste. And we are working very

2899 closely across the Administration, and with the CDC and

2900 others, to ensure that there is a pathway forward to handle

2901 Ebola waste. And waste incinerators today are capable of

2902 handling that waste very effectively.

2903 Mr. {Buchson.} And, you know, how many are there in the

2904 U.S., you know, that can handle that? Do you have any

2905 ballpark idea?

2906 Ms. {McCarthy.} I don't--

2907 Mr. {Buchson.} I don't off the top of my head either.

2908 Ms. {McCarthy.} I certainly will follow up, if you--

2909 Mr. {Buchson.} Well, this is something, I think, that,

2910 you know, from the medical community standpoint, when you,

2911 you know, that is an issue, and it sounds like the EPA's, you

2912 know, takes that seriously, and wants to--

2913 Ms. {McCarthy.} And we have brought them--

2914 Mr. {Buchson.} --make sure that we--

2915 Ms. {McCarthy.} --all together to talk about this--

2916 Mr. {Buchson.} --can deal with it.

2917 Ms. {McCarthy.} --issue during the crisis, and we will

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2918 continue to work with--

2919 Mr. {Buchson.} Yeah.

2920 Ms. {McCarthy.} --them on it.

2921 Mr. {Buchson.} And I would argue that, you know,
2922 potentially, with the threat of ISIS and other organizations
2923 that, you know, dealing with this potential type of outbreak
2924 is a national security issue, and we shouldn't just deal with
2925 it on the front end, but on the back end, you know, if we
2926 have to start dealing with that. And so I would implore you
2927 to look into that.

2928 Ms. {McCarthy.} We will do that.

2929 Mr. {Buchson.} So, again, you stated earlier, but I
2930 want you to say again, does the EPA plan to revise its
2931 proposed rule for new coal fired power plants to eliminate
2932 the CCS mandate, based on the discussion we had previously
2933 about what other countries are doing, and about the fact that
2934 there doesn't appear to be technology available currently to
2935 comply with that mandate?

2936 Ms. {McCarthy.} There has been no final decision made,
2937 sir. We will look really closely at the comments that have
2938 come in. I understand that many have come in on this very
2939 issue, and we will look closely at them.

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2940 Mr. {Buchson.} Thank you very much. I yield back, Mr.
2941 Chairman.

2942 Mr. {Whitfield.} Gentleman yields back. At this time
2943 recognize the gentleman from Oklahoma, Mr. Mullin, for 5
2944 minutes.

2945 Mr. {Mullin.} Thank you, Mr. Chairman. Ma'am, can you
2946 just quickly sum up what the EPA's mission statement is for
2947 me?

2948 Ms. {McCarthy.} Yes. It is to protect public health
2949 and the environment.

2950 Mr. {Mullin.} But not to raise revenue, or to write
2951 fines, or anything like that? It is just to--

2952 Ms. {McCarthy.} Not to raise revenue?

2953 Mr. {Mullin.} --protect the public health, right?

2954 Ms. {McCarthy.} Yes.

2955 Mr. {Mullin.} Okay. Can you tell me the total amount
2956 of fines that the EPA assessed--now, this is off your
2957 website, I got this directly from you guys--in FY '14?

2958 Ms. {McCarthy.} I do not have that--

2959 Mr. {Mullin.} Let me go through this. Administrative
2960 penalty assessed, this is according to your website. Fiscal
2961 year 2014, \$44 million. Judicial penalties assessed, \$56

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2962 million. State and local judicial penalties assessed from
2963 joint Federal, state, local enforcement actions, \$7 million.
2964 Supplemented penalties, \$11 million. Fiscal year 2012,
2965 according to your website, administrative penalties assessed,
2966 52,022,612. Judicial penalties assessed, \$155,539,269.
2967 State and local judicial penalties assessed, \$49,000,231.
2968 Supplemented penalties, \$4,658,000.

2969 I say all that because it seems like, to me, every time
2970 we are cutting--now, I may make an assumption here, so stay
2971 with me. Your total budget for fiscal year 2014 was \$8.2
2972 billion. Is that not enough to operate the EPA with?

