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EPA'S CO2 REGULATIONS

FOR NEW AND EXISTING PLANTS

WEDNESDAY, OCTOBER 7, 2015

House of Representatives

Subcommittee on Energy and Power

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2123 Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Members present: Representatives Whitfield, Barton, Olson, Shimkus, Pitts, Latta, Harper, McKinley, Pompeo, Kinzinger, Griffith, Johnson, Long, Ellmers, Flores, Mullin, Upton (ex officio), Rush, McNerney, Tonko, Green, Capps, Doyle, Castor, Sarbanes, Welch, Yarmuth, Loeb sack, and Pallone (ex officio).

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Staff present: Nick Abraham, Legislative Associate, Energy and Power; Will Batson, Legislative Clerk; Leighton Brown, Press Assistant; Patrick Currier, Senior Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Mary Neumayr, Senior Energy Counsel; Chris Sarley, Policy Coordinator, Environment and Economy; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Andy Zach, Counsel, Environment and Economy; Jeff Carroll, Staff Director; Timia Crisp, AAAS Fellow; Caitlin Haberman, Professional Staff Member; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Josh Lewis, EPA Detailee; Alexander Ratner, Policy Analyst.

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1 Mr. Whitfield. I would like to call the hearing to order this
2 morning, and the subject, of course, is the hearing on EPA's CO2
3 Regulations for New and Existing Power Plants. And then, of
4 course, also you all have a proposed rule that is part of this
5 relating to a Federal Implementation Plan in the event states do
6 not act.

7 And, first of all, Ms. McCabe, we appreciate your being with
8 us this morning as the Acting Assistant Administrator. You've been
9 here many times before, and we genuinely appreciate your being
10 here.

11 At this time, I would recognize myself for five minutes for
12 an opening statement.

13 Not too many years ago, an autobiography was compiled of
14 Harry Truman and it was entitled, "Plain Speaking," and that's
15 what I intend to do with my opening statement today, just do some
16 plain speaking.

17 In July, the United States Supreme Court ruled in the
18 Michigan Case that EPA had acted unreasonably and beyond its scope
19 of authority on Utility MACT by not considering cost. And I was
20 really taken back a little bit by the response that Ms. McCarthy
21 and other spokesmen for EPA gave when they were questioned about
22 that Supreme Court decision.

23 Basically, every one of them said the regulation was

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24 finalized three years ago, the companies have already spent the
25 money, so everything has been accomplished, and so basically sort
26 of negating any emphasis on the Supreme Court's decision. And we
27 perceive that that's precisely what is going to happen with this
28 existing and new coal plant rule, that your goal is to have this
29 implemented; lawsuits we know are going to be filed, but you want
30 to have it implemented so that if the Supreme Court rules against
31 you, everything has already been done.

32 Now, on the new coal plant rule we have serious problems with
33 it. You know that. Initially, you gave as an example four plants
34 that showed that carbon capture sequestration could be used in
35 these coal plants. One was in Texas, which has not been built;
36 one was in California, which has not been built; one was in
37 Mississippi, which has had extensive cost overruns and without
38 significant investment from the federal government never would
39 have been built; and then you've got the Canadian plant, which
40 is really a unit, 110 megawatts. It costs over \$1 billion a year.
41 So, there's not any practical way available for anyone using
42 reasonable cost figures to comply with this new rule, because the
43 emission standard is so low that it simply cannot be achieved.

44 And then on the existing coal plant rule you all talk
45 frequently about oh, we're flexible, and we're maximum
46 flexibility to the states, but you arbitrarily set the CO2

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47 emission caps for every state, so it's going to be extremely
48 difficult for many of the states to reach these caps.

49 Now, when I go down to the District in Kentucky and around
50 the country, I hear a lot about this is a rogue agency out to do
51 in the fossil fuel industry. Many people view you as nothing but
52 a political arm of the White House today, as a result of the
53 President's Georgetown speech in which he said, "I want EPA to
54 act." And you all have followed that rule and you've acted. You've
55 actually become a legislative arm, because Congress considered
56 cap and trade, Congress considered CO2 emissions, and Congress
57 did not act. And I've heard people at EPA and the President say
58 repeatedly, "Congress did not act, so we are going to act."

59 And not only did the Supreme Court invalidate our question
60 and call it unreasonable and acting beyond your scope of authority
61 under the Michigan Case, but also in the tailoring rule. It said
62 you went beyond your scope of authority. And then on this existing
63 rule, how can we ever forget that one of the preeminent
64 constitutional lawyers in the country, Larry Tribe, sat right
65 there and said, "You're burning the Constitution by these
66 actions." And you had to reverse about 30 years of legal opinions
67 of EPA itself in order to say you have the authority to act under
68 111(d).

69 So, we very much concerned about your running roughshod over

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70 the U.S. House of Representatives, U.S. Senate, the governors,
71 the attorney generals, the utilities, the people in the fossil
72 fuel industry, the employees, and the American taxpayers. And it's
73 interesting, the EIA recently reported 2014 electricity rates
74 went up 14 percent, and this year they anticipate them up another
75 10 percent, but coal prices are down, natural gas prices are down,
76 and oil prices are down; and, yet, all these independent reports
77 say they're going up because of regulations. So, this committee
78 we're going to continue to do everything we can do to stop you.
79 And not only that, but we're urging governors to take action to
80 stop you. And we know that lawsuits are going to continue to be
81 filed, and this will be a big issue in 2016.

82 So with that, my time has expired and I would like to
83 recognize at this time the gentleman from Illinois, Mr. Rush.

84 Mr. Rush. 2016 is right around the corner, Mr. Chairman, and
85 let us all buckle our seat with this wild ride to 2016. I want
86 to thank you, Mr. Chairman, for holding today's hearing on the
87 EPA's carbon rules. Certainly, to me, it feels like deja vu all
88 over again.

89 I also want to thank Assistant Administrator, Ms. McCabe,
90 for being here today. And as always, I look forward to your
91 thoughtful, insightful, and expert testimony on the matter at
92 hand.

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93 Mr. Chairman, today we will examine EPA's carbon regulation
94 for the exceedingly umpteenth time. At the very outset, I must
95 emphatically commend the agency for its open, its honest
96 responsiveness to stakeholders' concerns in issuing its final
97 rule.

98 Mr. Chairman, since the last time Ms. McCabe testified before
99 this subcommittee and after serious consideration of thousands
100 of comments from various stakeholders, EPA has made significant
101 changes to the Clean Power Plan.

102 In regards to timing, the compliance period was pushed back
103 from 2020 to 2022. In the interim reduction goals can be achieved
104 more gradually between 2022 and 2029, and states are provided
105 additional flexibility for reducing their emission from years
106 2022 all the way up to the year 2030.

107 Additionally, Mr. Chairman, EPA's final rule provides states
108 up to three years if necessary to submit a state plan and also
109 propose a model rule that makes it easier for states to adopt
110 interstate trading as many of them had requested.

111 No doubt, Mr. Chairman, in response to concerns voiced here
112 repeatedly, EPA's final rule now requires states to consider
113 reliability when developing their plans. It allows flexibility
114 to include a variety of approaches to achieving their goals, and
115 it provides a reliability safety valve for extraordinary

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116 circumstances. So, Mr. Chairman, after unprecedented public
117 outreach and engagement, EPA was able to finalize a rule that is
118 fair, that is flexible, and that demonstrates to the world that
119 the U.S. is, indeed, serious in its commitment to lower its carbon
120 imprint in order to address climate change.

121 And why are these rules so necessary and essential? Plainly
122 speaking, Mr. Chairman, from the vast majority of the American
123 people to the overwhelming majority of the world's climatologists
124 and scientists, from the leaders of the world's most advanced
125 nations to Pope Francis, it seems that almost everyone everywhere
126 understands that climate change is real, and is posing an
127 existential threat to the future of our home, this great planet
128 that we were given stewardship over. That is everyone except the
129 majority party in this Congress.

130 Plainly speaking, Mr. Chairman, as Mother Nature continues
131 to demonstrate annually year by year, extreme weather patterns
132 and catastrophic events occurring more frequently in every region
133 of our great nation, climate change is not a hoax. Climate change
134 is not a joke, and climate change is not something that this U.S.
135 Government can continue to ignore or to take lightly, Mr.
136 Chairman. Mr. Chairman, climate change is not a hoax. Let's take
137 it seriously. It's a serious matter.

138 Plainly speaking, Mr. Chairman, while the majority party

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139 continues to put its collective heads in the sand and ignore the
140 facts, devastating wildfires burn in the West, the Southeast
141 experiencing, "thousand year floods." The Midwest and Plain
142 States see record drought and crop loss, and the American people
143 are standing by anxiously awaiting for some leadership, some
144 leadership on this very important issue from you, from me, from
145 other elected officials, those of us who are members of this
146 Congress.

147 Mr. Chairman, I applaud the President and the EPA for
148 standing up to protect the environment on behalf of those families
149 out there waiting for their government to act.