2973 Ms. {McCarthy.} Sir, it might help to know that those
2974 funds actually go to the Treasury, not to EPA.

2975 Mr. {Mullin.} Well, then, if that is the case, they why
2976 was Webco Industry fined 395--or \$387,369 for not filing a
2977 TRA report--

2978 Ms. {McCarthy.} A TRA--

2979 Mr. {Mullin.} --which is a one page paper? Now, they
2980 had never been in problems, or had any issues with the
2981 administrator. They have had this facility for many, many
2982 years, but they failed to file it one time. Yet on their
2983 other facilities, they had filed it, but this one was an

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2984 oversight, and you guys came in and fined them \$387,000,
2985 which is astounding to me for a piece of paper, but yet you
2986 said if they paid it in 10 days, you would knock it down to
2987 \$193,679. And when they asked if that could be paid--if
2988 they--that money could be used for an environmental project,
2989 which is historically what you guys allow to do when it is a
2990 reporting issue, they were told by your agent, the EPA's
2991 agent, no, you all needed the funding.

2992 Ms. {McCarthy.} I don't know how that could be
2993 accurate, sir, when we don't get the funding.

2994 Mr. {Mullin.} But there is an exception to that rule.
2995 If you look at the bill that you are referring to, that the
2996 money is supposed to be going to the Treasury, there is
2997 exceptions to that. Do you know what those exceptions are?
2998 If you look at it, if you look at the statute that you are
2999 talking to, there are areas in there that allows that money,
3000 depending on how it is written, or what it is assessed for,
3001 for you guys to keep. So can you tell me that all this money
3002 was surrendered back to the Treasury?

3003 Ms. {McCarthy.} That is my understanding, and I know of
3004 no--

3005 Mr. {Mullin.} Do you know that for a fact?

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3006 Ms. {McCarthy.} I--

3007 Mr. {Mullin.} Because we are going through it too,
3008 ma'am. And I say this because we are going through this
3009 process of trying to determine how these fines are even being
3010 assessed, how you come up with the dollars that you are
3011 fining individuals. All this money that I had stated was
3012 coming right out of the back pockets of business owners,
3013 coming straight out of the economy, going where?

3014 Ms. {McCarthy.} It is going--

3015 Mr. {Mullin.} And what did it do--

3016 Ms. {McCarthy.} --Treasury, sir.

3017 Mr. {Mullin.} --when we are talking about--

3018 Ms. {McCarthy.} The only thing--

3019 Mr. {Mullin.} --protecting the health--ma'am, hold on.
3020 What are we doing when we are talking about protecting the
3021 health of individuals? How does a \$387,000 fine protect the
3022 health of somebody when it was a piece of paper? There was
3023 nothing else.

3024 Ms. {McCarthy.} We are talking about enforcement that
3025 allows us to level the playing field for businesses that are
3026 doing what they are supposed to do, not--

3027 Mr. {Mullin.} Level the playing field?

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3028 Ms. {McCarthy.} --and that--actually make sure that we
3029 are providing the health benefits that our rules are
3030 anticipating.

3031 Mr. {Mullin.} How is this leveling the playing field?
3032 Who is it leveling it for, other than punishing a company?

3033 Ms. {McCarthy.} The only thing I can think of, sir, to
3034 go back to your original question about the law, is that
3035 there may be an exception that you are citing that is for
3036 superfund money from responsible parties that EPA gets to
3037 collect, and then disperse to pay for the cleanup. That is
3038 the only instance in which I know of that a fine would ever
3039 directly benefit our--

3040 Mr. {Mullin.} And why would you guys give them--

3041 Ms. {McCarthy.} --other than--

3042 Mr. {Mullin.} --10 days and drop it by \$200,000 if they
3043 paid it in 10 days?

3044 Ms. {McCarthy.} You know, this is--

3045 Mr. {Mullin.} And that--and, ma'am, this has happened
3046 to me personally too--

3047 Ms. {McCarthy.} Sir, I am--

3048 Mr. {Mullin.} --in my company.

3049 Ms. {McCarthy.} --happy to sit down and--so you have a

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3050 company that has been fined?

3051 Mr. {Mullin.} Yes. Yes, we have.

3052 Ms. {McCarthy.} Well, then I am happy to sit down with
3053 you in your current position, or as the person who runs that
3054 company, to walk through that issue.

3055 Mr. {Mullin.} No, what we are going at is trying to
3056 figure out why we can't even get a sane--and even
3057 understanding why the fines are being assessed the way they
3058 are, and yet you guys are willing to immediately knock it
3059 down by \$200,000. Now, our fine wasn't nowhere near this--

3060 Ms. {McCarthy.} Sir, I will not apologize for this
3061 agency strongly enforcing the rules that the American public--
3062 -

3063 Mr. {Mullin.} No, you are making your own rules up as
3064 you go.

3065 Ms. {McCarthy.} No, sir.

3066 Mr. {Whitfield.} Gentleman's time has expired. At this
3067 time I would recognize the gentleman from North Dakota, Mr.
3068 Cramer, for 5 minutes.

3069 Mr. {Cramer.} Thank you, Mr. Chairman, and thank you,
3070 Madam Administrator. Nice to see you again. It is always
3071 nice--

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3072 Ms. {McCarthy.} You too.

3073 Mr. {Cramer.} --to see you.

3074 Ms. {McCarthy.} You too.

3075 Mr. {Cramer.} I am having a hard time knowing where to

3076 begin, because I have so many issues, but I think I will

3077 start with the Waters of the U.S. rule--

3078 Ms. {McCarthy.} Okay.

3079 Mr. {Cramer.} --because I think it is especially

3080 relevant to the budgets, considering the appropriations.

3081 Ms. {McCarthy.} Sure.

3082 Mr. {Cramer.} We have provided some guidance, I think,

3083 in the most recent one. Do you regret not utilizing a small

3084 business advocacy review panel? And realizing you share this

3085 with the Corps of Engineers, but--

3086 Ms. {McCarthy.} Yeah.

3087 Mr. {Cramer.} --was that a mistake, to not do a RFA?

3088 Ms. {McCarthy.} No, I don't think so, because we

3089 actually have done a tremendous amount of outreach to small

3090 businesses looking at this rule, and I think we have the

3091 comments we need to have a successful final rule.

3092 Mr. {Cramer.} But the law requires an RFA, does it not?

3093 Which you did not--

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3094 Ms. {McCarthy.} Say that again?

3095 Mr. {Cramer.} But the law requires you to have done an
3096 RFA, which you--

3097 Ms. {McCarthy.} Actually--

3098 Mr. {Cramer.} --did not do.

3099 Ms. {McCarthy.} -- we went through the process of
3100 looking at whether or not we needed to stand up what we call
3101 a--panel. We consulted with OMB. That is the final
3102 decision-maker on this, and they both agreed that we had done
3103 the necessary outreach.

3104 Mr. {Cramer.} So have you responded, then, to the SBA's
3105 Office of Advocacy when they, of course, disagreed with your
3106 certification that it had an insignificant enough impact on
3107 small entities--

3108 Ms. {McCarthy.} I have not directly spoken to them, but
3109 certainly we have had interagency discussions on this. It is
3110 important to remember that the Clean Water Rule is a
3111 jurisdictional rule. It doesn't result in automatic permit
3112 decisions. It says that there are certain waters that need
3113 to be protected for drinking water, and that the permit
3114 decisions themselves are what actually will be the result of
3115 the impact and the further discussion.

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3116 Mr. {Cramer.} But I think that the rule, as I
3117 understand it, presumes to narrow the jurisdiction, but the
3118 SBA Office of Advocacy concludes that it does, in fact,
3119 broaden it. In fact, the economic analysis doesn't sync
3120 with, I guess, your analysis, or the EPA and the Corps'
3121 analysis.

3122 And I have to admit, when it gets to the issue of the
3123 lack of clarity, which the courts have stated, in the
3124 definition of what navigable waters is, I understand that
3125 that should be clarified, but it seems to me, as I look at
3126 the seven categories in the rule, the definition gets
3127 cloudier, not more specific, in my view. And, in fact, you
3128 know, if we end somewhere after, like, three out of the
3129 seven, that would be clear too, wouldn't it? Wouldn't it be
3130 just as clear to say navigable waters are waters that are
3131 navigable for interstate commerce, and leave it at that? Why
3132 wouldn't that be clear?

3133 Ms. {McCarthy.} Yeah. Actually, the area that lacks
3134 clarity right now is not the issue of navigable waters. The
3135 Supreme Court actually spoke very definitively that navigable
3136 waters need to be looked at in a way that isn't the
3137 traditional definition. We haven't been looking at navigable

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3138 waters the same way. It is a recognition that navigable
3139 waters, and their ability to provide the functions that we
3140 look for, are really severely impacted by the waters that
3141 flow into them.