150 Thank you, and I yield back the balance of my time.

151 Mr. Whitfield. Thank you, Mr. Rush.

152 At this time, the Chair recognizes the Ranking Member of the
153 Full Committee, Mr. Pallone, for five minutes.

154 Mr. Pallone. Thank you, Mr. Chairman.

155 I applaud EPA's efforts to finalize the Clean Power Plan,
156 which is an historic and important step in our ongoing battle
157 against the threat of unchecked climate change.

158 According to NOAA, 2014 was the warmest year ever recorded,
159 and nine of the ten hottest years have occurred since 2000. In
160 fact, this past summer was the hottest on record, and 2015 is well
161 on its way to surpassing last year's record. Every corner of the

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162 earth is going to be affected.

163 Representing a coastal area that saw firsthand the damage
164 done by Superstorm Sandy, I'm particular concerned about extreme
165 weather events and sea level rise. We're already experiencing
166 warmer and more frequent hot days, more frequent and heavier
167 rainstorms, drier and longer droughts, and more extreme high sea
168 levels. In the past week, North and South Carolina saw
169 unprecedented levels of rain, 16 people have died, and early
170 reports estimate billions of dollars in damage. And, sadly,
171 extreme weather like this has become the new norm.

172 As President Obama recently said and I quote, "Climate change
173 is no longer some far off problem. It's happening here, it's
174 happening now. We cannot wait for some future generation to take
175 action." To that end, EPA finalized a workable plan to reduce
176 carbon emissions from power plants which are the largest
177 uncontrolled source of manmade greenhouse gases in the U.S.

178 Overall, EPA engaged in an unprecedented level of outreach
179 and public engagement on the Clean Power Plan. The final rule
180 reflects extensive stakeholder input, including over 4.3 million
181 public comments, a series of listening sessions held across the
182 country, and scores of meetings with stakeholders across the
183 spectrum.

184 As a result of the comments received on the proposal, EPA

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185 made a number of changes to the final Clean Power Plan to insure
186 flexibility, affordability, reliability, and investment in clean
187 energy technologies. And the Clean Power Plan is not a
188 one-size-fits-all proposal for reducing emissions. It uses a
189 flexible state-based approach that takes account of each
190 individual state's unique capacity to reduce emissions from its
191 electricity sector. And in the final rule, EPA made changes to
192 the plan's building blocks to provide more flexibility for states
193 when determining the best way to achieve their individual goals,
194 while still providing compliance options and ample opportunity
195 for the use of energy efficiency to reduce carbon pollution from
196 power plants.

197 Now, EPA is not proposing the states act overnight. States
198 have until 2030 to meet their final goals, and the plan's interim
199 goals don't begin until 2022. Further, the final rule provides
200 additional flexibility for states to determine their own
201 individual compliance pathway. And EPA is encouraging states to
202 make early emission reductions by creating a Clean Energy
203 Incentive Program that will reward early investments in wind and
204 solar generation, as well as demand-side energy efficiency
205 programs implemented in low-income communities.

206 Ultimately, the Clean Power Plan represents a serious
207 commitment to climate action, and will result in climate benefits

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208 of \$20 billion, and health benefits of \$14-34 billion. Increased
209 levels of carbon dioxide in our atmosphere are threatening the
210 health and well-being of all Americans, and this plan will protect
211 public health by avoiding 3,600 premature deaths, 1,700 heart
212 attacks, and 90,000 asthma attacks each year.

213 Let's not heed the absurd arguments on behalf of companies
214 that profit from the status quo. We've already heard from some
215 that EPA's plan is not legal, that it's unworkable, and that some
216 states may refuse to participate, but as I've said before, those
217 making such arguments aren't really interested in finding
218 solutions to our carbon pollution problem. They're not interested
219 in developing a plan to help us reduce emissions while still
220 maintaining a safe, reasonably priced electricity system.

221 They're more than welcome to ignore the facts and reject any
222 reasonable plan to address climate change, but let me tell you,
223 history will not treat them kindly. History is on the side of those
224 who want to act on climate change, those who believe in the power
225 of American innovation, and our ability to successfully meet any
226 challenge, and to look to the future rather than the past.

227 Frankly, we've already wasted enough time on legislation to
228 just say no to climate action, and now Congress must move on. What
229 we cannot do, as President Obama said, and I'll close, and I quote.
230 He said is, "We cannot condemn our children to a planet beyond

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231 their capacity to repair."

232 I yield back, Mr. Chairman.

233 Mr. Whitfield. At this time, the Chair recognizes the
234 gentleman from Virginia, Mr. Griffith, for five minutes.

235 Mr. Griffith. Thank you very much, Mr. Chairman.

236 You know, it's interesting to assist states in developing
237 state plans, the EPA has proposed model trading rules. Let me read
238 you from pages 42 and 43 of your proposed rule setting forth a
239 federal plan. EPA states, "The EPA strongly urges states to
240 consider adopting one of the model trading rules which are
241 designed to be referenced by states in their rulemaking. Use of
242 the model trading rules by states would help insure consistency
243 between and among the state programs which is useful for potential
244 operation of a broad trading program that spans multi-state
245 regions or operates on a national scale."

246 Now, what's interesting about that is, I'm also going to
247 reference some quotes from the past, and not the distant past,
248 the recent past. "There is no cap and trade scheme provided for
249 under the Clean Air Act. For greenhouses gases, I should say, sir,
250 what I do know is what -- is that we are not planning any cap and
251 trade regulations or standards," former Administrator Lisa
252 Jackson in response to Representative Steve Scalise, February 9,
253 2011 in this room.

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254 Administrator Jackson and Assistant Administrator McCarthy
255 have stated publicly, "The agency has no intention of pursuing
256 a cap and trade program for greenhouse gases under the Clean Air
257 Act. The agency reaffirms those statements here." August 3rd,
258 2011.

259 "Both former Administrator Jackson and I have said in the
260 past that the EPA has no intention of pursuing a cap and trade
261 program for greenhouse gases, and I continue to stand by those
262 statements." May 15, 2013 in a letter to Chairman Upton.

263 "The Clean Power Plan is not a cap and trade program. It's
264 not going to be designed like a cap and trade program. This is
265 not an opportunity for us to impose a cap. That's not what it looks
266 like." Administrator Gina McCarthy in response to Senator
267 Heitkamp on March 14 in a panel in the video.

268 You know, the problem is, is that it looks like a cap and
269 trade program. You call it a model trading plan. You say that if
270 the states don't come up with an appropriate plan, the federal
271 government will come in and help them develop a plan; perhaps a
272 cap and trade-type plan.

273 I was elected in 2010. A 28-year incumbent went down because
274 he voted for a cap and trade plan. You're not only showing
275 disrespect to the Congress, disrespect to what I believe the
276 Supreme Court told you in the Mercury rule. You're also showing

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277 disrespect to the voters of this country that turned down an awful
278 lot of folks. The cap and trade is not a policy this United States
279 should follow, and so I would submit to you that you probably need
280 to look someplace else. I don't think you have legal authority
281 for this rule, as you know. That will be debated in the courts,
282 but just like the Mercury rule, which was found that you all had
283 overreached and had to go back to the drawing board; those jobs
284 in my district are already gone before the Supreme Court could
285 make a ruling.

286 With that, Mr. Chairman, I would yield to the gentleman from
287 West Virginia, Mr. McKinley.

288 Mr. McKinley. Thank you.

289 Mr. Chairman, I had the opportunity on Friday to take
290 Congressman Welch from Vermont to an underground coal mine in West
291 Virginia, and prior to that going underground we had a chance to
292 sit down and talk with about 12 unemployed coal miners that have
293 lost their job, and to look them in the eye to understand what
294 can we do? What's happened? And, universally, Ms. McCabe,
295 universally they said it's regulations. Regulations are what --
296 we have had seven power plants in West Virginia here have been
297 shut down, 45 percent of our coal miner workforce has been
298 unemployed. And they were saying watch the regulations, so I just
299 want to share with you, here is this list that's 20-some pages

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300 long -- feet long of over 1,500 regulations that have been imposed
301 under this Administration on coal mines, and coal companies, and
302 coal miners.

303 It's no wonder they can't find jobs. They're willing to go
304 someplace else, but they can't sell their home. They're living
305 in communities of 1,000 people and they'll go to another place
306 to work someplace else, but they can't sell their home. That's
307 their equity.

308 This Administration has taken us in West Virginia from the
309 fifth best unemployment rate to the fifty-first unemployment rate
310 in the nation because of these 1,500 regulations. I think it's
311 got to stop, and for anyone to testify before us and say this is
312 fair, look them in the eye. Look them in the eye, that coal miner,
313 and say it's fair that you just lost your job because of our
314 regulations. I don't think that you can do that.

315 I yield back my time.

316 Mr. Whitfield. The gentleman yields back, and that concludes
317 the opening statements.

318 So, Ms. McCabe, at this time you're recognized for five
319 minutes for your opening statement. Thank you.

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

322

323 Ms. McCabe. Thank you very much, Chairman Whitfield, Ranking
324 Member Rush, and members of the subcommittee. I really appreciate
325 the opportunity to testify before you today on EPA's Carbon
326 Pollution Regulations for New and Existing Power Plants.

327 My testimony will focus mostly on the regulations for
328 existing plants, also known as the Clean Power Plan. On August
329 3rd, President Obama and EPA Administrator Gina McCarthy
330 announced the final Clean Power Plan, a historic and important
331 step in reducing carbon pollution from power plants that takes
332 concrete action to address climate change, as well as final
333 standards limiting carbon pollution from new, modified, and
334 reconstructed power plants, and a proposal for a federal plan and
335 model rules that demonstrate clear options for how states can
336 implement the Clean Power Plan in ways that maximize flexibility
337 for power plants in achieving their carbon pollution obligations.

338 Shaped by a process of unprecedented outreach and public
339 engagement that is still ongoing, the final Clean Power Plan is
340 fair, flexible, and designed to strengthen the fast-growing trend
341 toward cleaner and lower polluting American energy. It sets strong
342 but achievable standards for power plants and reasonable goals

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343 for states to meet in cutting the carbon pollution that is driving
344 climate change tailored to their specific mix of sources. It also
345 shows the world that the United States is committed to leading
346 global efforts to address climate change.

347 The final Clean Power Plan mirrors the way electricity
348 already moves across the grid in this country. It sets standards
349 that are fair and consistent across the country and that are based
350 on what states and utilities are already doing to reduce CO2 from
351 power plants. And it gives states and utilities the time and a
352 broad range of options they need to adopt strategies that work
353 for them.

354 These features of the final rule along with tools like
355 interstate trading and emissions averaging mean that states and
356 power plants can achieve the standards while maintaining an ample
357 and reliable electricity supply and keeping power affordable.

358 When the Clean Power Plan is fully in place in 2030, carbon
359 pollution from the power sector will be 32 percent 2005 levels,
360 and the transition to cleaner methods of generating electricity
361 will better protect Americans from other harmful air pollution,
362 too; meaning we will avoid thousands of premature deaths and
363 suffer thousands fewer asthma attacks and hospitalizations in
364 2030 and every year beyond.

365 States and utilities told us they needed more time than the

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366 proposal gave them, and we responded. In the final rule, the
367 compliance period does not start until 2022, the interim
368 reductions are more gradual, states can determine their own glide
369 path and any state can get up to three years to submit a plan.

370 We heard the concerns about reliability. We listened, and
371 we consulted with the planning and reliability authorities, with
372 FERC and the Department of Energy. The final Clean Power Plan
373 reflects this input, and it includes several elements to assure
374 that the plan requirements will not compromise system
375 reliability. In addition, to provide an extra incentive for states
376 to move forward with plan investments we're creating a Clean
377 Energy Incentive Program that will recognize early progress.

378 Since issuing the final Clean Power Plan, EPA has continued
379 to engage with states, territories, tribes, utilities, industry
380 groups, community organizations, health and environmental
381 groups, and others. To help states and stakeholders understand
382 the Clean Power Plan and to further support states' efforts to
383 create plans that suit their needs, EPA has developed a variety
384 of tools and resources which are largely available on our website,
385 and we remain committed to assisting states with development and
386 implementation of their state plans.

387 We're convinced both by our analyses and our experiences that
388 both the carbon pollution reduction called for under the Clean

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389 Power Plan will extend the trajectory of the last 40 years when
390 we cut air pollution in this country by 70 percent while our
391 economy has tripled.

392 I, again, thank the committee for inviting me to speak on
393 the Agency's work to implement our nation's environmental laws
394 to protect public health and the environment, and I look forward
395 to your questions.

396 [The prepared statement of Ms. McCabe follows:]

397

398 ***** INSERT 1 *****

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399 Mr. Whitfield. Thank you, Ms. McCabe. And I recognize myself
400 for five minutes; questions.

401 When do you expect the two rules to be published in the
402 Federal Register?

403 Ms. McCabe. Congressman, we're working with the Office of
404 the Federal Register. They will make the decision about when to
405 publish it. We expect it to be in the second-half of October, and
406 we're working with them to resolve all the little formatting
407 things that is a routine part of getting a rule published in the
408 Federal Register.

409 Mr. Whitfield. Now, did you finalize the rule in August? Is
410 that right; those two rules?

411 Ms. McCabe. That's right.

412 Mr. Whitfield. And you're working with the Office of the
413 Federal Register.

414 Ms. McCabe. Correct.

415 Mr. Whitfield. And who makes the decision on when it's
416 published?

417 Ms. McCabe. The Office of the Federal Register makes the
418 decision. There's a routine set of steps that we do whenever we
419 finalize a rule. We work on fixing any typos and all that sort
420 of thing. We submit it to the Office of the Federal Register, and
421 we work with them to resolve any issues that they have, but they

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422 make the final decision.

423 Mr. Whitfield. And how many pages in these rules?

424 Ms. McCabe. There's several thousands of pages in the rules.

425 Mr. Whitfield. I mean, 2,000, 3,000, 4,000?

426 Ms. McCabe. I think the 111(d) rule is about 1,500 pages,

427 and the other rules are less than that.

428 Mr. Whitfield. Well, you know, it's important that they be
429 published in the Federal Register because, as you know, lawsuits
430 have already been filed, but they were filed before they were
431 published.

432 Ms. McCabe. Yes.

433 Mr. Whitfield. And if they're not published, then there's
434 no standing to bring the suit. So, you think they'll be published
435 in October?

436 Ms. McCabe. Yes, I do.

437 Mr. Whitfield. This month?

438 Ms. McCabe. Yes. We've moved this along very expeditiously
439 given the size of the rule and the number of the rules.

440 Mr. Whitfield. Now, under the NACS rules, normally EPA gives
441 states three years to come up with a plan. This 111(d) is
442 unprecedented, never been used in this way before. You changed
443 your legal opinions because prior to this, your lawyers have said
444 we can't operate this way under 111(d). But why are you giving

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445 states only like 13 months to issue a final plan, when under the
446 NACS rule you give them up to three years?

447 Ms. McCabe. Yes.

448 Mr. Whitfield. This is more complicated.

449 Ms. McCabe. No, they actually do have up to three years under
450 the -- -

451 Mr. Whitfield. No, no, wait. You give them one year to submit
452 the plan and then they have to come and ask permission for an
453 additional two years. Is that correct?

454 Ms. McCabe. The rule is clear that states can have up to three
455 years to do their plan.

456 Mr. Whitfield. Do you have -- okay. So, what is the magic
457 of September 2016?

458 Ms. McCabe. The rule says that by September of 2013, they
459 either submit a plan. Some states indicated to us that they were
460 well on their way and could meet an early deadline.

461 Mr. Whitfield. The rule says that they have to have the plan
462 filed by September 2016.

463 Ms. McCabe. Or an initial submittal that gives essentially
464 a status report of the work that they're doing, and a request for
465 additional time. And we'd made it clear -- -

466 Mr. Whitfield. And who makes the decision that that request
467 will be granted?

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468 Ms. McCabe. The EPA will make that decision.

469 Mr. Whitfield. You make that decision.

470 Ms. McCabe. We've been very clear of the elements that are
471 required.

472 Mr. Whitfield. Are you required to give them an extension,
473 or is that at your discretion?

474 Ms. McCabe. If they meet the elements of an initial
475 submittal, we will give them an extension. That's quite clear.

476 Mr. Whitfield. Now, let me ask you this. Under the new rule,
477 all of us are still scratching our heads. You picked out these
478 four sites. The Boundary Dam Facility in Canada appears to be the
479 only coal project using CCS, Carbon Capture Sequestration, that
480 is actually producing electric power today, the only facility in
481 the world. Is that your understanding?

482 Ms. McCabe. I wouldn't want to speak to the whole world. That
483 one has been operating for a year. As you know, of course, the
484 technology is being used in other facilities.

485 Mr. Whitfield. Now, let me just say this. I want to note for
486 the record, according to an August Department of Energy
487 communication to a committee hearing record, DOE confirmed that
488 this small Canadian project, 110 megawatts, has and is not likely
489 to achieve the technology-readiness level that demonstrates a
490 commercial scale power system with CCS can operate over the full

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491 range of expected conditions. No one expects to be able to meet
492 this standard of 1400, what is it, 1400 pounds of carbon dioxide
493 per megawatt hour. That's the standard. Right?

494 Ms. McCabe. Well, if I could speak to that, Congressman, I'd
495 like to, because you reference the standard itself. I think you
496 know that the standard that we finalized in 111(d) is less strict
497 than the standard that we proposed. That was based on our review
498 of all the information that we --

499 Mr. Whitfield. Whether it's less strict or not, the final
500 is 1,400 pounds of CO2 per megawatt hour. Is that correct?