3142 So the challenge we tried to face in the Clean Water
3143 Rule was to take a look at how do we identify those rivers,
3144 streams, tributaries, wetlands that feed into those navigable
3145 waters that we need to understand and protect so that they
3146 won't degrade those waters that are so--

3147 Mr. {Cramer.} Well, you have just used some new terms,
3148 new, at least, in this rule that--

3149 Ms. {McCarthy.} Yeah.

3150 Mr. {Cramer.} --weren't part of the previous one, and I
3151 would add neighboring--

3152 Ms. {McCarthy.} That is correct.

3153 Mr. {Cramer.} --you know, flood plain--

3154 Ms. {McCarthy.} Yes.

3155 Mr. {Cramer.} --in addition to--that is adding, not
3156 restricting, jurisdiction, in my view. It looks to me like
3157 you are reaching for more power, as opposed to further
3158 defining. And I just--

3159 Ms. {McCarthy.} Yeah.

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3160 Mr. {Cramer.} --am concerned that that is not the role
3161 of the EPA, but rather the role of Congress.

3162 Ms. {McCarthy.} I appreciate your asking that. I think
3163 we are actually looking at that as a way to be clearer, and
3164 to narrow this, because there is so much uncertainty that
3165 there are more case by case decisions being made than need to
3166 be made.

3167 Mr. {Cramer.} Um-hum.

3168 Ms. {McCarthy.} So we are trying to provide more
3169 clarity, but we also know there are a lot of questions, in
3170 terms of how people are reading the rule, whether we were
3171 clear in our intent--

3172 Mr. {Cramer.} Sure.

3173 Ms. {McCarthy.} --and clear in the language. And we
3174 will work through those issues moving forward so the final
3175 rule addresses some of those uncertainties.

3176 Mr. {Cramer.} Well, given the little time I have left,
3177 I am just going to make a couple of comments. One about--I
3178 hope that the FERC technical conferences are going well, and
3179 that you are paying close attention those as--

3180 Ms. {McCarthy.} Yeah, we are. Actually, Jenna McCabe,
3181 my assistant administration in the--program has attended

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3182 those, and we think they are excellent opportunities for us
3183 to understand what the energy world is--

3184 Mr. {Cramer.} I think that type of consultation earlier
3185 in the process would have been better, but I am glad to see
3186 it is happening now.

3187 With regard to Mr. Sarbanes's comments about the EPA
3188 being more in synch with the growing population, if you will,
3189 or something to that effect, I would just want to state that
3190 the absence of Congress acting on, say, cap and trade, or
3191 choosing to not pass cap and trade should not be viewed as
3192 neutrality by the people's House, or by the people's
3193 representatives, and somehow a license, therefore, to go
3194 ahead and catch up to the public, if you will.

3195 Because if public support is increasing for, whether it
3196 is the Climate Action Plan, or Clean Power Rule, I would also
3197 submit to you that the public is well ahead of the EPA, and
3198 more in line with the Congress with regard to, for example,
3199 the Keystone XL pipeline, which, so far, the only agency that
3200 has even said anything remotely negative has been the EPA,
3201 and, by the way, it wasn't all that negative--

3202 Ms. {McCarthy.} Thank you.

3203 Mr. {Cramer.} --referring to the--that we have to now

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3204 consider the lower price of oil. But I would just want to
3205 remind people that the price of oil was roughly what it is
3206 today when TransCanada applied for the Keystone XL pipeline.
3207 And I am over time. Thank you again.

3208 Ms. {McCarthy.} Thank you.

3209 Mr. {Whitfield.} Thank you.

3210 Ms. {McCarthy.} Thank you.

3211 Mr. {Whitfield.} At this time recognize the gentleman
3212 from Mississippi, Mr. Harper, for 5 minutes.

3213 Mr. {Harper.} Thank you, Mr. Chairman, and thank you,
3214 Ms. McCarthy, for being here. And I think we are near the
3215 end, so that is a good thing, so--

3216 Ms. {McCarthy.} That is a thank you too.

3217 Mr. {Harper.} Yes. If I could talk to you
3218 specifically, you know, we have a number of industries, a
3219 number of groups in my home State of Mississippi that, you
3220 know, are greatly impacted by rules that are promulgated and
3221 enforced. And one that I would like to just touch on for a
3222 minute would be our wood and pellet heating unit
3223 manufacturers, and their problems with the new source
3224 performance standards for wood heaters that the EPA just
3225 finalized. You know, it is something that really impacts us.

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3226 These are usually small businesses that don't have a lot of
3227 room in their budgets for R and D costs, in addition to
3228 testing lab fees, and those things.

3229 You know, I think with the first stage of this rule that
3230 most companies are going to be okay. They can probably get
3231 there, but the second stage, which I believe is scheduled to
3232 be implemented in 2020, that is going to be extremely costly.
3233 It sets very low emissions targets that I think are going to
3234 be almost impossible to achieve with the current technology
3235 that we have, and the resources. So my question is what
3236 budgetary support does the agency plan to provide to
3237 manufacturers as part of your goal to deal with the air
3238 quality issues that brought forth this?

3239 Ms. {McCarthy.} Well, Congressman, I want to first say
3240 that I believe your businesses were engaged in this, but we
3241 worked really hard with the small business constituencies on
3242 this, and the Small Business Administrator's Office for
3243 Advocacy. And we did make substantial changes in the final
3244 rule that actually sought to accommodate their interests, and
3245 making sure that there was fewer impacts, in terms of
3246 existing stoves that are generated and out there for sale, so
3247 that they could have additional time to get those sales out--

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3248 Mr. {Harper.} Um-hum.

3249 Ms. {McCarthy.} --but also to extend the timeline for
3250 compliance on these phases. So I apologize, I don't know the
3251 specific--

3252 Mr. {Harper.} Sure.

3253 Ms. {McCarthy.} --dates, so I can't confirm, but we did
3254 make a lot of changes. And I would be interested in hearing
3255 from you and working with you to see if they actually address
3256 the issues of concern.

3257 Mr. {Harper.} Well, we will make sure that we
3258 communicate further on that, because I believe it is
3259 something that would necessitate some additional discussion
3260 and movement and fairness. But what do I go back and tell
3261 those companies that are now looking at a large--either lab
3262 testing fees, or R and D costs that they don't really have in
3263 their budget to be profitable? What do I go back and tell
3264 them?

3265 Ms. {McCarthy.} Well, yeah, there was a--I think we did
3266 a good job trying to make sure that the testing components of
3267 these were moderate enough that they didn't impose a
3268 significant cost to the manufacturers. But the other thing
3269 to recognize, and this is something maybe we can work on

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3270 together, is in the past EPA and states and regions have had
3271 funds that actually support the distribution of these cleaner
3272 stoves. And I know that there are states that will be
3273 looking at these stoves as being opportunities for them to
3274 meet some of the air quality standards that they are facing,
3275 particularly in the particulate matter. If I can provide any
3276 opportunity for that dialogue to happen on how we could work
3277 together, it would be a pleasure for me to do that.

3278 Mr. {Harper.} Okay. All right. Thank you for that
3279 offer, and I believe we will follow up on that--

3280 Ms. {McCarthy.} Okay. That would be great.

3281 Mr. {Harper.} --with you. If I could take just--I
3282 believe the clock hit. I thought I had a little bit of time
3283 left. Maybe a minute and a half?

3284 Mr. {Whitfield.} Go ahead.

3285 Mr. {Harper.} We are--feel like the shot clock ran out,
3286 so--but what I would like to do to follow up is--on the issue
3287 of how much implementing the proposed Clean Power Plan will
3288 cost taxpayers. And this is--again, is specific to my home
3289 State of Mississippi. And I checked with our Mississippi
3290 Development Authority, and they indicated that the minimum
3291 incremental capital cost to Mississippi to comply with the

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3292 proposed rule will be \$14.2 billion--

3293 Ms. {McCarthy.} Wow.

3294 Mr. {Harper.} --which will primarily consist of
3295 constructing generating facilities not likely to be built,
3296 unless compelled by Federal mandate, and the rule will almost
3297 certainly cause the premature closure of existing coal plants
3298 in Mississippi, which would, of course, place upward pressure
3299 on electricity prices. If the cost to Mississippi to
3300 implement the Clean Power Plan would be \$14.2 billion, would
3301 you agree that this is too much to ask of Mississippi
3302 consumers? Would the EPA revise the state's targets?