501 Ms. McCabe. That's correct.

502 Mr. Whitfield. Now, you know the cleanest plant operating
503 in the U.S. today is the Turk plant, Texarkana, Arkansas, built
504 about two or three years ago. It's at 1,800 pounds, so there's
505 no way to meet this standard.

506 My time has expired, so I'll recognize the gentleman from
507 Illinois, Mr. Rush, for five minutes.

508 Mr. Rush. Madam Assistant Administrator, the last time you
509 were here, you and I spoke about the impact that the Clean Power
510 Plan would have on minorities and low-income communities, and at
511 that time you assured me that the EPA would take into account those
512 disadvantaged communities before the final rule was issued. Has
513 there been any outreach to disadvantaged communities by the EPA

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514 before the issuance of this rule? And does the EPA provide any
515 guidance to states for how to make sure that their plans take into
516 account the impact on minorities and low-income communities?

517 Ms. McCabe. Yes, indeed, Congressman. I know this is a
518 concern that you've asked us about before, so a couple of things
519 I want to say in response.

520 First of all, we've had extensive outreach with community
521 groups. We know, and you reflected in your opening remarks that
522 the impacts of climate change and air pollution are severely felt
523 by low-income and minority communities across the country.
524 They're among the most vulnerable. They are also communities that
525 we're concerned about in terms of keeping electric rates
526 affordable, and keeping jobs in those communities, so we focused
527 on that a lot.

528 So, we spent a lot of time listening to community groups and
529 talking with states. We made clear in the final rule that states
530 needed to pay attention to involving, providing opportunities for
531 meaningful involvement for communities all across their states.
532 We asked them to tell us how they were going to do that. We didn't
533 micro manage and tell them exactly how to do it, but we have lots
534 of tools available to help states do that.

535 We also indicated that we intend in future years after the
536 rule is in place and working to go back and take a look at air

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537 pollution levels in those communities and make sure that the
538 public health protections that this rule promises have been
539 delivered in a fair way across our states, and truly protect those
540 vulnerable communities.

541 Mr. Rush. Other rules were supposed to invest in cleaner and
542 more efficient energy measures such as the CCP proposes, and also
543 provide help to the most vulnerable communities. Are there any
544 incentives in the final rule for disadvantaged communities who
545 might want to participate in a clean green economy? And can you
546 give me an example, say Appalachia, how does Appalachia respond
547 to the Clean Power Plan?

548 Ms. McCabe. Yes. So, probably the best example of incentives
549 that you asked about, Congressman, is the Clean Energy Incentive
550 Program, which provides additional incentives for states that
551 want to get going early and, in particular, invest in wind and
552 solar, but also in energy efficiency programs in low-income
553 communities. We felt that it was important to provide extra
554 incentives to get those projects going early. And, of course,
555 energy efficiency while not a basis for the rates that we set in
556 the Clean Power Plan, is a very affordable, cost-effective, and
557 positive means that states and utilities can build into their
558 compliance plans.

559 Your question about coal country, you know, is a very, very

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560 serious and valid one. The final design of the Clean Power Plan
561 is so flexible for states, especially in their ability to work
562 regionally, and for the utilities to work regionally. That will
563 provide the states the ability to make sure that they're
564 preserving and protecting the important things for their states.
565 And we predict through this plan that coal will still be a very
566 substantial source of energy in this country well into the future,
567 and it's partly because of the flexible design of the rule.

568 Mr. Rush. Thank you, Mr. Chairman.

569 Mr. Whitfield. The gentleman yields back. At this time, the
570 Chair recognizes the gentleman from Texas, Mr. Barton, for five
571 minutes.

572 Mr. Barton. Thank you, Mr. Chairman. It's good to have you
573 here, Ms. McCabe. We appreciate your courtesy of coming to talk
574 to us.

575 I think it's a true statement that back in 1990 when we passed
576 the Clean Air Act amendments, Chairman Upton and myself were the
577 only two members of the committee currently that were also on the
578 committee then. I don't think any of the senior Democrats were
579 on the committee at that time, but if they were, I apologize. In
580 any event, the Full Committee Chairman was John Dingell of
581 Michigan. He spent several years putting together the coalition
582 of which I was a small part of to move that bill through this

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583 committee, and through the Congress.

584 My recollection is that we spent an inordinate amount of time
585 working on the acid rain title which implemented a nationwide
586 emissions trading program for SO₂. There were numerous
587 stakeholder meetings. I remember going to the White House to meet
588 with President Bush and Governor Sununu. I remember numerous
589 Congressional hearings. I mean, we spent a lot of time on that.

590 We spent no time on section 111(d) of the Clean Air Act, none.
591 Do you have any records at EPA that indicate the Congress spent,
592 I mean, any public time at all on this minor provision?

593 Ms. McCabe. I really don't know, Congressman.

594 Mr. Barton. Yes. Well, they didn't. I mean, I -- now you're
595 using, not you personally but your Agency is using section 111(d)
596 to give the EPA basically total authority to create in a regulatory
597 fashion a cap and trade program for carbon dioxide, which there
598 was no intent in the Congress in the early '90s, no legislative
599 record, no background at all. Your own attorneys at the EPA think
600 it's uncertain. You know there's going to be a court case on this,
601 and yet you're trying literally to create in a regulatory fashion
602 what the Congress has refused to do in a legislative fashion. I
603 think that's just wrong.

604 Can you tell this committee or this subcommittee where
605 section 111(d) spells out clearly and specifically that the EPA

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606 has the authority to set mandatory emission limits, requirements
607 that extend well beyond the actual sources being regulated?

608 Ms. McCabe. Well, Congressman, I appreciate you asking this
609 question because it's obviously on everybody's minds. So, the
610 first thing that I want to make absolutely clear is that the Clean
611 Power Plan does not set in place a cap and trade program.

612 Mr. Barton. I beg the -- how can you say that with a straight
613 face?

614 Ms. McCabe. Well, because that's what the rule sets. The rule
615 sets -- -

616 Mr. Barton. With all respect, ma'am, in the State of Texas
617 we're going to have to shut down existing coal plants and build
618 more wind power than the rest of the world has. If that's not a
619 cap and trade program, what the heck is it?

620 Ms. McCabe. Texas, by the way, is doing an awesome job in
621 terms of wind power. It's incredible opportunities to do that.

622 The reason that I'm disagreeing with you respectfully,
623 Congressman, is because the way the rule works is it establishes
624 an emission rate of CO2 emissions for coal and gas-fired power
625 plants. That is the way section 111 has traditionally worked, and
626 that's the way it's working here. So, that is the primary starting
627 point, is that rate.

628 We then in the rule provide options and flexibilities largely

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629 in response to input and requests that we got from states and the
630 utility industry to provide alternative ways for them to comply.

631 Mr. Barton. Well, with all respect, my time is about to
632 expire, but if this rule goes through, and I hope it doesn't, Texas
633 has to build more wind generation than any other nation in the
634 world currently has. Now that's a fact. And the problem is, even
635 in Texas we can't make the wind blow when the EPA says it has to.
636 I mean, it's simply not going to work.

637 I respect your integrity, I respect your commitment to what
638 you do but, again, I was here in 1990. I voted for the Clean Air
639 Act amendments. Your Agency is trying to do with it something that
640 it was never intended to. We would have put it in, you can guarantee
641 that John Dingell would have put it in if that's what the intent
642 of the Congress was.

643 With that, Mr. Chairman, I yield back.

644 Mr. Whitfield. The gentleman's time has expired. At th is
645 time, the Chair recognizes the gentleman from New Jersey, Mr.
646 Pallone, for five minutes.

647 Mr. Pallone. Thank you, Mr. Chairman. And thank you, Ms.
648 McCABE, for your testimony.

649 The Clean Power Plan is an important step in reducing
650 emissions from power plants, the nation's largest source of carbon
651 pollution. And today we've heard about the actions that EPA has

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652 taken to create strong, fair, and flexible standards that will
653 put us on the path to a clean energy future and help avoid the
654 worst impacts of climate change.

655 However, despite the overwhelming scientific evidence and broad
656 public support we continue to hear a litany of arguments from the
657 GOP for why we shouldn't act, you know, climate change is a hoax.
658 They say carbon dioxide is not a pollutant, EPA is a rogue agency
659 with no authority to limit carbon pollution.

660 I'd like to give you an opportunity to respond to a few of
661 these assertions. And first, you know, yes or no, is carbon dioxide
662 a pollutant?

663 Ms. McCabe. Yes, it is.

664 Mr. Pallone. Can you briefly explain why EPA has the
665 authority to address carbon pollution from power plants?

666 Ms. McCabe. Well, the Clean Air Act directs EPA to address
667 public health and environmental issues that result from air
668 pollution. The Supreme Court has confirmed that. One key authority
669 in the Clean Air Act that has been used many times to address air
670 pollution from industrial facilities is section 111, which
671 directs us to look at the range of approaches that industries are
672 using to control air pollution, in this case CO₂, and to set
673 emission standards based on what's known as the Best System of
674 Emission Reduction. That's things that the best companies are

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675 doing already, and to require that over time that's where
676 everybody end up in terms of their emissions. So, that's where
677 our authority comes from to do this rule.