3303 Ms. {McCarthy.} Well, we certainly--our economic
3304 analysis certainly didn't indicate that that was an amount
3305 that would be necessary for Mississippi to spend. In fact, I
3306 think it may even be lower than what we estimated at our
3307 lower range for the entire United States. So we should be
3308 sitting down and talking through what the options are that we
3309 think provided tremendous flexibility for every state to
3310 design a very cost effective strategy.

3311 Mr. {Harper.} Do you have a figure for Mississippi?

3312 Ms. {McCarthy.} I do not. I do not believe we broke it
3313 down by individual state, but we certainly could have those

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3314 conversations with the state--

3315 Mr. {Harper.} Okay.

3316 Ms. {McCarthy.} --about what their underpinnings were
3317 that came up with that number. Because clearly it seems like
3318 it is order of magnitudes larger than one would expect.

3319 Mr. {Harper.} Thank you, and I think my time expired
3320 twice. Thank you.

3321 Mr. {Whitfield.} At this time we welcome back Mr.
3322 Scalise, our Majority Whip, and recognize him for 5 minutes.

3323 Mr. {Scalise.} Thank you, Mr. Chairman, I appreciate.
3324 And, Administrator McCarthy, it is great to see you back
3325 here.

3326 Ms. {McCarthy.} You too.

3327 Mr. {Scalise.} Thanks for coming to--

3328 Ms. {McCarthy.} You too.

3329 Mr. {Scalise.} --testify about your budget. And, of
3330 course, this is part of our oversight role, to go through
3331 and, obviously, look at some of the proposals that are going
3332 to be--

3333 Ms. {McCarthy.} Yeah.

3334 Mr. {Scalise.} --made by the Department throughout the
3335 year. I want to talk to you about some of the proposals that

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3336 not only are being proposed, and some of the impacts that we
3337 are seeing, and how they might have some devastating impacts
3338 in our local economies, but also ask about some of the others
3339 in the past. Because, as you make proposals, you also attach
3340 to them what types of impacts it might have in certain ways.
3341 And I want to take, for example, the Mercury and Air Toxics
3342 Rule.

3343 Some other Federal agencies, like FERC, when they were
3344 looking at this, said that plant closures would be much
3345 higher than the EPA estimates were going to be. It seemed to
3346 me, when EPA got this information, you all kind of scoffed at
3347 it. But, in retrospect, now that we can look back and see,
3348 the Administration's own data concedes that the MATS rule
3349 will actually shutter 10 times more the amount of electricity
3350 generation than you all originally anticipated. How do you
3351 respond to something like that, when even other agencies
3352 within the Obama Administration were saying what you were
3353 proposing was going to be devastating to electricity--

3354 Ms. {McCarthy.} Well, we--

3355 Mr. {Scalise.} --generation, and even more than what
3356 you all were anticipating, and it turned out you were way
3357 off? I mean, 10 times off on your estimates.

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3358 Ms. {McCarthy.} Actually, sir, I am not necessarily
3359 agreeing that the mercury and air toxic standard was the
3360 precipitator for all of the closures that we are seeing--

3361 Mr. {Scalise.} But FERC made that warning too. I mean,
3362 are you disputing what FERC--

3363 Ms. {McCarthy.} There were--

3364 Mr. {Scalise.} --claimed?

3365 Ms. {McCarthy.} No. There were concerns raised about
3366 closures. There were concerns raised about reliability and
3367 cost, which is why we worked with DOE and FERC to address
3368 those issues together. And, frankly, none of those concerns
3369 have proven to be a reality.

3370 Mr. {Scalise.} So you are--

3371 Ms. {McCarthy.} April--

3372 Mr. {Scalise.} --disputing that they--

3373 Ms. {McCarthy.} April is when--

3374 Mr. {Scalise.} --had those shutterings of electricity
3375 generation, the 10 times increase in the shuttering of
3376 electricity generation that has occurred since the MATS rule?