678 Mr. Pallone. All right. Is there any way we can reduce our
679 emissions by enough to avoid the worst impacts of climate change
680 without controlling carbon pollution from power plants?

681 Ms. McCabe. Power plants are the largest stationary source
682 of CO2 in the country. They are substantial. We are taking steps
683 to address CO2 emissions from the mobile source sector and from
684 other sectors, but this is a global problem, of course, and the
685 U.S. cannot solve it alone. But for us to take meaningful steps
686 we need to look at the power sector, as well as mobile sources.

687 Mr. Pallone. I've also heard from my Republican colleagues
688 that they say that no one goes to the hospital for breathing in
689 carbon pollution so there can't be any real public health benefits
690 from limiting carbon pollution from power plants. Could you
691 explain how the Clean Power Plan will help protect public health
692 and welfare?

693 Ms. McCabe. Yes, and there's increasing science every day
694 on these issues. CO2 emissions are affecting the global climate
695 and are leading to changes in the way our world responds to those
696 levels in the atmosphere in a way that affects public health very
697 directly. Temperatures get hotter, there are droughts, there are

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698 wildfires, there are unpredictable and more severe storms. These
699 can lead to a number of public health issues related to respiratory
700 issues when there's more ozone because of hot weather, when the
701 allergen seasons are longer because of changes in vegetation,
702 vectors change their habitats and the length of their seasons.
703 All of these things can lead to significant public health issues,
704 as well as the disruption that can occur in our communities as
705 a result of more severe flooding, or drought, or other severe
706 weather.

707 Mr. Pallone. I know that in our previous hearings you've
708 discussed the unprecedented outreach efforts undertaken by EPA
709 to inform the development, to inform the public about the proposed
710 rule. So, I just wanted to hear a little bit now about outreach
711 on the final rule. Could you please briefly comment on EPA's
712 outreach to both the interested stakeholders and the public, and
713 how this engagement has been reflected in the final rule?

714 Ms. McCabe. Yes, certainly. I mean, I have talked about the
715 outreach that we did during the development of the rule, literally
716 hundreds of meetings across the country. You referred to some of
717 them yourself. We haven't stopped, so as soon as the rule was out
718 we started engaging people. We've had numerous and continuing
719 opportunities, especially with our state co-regulators as they're
720 starting to really think about the choices that they want to make,

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721 so we have regular opportunities to meet with them. In fact, I
722 was with a group of state air directors just this week, as were
723 some of my staff, to talk about these issues.

724 We're continuing to engage with the public through webinars,
725 and visits with them at appropriate venues that they might invite
726 us to. We have robust and ongoing relationships with the utility
727 industry, and with all of the various agencies on the energy side
728 that help make sure that utilities are moving forward in a way
729 that's going to protect reliability, and help them plan ahead.
730 So, all of that is well underway, very robust, and we intend to
731 continue it.

732 Mr. Pallone. Thank you very much. Thank you, Mr. Chairman.

733 Mr. Whitfield. The Chair recognizes the representative of
734 the Houston Astros for five minutes, Mr. Olson.

735 Mr. Olson. I thank the Chair.

736 I know all of us have former Chairman Dingell in our prayers.
737 He is in the hospital with a heart issue, but he'll be fine. He
738 was quoted in the paper yesterday saying, "Being old sucks." But
739 please lift him up in your prayers.

740 My first question, Ms. McCabe, is when fully rolling, EPA
741 wants existing coal plants to hit a standard of 1,305 pounds of
742 CO2 per megawatt hour. That is pretty aggressive. It's a nightmare
743 for some states, and expensive for rate payers. But here's what

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744 I find more stunning; your standard for new plants is 1,400 pounds
745 per megawatt hour. In other words, your new rule says existing
746 coal plants have to be even cleaner than a brand new one.

747 People I've talked to back home said they've never seen this.
748 They know that it's harder and more expensive to retrofit a plant
749 than to build a new one from scratch with the best controls.

750 Don't you agree that it's unusual to make these rules tougher
751 for existing plants than new ones? Has EPA ever thought it's okay
752 for newer to be dirtier?

753 Ms. McCabe. I'm glad you asked that, Congressman, because
754 I've heard that, and there's confusion about it, but there's a
755 pretty straightforward answer to that; which is that the
756 difference between a standard for a new plant and a standard under
757 111(d).

758 For existing facilities, there are a variety of
759 opportunities that the utilities have through the way they manage
760 their fleets and the mix of fuels that they use, and moving towards
761 cleaner energy, which they are doing to on average bring that
762 carbon intensity down. And they have years to do it, and the
763 averaging time for the standard is very long. It's measured in
764 years or multiple years.

765 A new plant under the Clean Air Act whether it's a power plant
766 or some other kind of plant, in this case power plant, needs to

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767 meet that emission rate right away as soon as it's built; so if
768 a plant started up in a year or two, they would be expected to
769 meet that rate all the time on a much shorter term averaging time
770 continuously. So, they work very differently in a way that if you
771 think about it that way, makes a lot of sense.

772 Mr. Olson. Ma'am, people back home respectfully disagree,
773 but one other question which I'd like to ask with my remaining
774 time is, according to IEA, current global emissions of carbon are
775 somewhere around 36 billion tons per year, that ballpark. Others
776 say it's closer to 40 billion tons per year. Either way, we know
777 America is not the top source. As billions of people in developing
778 countries get their first cars, their first light bulbs, it will
779 keep rising.

780 EPA's analysis says the way to approach this rule, reduce
781 carbon emissions by 232 million tons per year in the next decade.
782 I'm just an old Naval aviator who did math on a knee board with
783 a lead pencil in my airplane, but my rough math says if we hit
784 that goal tomorrow, we'd decrease carbon by .065 percent, or 0.58
785 percent. The world's exposure of carbon will dwarf our reductions.
786 The main reason for this rule is climate change. Is that correct;
787 yes or no, ma'am?

788 Ms. McCabe. Yes.

789 Mr. Olson. So, how do you think this rule will impact global

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790 temperature?

791 Ms. McCabe. No one rule is going to address the problem of
792 climate change, Congressman. This is going to take a global
793 solution. The United States is one of the largest emitters of CO2
794 in the world, and we have a responsibility to take the steps that
795 we can take in order to help push in the direction of addressing
796 this significant public health issue.

797 Mr. Olson. How does it affect sea levels, ma'am; going up,
798 down, I mean, how do you know?

799 Ms. McCabe. Sea level is rising as a result of this global
800 threat. This is a step that the United States is taking in order
801 to contribute to addressing this global problem.

802 Mr. Olson. One final question. Am I safe to assume that EPA
803 could revisit this new source of rules in the future, and that
804 rules on natural gas plants might get tougher like coal today,
805 natural gas lumped in with coal in the future? Could that happen,
806 possibly?

807 Ms. McCabe. Well, under the Clean Air Act, EPA is required
808 to revisit its technology rules on a regular basis. And we're also,
809 as you know, I think looking at rules for the oil and gas industry,
810 working with the industry on sensible ways to reduce emissions.

811 Mr. Olson. I'm out of time. I close by saying Go Astros. I
812 yield back.

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813 Mr. Whitfield. The Chair recognizes the gentleman from
814 California, Mr. McNerney, for five minutes.

815 Mr. McNerney. Thank you, Mr. Chairman. Mr. Chairman, I ask
816 -- actually, I implore my Republican colleagues to embrace carbon
817 sequestration. I do this every time I get a chance to talk about
818 it. The atmosphere is not a garbage dump, especially in the United
819 States we need to be responsible for what we're putting into the
820 air.

821 Now, we repeatedly have heard this morning about the
822 manifestations of climate change. These are real, they're getting
823 more severe. Soon enough these impacts are going to be severe
824 enough that the public will demand that high carbon emitters such
825 as coal-fired power plants be shut down, so ignoring the carbon
826 emission problem until that day will condemn the coal industry
827 to extinction. For your own sake, especially if you're a coal mine
828 Republican, please embrace carbon sequestration.

829 Ms. McCabe, in California we've made significant strides
830 toward increasing our use of renewable energies and cutting our
831 greenhouse gas emissions. California passed legislation to reduce
832 greenhouse gas emissions to 1990 levels by the year 2020, and
833 Governor Brown recently set a goal of an additional 40 percent
834 reduction in greenhouse gas emissions by the year 2030. So, when
835 writing the Clean Power Plan, did the EPA look at early state

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836 actions as a model, as a potential model?

837 Ms. McCabe. We certainly looked at everything that all states
838 are doing, and California is one that is out ahead on this. There
839 are several other states that are moving forward on this, and
840 that's our job under the Clean Air Act, is to look at what the
841 industry is doing in its current operations, and where those
842 technologies and approaches are good at reducing carbon emissions
843 to make sure that that's what we build into the standard.

844 Mr. McNerney. Good. Well, when creating the final rule did
845 you insure that each state has the flexibility to implement the
846 Clean Power Plan in a way that is most efficient and effective,
847 and also insuring reliability?

848 Ms. McCabe. We did. And, in fact, we provided a lot of
849 flexibility and a lot of choice in the final rule to make sure
850 that we could accommodate states like California that already had
851 plans in place, and states that did not yet have plans in place,
852 and also to accommodate the wide range of energy mix across the
853 country from states that are significant coal users to states that
854 are not. So, lots and lots of flexibility is built in.

855 Mr. McNerney. Do you believe that the Clean Power rule has
856 given China and India motive to produce their own carbon emission
857 reduction plans?

858 Ms. McCabe. I think that the United States going forward with

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859 this rule has been a significant factor in the international
860 debate. In fact, as soon as we proposed the rule that was the topic
861 of discussion in many international conversations. And I do
862 believe it has been influential in the international commitments
863 that we're seeing from other countries.

864 Mr. McNerney. So even though the Clean Power Plan won't solve
865 the carbon plan by itself, it's given significant impetus
866 worldwide to help other countries reduce their carbon emissions
867 and get the world to a better place in terms of the total carbon
868 emissions that are being produced.

869 Ms. McCabe. I believe so. It's shown real leadership from
870 the United States.

871 Mr. McNerney. Thank you. How does the final rule address
872 states that may need more time to reach their carbon reduction
873 goals?

874 Ms. McCabe. So, we built more time into the rule in terms
875 of the starting date. Through the comment period we heard more
876 about that, about the starting date than about 2030, so we moved
877 the starting date from 2020 to 2022, and also smoothed that glide
878 path down from 2020 to 2022. And based on the information we had,
879 we were pretty comfortable that that met the needs that we were
880 hearing from the utility industry, in particular, about the time
881 that they would need to make the investments that they would need

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882 to make.

883 Mr. McNerney. And that takes into account the reliability
884 issue. Reliability is certainly an issue I've heard from -- -

885 Ms. McCabe. Yes.

886 Mr. McNerney. -- -utilities across the country. They need
887 to make sure that they're not going to be put in a position where
888 they lose power for their customers.

889 Ms. McCabe. Oh, that's absolutely true. I mean, that was made
890 in the context of reliability concerns, and so adding additional
891 time was one key part of that. We did some other things, too, in
892 the final rule to make sure we were paying attention to that,
893 especially in consultation with FERC. We included a reliability
894 safety valve in case there's an unforeseen situation that folks
895 were very keen to have us include. States also have the flexibility
896 to come in partway through the plan and say something's happened
897 that we didn't expect. We need to adjust our plan. So, lots of
898 things are built in to make sure that the reliability of the system
899 is protected.

900 Mr. McNerney. Thank you, Mr. Chairman.

901 Mr. Whitfield. The gentleman yields back. At this time, the
902 Chair recognizes the gentleman from Illinois, Mr. Shimkus, for
903 five minutes.

904 Mr. Shimkus. Thank you, Mr. Chairman.

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905 Ms. McCabe, one way to measure the impact of your rule is
906 to look at what is expected energy mix would be without the rule
907 using what is called a reference or base case, and then what the
908 projected energy mix would be with the rule. Do you agree?

909 Ms. McCabe. Those are the kinds of things that we would look
910 at, sure.

911 Mr. Shimkus. Yes, you agree, that's how we do it.

912 Ms. McCabe. Right.

913 Mr. Shimkus. Or that's how you should do it. When EPA proposed
914 its rule on June 14, it projected a base case that said there would
915 be an estimated 244 gigawatts of coal generation in 2020 under
916 existing regulatory and economic conditions. Does that sound
917 right to you?

918 Ms. McCabe. You know, I -- -

919 Mr. Shimkus. It's right here. Say yes. I can show it to you.

920 Ms. McCabe. Okay.

921 Mr. Shimkus. Today, EPA says that the base case shows an
922 estimated 208 gigawatts of coal generation capacity by 2020. My
923 understanding is there have been no significant regulations or
924 economic changes since your first estimate, so can you explain
925 why EPA would eliminate 36 gigawatts of coal generation from its
926 baseline?

927 Ms. McCabe. So, we look to information that's put out by other

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928 agencies who follow these issues.

929 Mr. Shimkus. Okay, 244 in June, 208 in August of '15. that's
930 72 power plants.

931 Ms. McCabe. We know that there are trends in the industry
932 that are moving away from the older coal -- -

933 Mr. Shimkus. 36 gigawatts of power.

934 Ms. McCabe. And more gigawatts are coming -- -

935 Mr. Shimkus. Okay, let me go to the next question. According
936 to EPA's data when it eliminated all that coal generation from
937 last year's baseline, 31 gigawatts, 70 power plants of coal
938 capacity drop off in 2016 alone, one year. You're projecting 70
939 coal-fired power plants to drop generating in one year. Will you
940 please explain why EPA in one year's time has eliminated that 31
941 gigawatts?

942 Ms. McCabe. Congressman, we're not eliminating power plants.
943 We're reflecting information that we have about what's -- -

944 Mr. Shimkus. Your baseline of the initial rule, you dropped
945 off 31 gigawatts of generation in a year, 70 power plants.

946 Ms. McCabe. But not all of that would be -- -

947 Mr. Shimkus. Could I ask you to give us a detailed explanation
948 about this for the record?

949 Ms. McCabe. We'd be happy to follow-up with that.

950 Mr. Shimkus. Okay. In total, EPA projects 214 gigawatts of

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951 coal capacity in 2016, while the Department of Energy's
952 Information Agency, administration projections are 261
953 gigawatts. Can you explain why the Energy Information Agency says
954 261 gigawatts of power, coal-fired power, and you say 214?

955 Ms. McCabe. I'll be happy to get back with you on that,
956 Congressman.

957 Mr. Shimkus. Thank you very much. For the record, I would
958 appreciate that.

959 In March of 2015, EPA estimated 238 gigawatts of coal
960 generation in its baseline, then just a few months later in August
961 that number dropped to 214 gigawatts, in just a few months. Will
962 you please explain why EPA according to its own documents
963 eliminated between March and August of this year, 23 gigawatts
964 of coal generation from its baseline. That would be about 46 power
965 plants. What possibly could change in a few months time?

966 Ms. McCabe. Again, Congressman, we'll be happy to provide
967 a thorough explanation of -- -

968 Mr. Shimkus. For the record -- -

969 Ms. McCabe. -- - all of those numbers for the record.

970 Mr. Shimkus. Okay. Now, the last question. Would you agree
971 that if EPA is underestimating coal power capacity in the baseline
972 of this rule, the agency is significantly under-reporting the
973 impacts of its rule on coal generation?

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974 Ms. McCabe. Congressman, we do our best to use the
975 information available to us, and the modeling tools that are
976 available to us.

977 Mr. Shimkus. Okay, but part of this debate is going to be
978 the cost to the individual, the companies, the rate increases.
979 So, if you're underestimating by your 2014 June analysis and your
980 2015, and you drop off 70 coal-fired power plants, base-load going
981 to my friend, Jerry McNerney's question, your final analysis
982 you're going to under-report the impact because you have sliced
983 major gigawatt production of coal in this country with no
984 explanation that we can find in any of these documents.

985 Ms. McCabe. I would point to the history of the Clean Air
986 Act, where it has been proven time and time again that compliance
987 comes in -- -

988 Mr. Shimkus. But that's when we had technology to meet it.
989 There's no technology right now, as been already identified,
990 that's affordable and accessible to the industry, penalizing
991 those existing generations, and make it more difficult for new
992 generation. This is a disaster. We're trying to help you from
993 yourselves, and if we don't get the real numbers, there's no way
994 you can adequately defend this in the courts. And I yield back
995 my time.

996 Mr. Whitfield. The gentleman yields back. At this time, the

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997 Chair recognizes the gentlelady from California, Mrs. Capps, for
998 five minutes.

999 Mrs. Capps. Thank you, Mr. Chairman, for holding this
1000 hearing. Ms. McCabe, thank you very much for your testimony.

1001 Adapting to and mitigating climate change should be front
1002 and center in our discussions at every level of society and
1003 government. As representatives who should be advocating for the
1004 best interests of our constituents and future constituents, we
1005 should be jumping at the chance to pursue avenues to protect their
1006 health and well-being, and to insure that we provide a safe and
1007 vibrant world to live in. Fortunately, we seem to be having the
1008 same discussion over and over again mired in the same shortsighted
1009 rhetoric.

1010 So my first question, we've heard the majority repeatedly
1011 claim that the Clean Power Plan will harm rate payers, and
1012 particularly disadvantaged and low-income individuals; however,
1013 both the EPA and independent organizations have demonstrated that
1014 increase use of renewables and energy efficiency will over time
1015 lead to significant decreases in the cost of electricity for
1016 American families. Could you elaborate on how the Clean Power Plan
1017 will impact cost to rate payers over the short, but also
1018 particularly over the long term?