3377 Ms. {McCarthy.} No, I did not--

3378 Mr. {Scalise.} Are you disputing that?

3379 Ms. {McCarthy.} --say that. I said that there were a

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3380 number of closures. Whether they were attributable to the
3381 MATS rule, or the simple fact that the energy world is
3382 transitioning, is the question that I am--

3383 Mr. {Scalise.} People need more electricity, and then
3384 you come out with a rule that other agencies said were going
3385 to have devastating impacts, much worse than you anticipated,
3386 and those things happen, and then you say, well, yeah, it
3387 happened, but maybe it wasn't our fault.

3388 Ms. {McCarthy.} We factored those issues in when--

3389 Mr. {Scalise.} Why would they shutter--

3390 Ms. {McCarthy.} --did our modeling?

3391 Mr. {Scalise.} --those plants?

3392 Ms. {McCarthy.} The shuttering of those plants were a
3393 market decision that the market made--

3394 Mr. {Scalise.} A market decision based on unachievable
3395 standards that are coming out of the--

3396 Ms. {McCarthy.} No, actually--

3397 Mr. {Scalise.} We are seeing this time and time again.

3398 Ms. {McCarthy.} The compliance timeline is this April,
3399 and we have not received any request, legitimate request, to
3400 extend that timeline beyond what is already affordable and
3401 factored in.

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3402 Mr. {Scalise.} Well, then maybe you are not factoring
3403 enough things, because you factored in that the MATS rule
3404 would only have a minor impact on electricity bills, and yet
3405 Midwest future electricity capacity prices have already
3406 skyrocketed over 340 percent, largely due to MATS. So that--
3407 you said it is not going to have an increase in rates, and
3408 they have had a 340 percent increase in rates in the Midwest.
3409 You need to go back and look at some of the stuff, because--I
3410 know the President loves talking about global warming, and,
3411 you know, they are canceling flights all across the country
3412 due to snow blizzards, and people are trying to heat their
3413 homes, and these rules are having dramatic impacts.

3414 I want you to answer some questions about a study that
3415 just came out by the Beacon Hill Institute at Suffolk
3416 University in Boston. I am not sure if you are familiar--

3417 Ms. {McCarthy.} I am.

3418 Mr. {Scalise.} --with the study that just came out.

3419 Ms. {McCarthy.} No, I am not--

3420 Mr. {Scalise.} You--definitely with--

3421 Ms. {McCarthy.} --familiar with--

3422 Mr. {Scalise.} --Suffolk University.

3423 Ms. {McCarthy.} Yes.

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3424 Mr. {Scalise.} They just came out with an economic
3425 impact study on the effects of the new EPA rules on the
3426 United States. I would ask unanimous consent if we can
3427 submit this report into the--

3428 Mr. {Whitfield.} Without--

3429 Mr. {Scalise.} In this report, they go through and they
3430 break down not only national impacts, which are devastating,
3431 but they go state by state. So in my State of Louisiana, the
3432 Pelican Institute for Public Policy, which looks at a lot of
3433 this information, and looks at economic data, they went and
3434 broke this down, and looked at the report, and, according to
3435 what they have seen, you would have an impact, in my State of
3436 Louisiana alone, of an increase in utility rates by 22
3437 percent. Electricity prices would go up 22 percent by 2030.
3438 The State of Louisiana alone would lose over 16,000 jobs,
3439 based on these rules.

3440 And you just have to ask--I will read a quote from Kevin
3441 Kane, who is the President of the Pelican Institute, ``Along
3442 with these significant costs, it is worth noting that the
3443 increases in electricity prices would disproportionately
3444 affect lower income Louisianans, who spend approximately 70
3445 percent''--7-0--``70 percent of their after-tax income on

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3446 energy. These costs need to be taken into consideration by
3447 state and Federal policymakers.' ' Are you all taking into
3448 consideration devastating impacts like this on rules that you
3449 are proposing, where you would increase people's electricity
3450 rates? Lower income people that would be harmed heavily by
3451 this, by 22 percent, and over 16,000 jobs lost in one state
3452 alone. And, of course, this is national in the impact this
3453 would have.