1019 Ms. McCabe. Yes, thank you. And I appreciate your mentioning

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1020 the long view, that's what we're about here. So, there are a couple
1021 of ways in which I would respond.

1022 The first way is to look at the information that we got in
1023 response to our proposal about the costs of cleaner energy, and
1024 they are coming down. Solar energy, wind energy, those things are
1025 becoming more affordable which is why people are building them,
1026 even without our rule they're building them. So, we know that
1027 that's good for the system.

1028 We did an analysis; again, it's illustrative because states
1029 will design their own plans, utilities will figure out the best
1030 ways to comply, they always do, the cheapest ways to comply because
1031 they care about these issues, as well. And what we show is,
1032 especially because of the increased use of energy efficiency which
1033 lowers demand, lowers bills, that by 2030 we expect to see about
1034 a 7 percent drop in energy bills for households on average across
1035 the country.

1036 Mrs. Capps. Thank you. I think you partially answered my
1037 second question, but to emphasize, can you speak to how we could
1038 accelerate the transition to renewables and energy efficiency?
1039 I mean, long term it isn't very appetizing to some people who are
1040 having trouble making it month to month. What are some ways we
1041 can help to speed up that process?

1042 Ms. McCabe. Well, one of the elements of the final Clean Power

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1043 Plan that I mentioned already is the Clean Energy Incentive Fund.
1044 That's intended to be a signal from the federal government that
1045 we want to help support early adoption of energy efficiency
1046 programs, especially in low-income communities. But states and
1047 utilities have the ability now to front load those types of
1048 activities, and we certainly would encourage them to do that. We
1049 have a lot of information and expertise at our agency and there
1050 are many other organizations and companies that are working right
1051 now to invest in these sorts of energy-saving technologies.

1052 Mrs. Capps. Okay, thank you. Another topic or aspect to this;
1053 my colleagues often discuss the issue as a matter of dollars and
1054 cents focusing only on the cost to polluters, while ignoring the
1055 benefits for customers, consumers. And that's partly because you
1056 can't really put a price tag on human well-being, but there are
1057 definite tangible economic benefits, wouldn't you say, both for
1058 employers and employees that come from having a healthier
1059 workforce.

1060 Ms. McCabe. Yes.

1061 Mrs. Capps. EPA has projected the climate and health benefits
1062 of the Clean Power Plan to be between \$34-54 billion. Could you
1063 elaborate on this, or give us some specific examples of how cleaner
1064 air translates into more money in people's pockets?

1065 Ms. McCabe. Absolutely. We know that that is the case.

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1066 Cleaner air means healthier workforce, it means healthier
1067 children, it means fewer missed school days, fewer missed work
1068 days, it means less time at the hospital, less time at the doctor,
1069 fewer medical bills, fewer hospitalizations for those sort of
1070 things, and that's just the respiratory issues that result from
1071 polluted air and the climate change impacts on that.

1072 There are, of course, other expenses and burdens that people
1073 bear as a result of climate change, especially when we see the
1074 droughts and the severe storms and flooding that are affecting
1075 people today.

1076 Mrs. Capps. Right. I'm going to just put this out there, but
1077 there's not going to be time for you to answer it. We have in my
1078 home state of California been very proactive at reducing emission
1079 rates through our California Air Resources Board. Is there a way
1080 that the Clean Power Plan and other EPA actions like the Ozone
1081 Rule could produce similar results nationwide?

1082 Ms. McCabe. Absolutely. I think we all can learn from one
1083 another, and we certainly can learn from the states that are moving
1084 forward with a lot of these programs.

1085 Mrs. Capps. Thank you very much. I yield back.

1086 Mr. Whitfield. The Chair recognizes the gentleman from West
1087 Virginia, Mr. McKinley, for five minutes.

1088 Mr. McKinley. Thank you, Mr. Chairman. I thought there were

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1089 going to be some folks in between, but thank you again for your
1090 appearance with us.

1091 I want to follow back up again with some of the earlier
1092 remarks. There was in Forbes Magazine had said that China and
1093 India, quoting, "China and India collectively consume about 60
1094 percent of all the coal produced in the world, and that in the
1095 next 10 years Asia will be increasing their demands for coal by
1096 31 percent." They're already at 60 percent, and they want to
1097 increase 30 percent. I find that incredible.

1098 And then I want to follow back up again with the remark that
1099 you made to the Congressman from California. You said India may
1100 very well be following our lead by making these reductions, but
1101 yet the quote in this article says that "India has rejected any
1102 absolute cuts, and that it needs to emit more as it grows to beat
1103 poverty." So, I'm not sure that anyone is following what you think
1104 is happening around the world. It goes to that old adage, a leader
1105 that has no followers is merely a man taking a walk. And I think
1106 that's what you have here, is no one in the country. They may very
1107 well go if they did to Kyoto and elsewhere, Stockholm and make
1108 these agreements, but then they don't uphold them. So, I don't
1109 know that Paris is going to be any better with this. So, I'm looking
1110 back at the question more directly, what you're trying to propose,
1111 you're willing to sacrifice the economy of this country. When

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1112 everyone else is going to continue to use coal, you're going to
1113 sacrifice our economy to this rule, and drive another dagger into
1114 the hearts of the coal fields of this country, and all across
1115 because the electricity.

1116 I think it's curious, and I wanted to hear your explanation
1117 of why in the initial rule; for example, West Virginia was supposed
1118 to have a 20 percent reduction, but then when the final rule came
1119 out, it went to 37 percent. And North Dakota went from 11 percent
1120 to 45 percent, and Kentucky went from 18 to 41, and Wyoming 19
1121 to 44. Are you trying to suggest that during your hearings in those
1122 respective states that the people actually said we want more
1123 stringent controls on our emissions in Kentucky, and Wyoming, and
1124 West Virginia?

1125 I want to hear that answer, but I also want to add one more,
1126 backdrop information. I just got notice just here just a minute
1127 ago, that Patriot Coal has just now issued a warn notice to the
1128 miners in West Virginia that 2,000 more coal miners in West
1129 Virginia are going to lose their job in the next few days, and
1130 you all can sit there and just say we need -- this is going to
1131 be good for our air, when other nations are polluting our
1132 atmosphere far greater than we are. So, can you tell me why you
1133 doubled and tripled the standards for -- when they can't meet the
1134 first standard, why you've tripled it?

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1135 Ms. McCabe. Absolutely, Congressman. I'd be glad to address
1136 that. There's a lot in your question there. I'm not sure I'll get
1137 to respond to everything, but let me focus on the changes between
1138 the proposal and the final rule, especially as it relates to the
1139 states that you mentioned.

1140 Mr. McKinley. Yes.

1141 Ms. McCabe. Yes, very fair question, and we've been having
1142 those discussions with state officials and utilities, and others
1143 since the final rule came out. In fact, I was meeting with some
1144 West Virginia officials just last week, and had this very
1145 discussion.

1146 So, as we do rulemaking, we put out a proposal, we lay out
1147 our reasoning, our legal support, we lay out the information that
1148 we have, and then we put it out, and people comment on it, people
1149 give us additional information, people give us their different
1150 views. And as I've said, there was just an extraordinary amount
1151 of input on this rule.

1152 Mr. McKinley. But that led you to doubling down the penalties
1153 on West Virginia, Wyoming, Kentucky, all these other coal
1154 producing -- you actually got testimony that we should double down
1155 the penalty?

1156 Ms. McCabe. Congressman, I certainly object to the use of
1157 the word "penalty." That's not an appropriate term for this rule.

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1158 Mr. McKinley. Well, I object to your use of the word "fair,"
1159 when I'm talking about all these people losing their job.

1160 Ms. McCabe. Can I explain why I used the word "fair?"

1161 Mr. McKinley. Good luck.

1162 Ms. McCabe. Okay. In the proposed rule, we took a very state
1163 centric approach, and that led to a certain proposal which, in
1164 fact, set differential rates for the same type of plant across
1165 the country, so a coal rate in one state was significantly
1166 different than a coal rate in another state. And through --

1167 Mr. McKinley. Okay. I want to hear what's fair when you shut
1168 down a coal-fired power plant and it destroys the fabric, the
1169 economic basis to run a school system in a county, when millions
1170 of dollars are lost. I want to talk, that's fair. Is that fair?

1171 Mr. Whitfield. The gentleman's time has expired. At this,
1172 the Chair recognizes the gentleman from Pennsylvania, Mr. Doyle,
1173 for five minutes.

1174 Mr. Doyle. Thank you, Mr. Chairman.

1175 Administrator McCabe, when you appeared before this
1176 committee for previous hearings on the proposed rule, I had voiced
1177 my concern that only 6 percent of existing nuclear power in states
1178 would be counted towards developing a state's goal, while 100
1179 percent of existing renewable power was credited. Now, in the
1180 final rule credits for both of those are gone. However, I

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1181 understand that states will have the option to choose mass-based
1182 goal for compliance that would insure that we value all existing
1183 zero carbon resources within a state similarly. Is that correct?