3454 Ms. {McCarthy.} I don't know what study you are talking
3455 about, what rules they are looking at--

3456 Mr. {Scalise.} I will--yeah, this is--

3457 Ms. {McCarthy.} --but I do know that--

3458 Mr. {Scalise.} This is the Suffolk University study
3459 that looks at the impact of--

3460 Ms. {McCarthy.} I am happy to take--

3461 Mr. {Scalise.} --the new EPA rules.

3462 Ms. {McCarthy.} I am happy to take a look at it, but I
3463 know that Congress has actually charged us to do exactly
3464 that, to take a look at the costs and benefits, and all the
3465 economic--

3466 Mr. {Scalise.} So I would urge you to look at this
3467 study--

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3468 Ms. {McCarthy.} And when we have done that--

3469 Mr. {Scalise.} --and taking them, and if you would have
3470 heard--

3471 Ms. {McCarthy.} When we have done that, we have not
3472 seen the damage that you are indicating. We have seen that
3473 we are actually--

3474 Mr. {Scalise.} Well, we have seen that. I just--340--

3475 Ms. {McCarthy.} --part and parcel of a growing--

3476 Mr. {Scalise.} --percent increase--

3477 Ms. {McCarthy.} --economy.

3478 Mr. {Scalise.} --in electricity prices in the Midwest
3479 alone. It has happened. This isn't a study. That happened
3480 in the Midwest. Anyway, if you can look at this study--

3481 Ms. {McCarthy.} I would be more than--

3482 Mr. {Scalise.} --in relation to these proposed--

3483 Ms. {McCarthy.} Yeah.

3484 Mr. {Scalise.} --rules, please--

3485 Ms. {McCarthy.} Let me do that.

3486 Mr. {Scalise.} --these jobs.

3487 Ms. {McCarthy.} Okay. That would be great.

3488 Mr. {Scalise.} Yield back the balance of my time.

3489 Mr. {Whitfield.} Gentleman's time has expired, and that

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3490 concludes the--

3491 Mr. {Tonko.} Mr. Chair?

3492 Mr. {Whitfield.} Yes?

3493 Mr. {Tonko.} If I might, I would just like to thank the
3494 Administrator for her presentation today and her dialogue
3495 with the Committee. But I think there were a number of
3496 instances where members had asked the witness questions, and
3497 then didn't give her the opportunity to respond to that, so I
3498 think we should extend the opportunity, if she so chooses, to
3499 respond to any of those situations today, and would also make
3500 the plea to the Committee that we interact with these
3501 witnesses in a much more courteous and substantive style so
3502 that we can achieve what we are all hoping to achieve. And I
3503 would yield back.

3504 Mr. {Whitfield.} Well, I think most people were pretty
3505 courteous today, and I do know that there are questions that
3506 were submitted that you said you would be getting back to the
3507 Committee with answers. And if there is some response that
3508 you feel like you were not given an opportunity to make, I
3509 will be happy to give you that opportunity now to respond.

3510 Ms. {McCarthy.} Well, Mr. Chairman, first of all, you
3511 are always a gentleman, and I appreciate that very much, and

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3512 the only issue that I didn't get a chance to talk about a
3513 little bit more specifically that I wish I would have is the
3514 issue that Mr. Griffith pointed out, on this 111, 112 issue.

3515 And the only thing I would have pointed out is that he
3516 was quoting from our defense of the Clean Air Mercury Rule.
3517 And the reason why we were defending that way is because the
3518 conflict occurred in CAMR that does not occur in 111(d) in
3519 our Clean Power Plan because that was about the same source
3520 category, the same pollutant, being regulated under two
3521 different sections. We do not have that conflict here, so we
3522 do not believe that that issue is really going to impact the
3523 legal viability of the Clean Power Plan. But I thank you
3524 very much for raising this, and for allowing me the honor to
3525 testify before you today.

3526 Mr. {Whitfield.} Well, I think one thing that is
3527 certain is that courts are unpredictable, and we never know
3528 precisely how they are going to decide, so--

3529 Ms. {McCarthy.} That is for sure. We can all agree on
3530 that.

3531 Mr. {Whitfield.} But we do thank you for being with us
3532 today, and taking the time to discuss the fiscal year 2016
3533 budget, and look forward to working with you as we move

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3534 forward. That will conclude today's hearing. The record
3535 will remain open for 10 days, and we do look forward to
3536 getting the responses that you committed to giving back--

3537 Ms. {McCarthy.} Thank you, sir.

3538 Mr. {Whitfield.} --to the Committee.

3539 Ms. {McCarthy.} Thank you.

3540 Mr. {Whitfield.} Thank you. Meeting is adjourned.

3541 [Whereupon, at 12:52 p.m., the Subcommittees were
3542 adjourned.]