1184 Ms. McCabe. Actually, whether a state chooses a mass-based
1185 approach or a rate-based approach, all new and increasing zero
1186 emitting generation whether it's renewable or nuclear can be part
1187 of a compliance --

1188 Mr. Doyle. New, but there's no credits for existing.

1189 Ms. McCabe. Well, we start in 2012, so anything that's new
1190 from that point on. The mix of generation from before 2012 has
1191 already led to a particular profile for --

1192 Mr. Doyle. Well, let me ask you this. If a state adopts a
1193 mass-based goal and implements stringent leakage mitigation
1194 policy.

1195 Ms. McCabe. Yes.

1196 Mr. Doyle. Do you believe nuclear plants will not be able
1197 to prematurely retire unless they're replaced by equivalent zero
1198 carbon power or energy efficient measures?

1199 Ms. McCabe. Well, Congressman, there's a lot more that goes
1200 into the economic viability of nuclear plants than this rule can
1201 address, so I really can't speak to --

1202 Mr. Doyle. Well, if the nuclear plant retires prematurely
1203 just for cost factor, you know, because it's priced --

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1204 Ms. McCabe. Right.

1205 Mr. Doyle. -- - out of the market and a state adopts a
1206 mass-based goal, will they have to replace that with zero -- you
1207 know, will their only choice for replacement of that be zero carbon
1208 power?

1209 Ms. McCabe. It really depends on the state's situation and
1210 how they design their plan.

1211 Mr. Doyle. What happens if these nuclear plants retire in
1212 a state with a rate-based plan? What's the difference between
1213 nuclear plants retiring in a rate-based plan versus in a
1214 mass-based plan?

1215 Ms. McCabe. So, in a -- this is probably a longer
1216 conversation. We'll be happy to follow-up with you, but in a
1217 mass-based plan what's counted is the emissions coming out of the
1218 smokestacks from the fossil fuel generation. In a rate-based plan,
1219 the state is allowed to take account of other types of generation
1220 and sort of discount that against the emission rate of the fossil
1221 generation. So, either way they can take credit for or count for
1222 zero generating facilities, whether nuclear or renewable.

1223 Mr. Doyle. Let me ask you another question. In my state in
1224 Pennsylvania, and our governor is not a governor that's saying
1225 he won't comply. He's looking forward to working to come up with
1226 a plan. My state is a net exporter of electricity. We could benefit

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1227 from the option to submit multi-state plans.

1228 Ms. McCabe. Yes.

1229 Mr. Doyle. So, adopting a mass-based rather than a rate-based
1230 goal may facilitate the kind of a plan, but I've heard that this
1231 mass-based goal could handicap future economic growth as emission
1232 limits in total are capped. So, how do you respond to the concerns
1233 that some states have about that? Could these multi-state plans
1234 shift to accommodate new sources of power?

1235 Ms. McCabe. Yes, we believe that that can be fully
1236 accommodated. And your point about multi-state plans, the final
1237 rule is very flexible in terms of states working with one another
1238 either formally or informally. 111(d) of the Clean Power Plan does
1239 not constrain new growth, and so new power plants can be built
1240 in this country to meet new load growth, just as they always can.

1241 In terms of a Clean Power Plan that is using a mass-based
1242 approach, we've given the states some guideposts to use to make
1243 sure that that plan is not artificially distorting the
1244 relationship between new generation and existing generation. We'd
1245 be happy to provide more information to you.

1246 Mr. Doyle. Yes, I'd appreciate that. And, finally, the
1247 formula for the first building block of the Clean Power Plan, EPA
1248 determined that states could reasonably improve coal fleet
1249 efficiency between 2.1 and 4.3 percent rather than the 6 percent

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1250 across the board under the proposed rule.

1251 Ms. McCabe. Correct.

1252 Mr. Doyle. Can you elaborate on how the EPA determined this
1253 range for efficiency improvements in the final rule, and how the
1254 EPA reached different rates for different parts of the country?

1255 Ms. McCabe. Yes, that's a really good question. And, again,
1256 that came out of the response and the comments that we got. So,
1257 as you reflected, in the proposal we looked across the universe
1258 and came up with our 6 percent number as we thought was a reasonable
1259 national number, not that every single plant would be able to do
1260 that. The comments that we got back showed even more range of
1261 abilities, and what we did was we looked regionally across the
1262 country in the three interconnects, which are the three main
1263 sections of the power grid, and we found that when we looked at
1264 the data on an interconnect basis, we actually came up with
1265 slightly different capabilities, different capacities, because
1266 of the age of the fleet, and other characteristics of the regional
1267 fleet. So, that's how we got to those different rates. And to us,
1268 that made a lot of sense based on that input that we got.

1269 Mr. Doyle. Thank you, Mr. Chairman. Mr. Chairman, the
1270 Pittsburgh Pirates this evening, the team that I represent in
1271 Congress, are going to take the major league's best pitcher, Mr.
1272 Arrieta, and give him a massive beating tonight.

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1273 Mr. Whitfield. Yes, I should have introduced --

1274 Mr. Doyle. Let me say that for the record.

1275 Mr. Whitfield. At this time, the Chair recognizes the
1276 gentleman from Ohio, Mr. Latta, for five minutes.

1277 Mr. Latta. Thanks, Mr. Chairman, and Administrator, thanks
1278 very much for being with us today.

1279 Under 111(d) the states must file a state plan by September
1280 the 6th, 2016 unless it submits an extension request that is
1281 approved by the EPA. EPA has said that, "This approval of state
1282 extension requests is a ministerial action." Before rejecting a
1283 state's extension request will EPA allow for public notice and
1284 comment?

1285 Ms. McCabe. The requirements are very straightforward for
1286 what's required in the extension request, so we're not
1287 contemplating a formal notice and comment period, but we certainly
1288 will be in consultation with the state.

1289 Mr. Latta. Okay. If the EPA then rejects a state's extension
1290 request, EPA believes it can issue a federal plan for that state.
1291 In that case, will EPA allow for notice and comment before imposing
1292 a federal plan?

1293 Ms. McCabe. Well, we have a proposed federal plan out now
1294 that will be going through notice and comment, so if we are put
1295 in a position, which I hope we will not be, because I think states

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1296 want to go forward with plans, if we're put in a position of
1297 finalizing a plan, we will have already gone through the proposal
1298 process, have gotten people's input on that proposed federal plan.

1299 Mr. Latta. So, if I understand then, that you won't have a
1300 notice and comment period then if a state is disallowed. Is that
1301 correct?

1302 Ms. McCabe. If a state does not submit a plan, we would go
1303 forward and finalize a plan.

1304 Mr. Latta. Okay. But in this case, though, if a state rejects
1305 -- if the EPA rejects a state's plan, if it rejects it?

1306 Ms. McCabe. If we receive a plan from a state and our
1307 evaluation is that it doesn't meet the requirements of the rule,
1308 we would propose to disapprove it. We would not -- -

1309 Mr. Latta. Okay. But in that case, though, are you still
1310 saying then there won't be a notice and comment period?

1311 Ms. McCabe. No, there would be.

1312 Mr. Latta. There would be.

1313 Ms. McCabe. There would be.

1314 Mr. Latta. Okay. And how long would that be for?

1315 Ms. McCabe. It would be at least 30 days.

1316 Mr. Latta. Okay.

1317 Ms. McCabe. That's generally --

1318 Mr. Latta. At least 30 days. Now, will you be in direct

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1319 contact with the states, or -- -

1320 Ms. McCabe. Oh, absolutely.

1321 Mr. Latta. Ohio, my home state, the Ohio EPA has repeatedly
1322 asked EPA to consider investments made before 2012 to lower CO2
1323 emissions which especially affects the coal plants in my state.
1324 Would you explain why the original baseline date of 2005 was
1325 abandoned for the 2012?

1326 Ms. McCabe. Well, I need to correct the way you stated that
1327 last part. We've never had a baseline, we've never had a baseline
1328 of 2005. We've always had our starting point in this rule be 2012.
1329 This is a technology-based rule, so we always pick a year to start
1330 from to go forward, and 2012 was the year in the proposal, as well
1331 as in the final, where we had the most current, and complete and
1332 accurate data about the generation fleet, so that's why we started
1333 with that year.

1334 Mr. Latta. Let me ask, because of that, since we have in Ohio,
1335 until recently had about 70 percent of our energy is coal-fired.
1336 What factors did you consider for the State of Ohio when you were
1337 looking at that 2012 date? Did you look at the number of coal-fired
1338 plants we have, our manufacturers, our consumers? Did you take
1339 into, you know, the cost and expense that's going to incur out
1340 there? Could you explain a little bit on that?

1341 Ms. McCabe. Yes, sure we did. 2012 is the year we use

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1342 nationally. And as I say, that's because we want to have everybody
1343 starting from the same place. For each state, once we established
1344 a national uniform rate that was reasonable to expect in our view
1345 based on our review of the approaches that were available, we then
1346 took that emission rate and applied it to each state, which is
1347 why each state ends up with its target in the rule. So, a state
1348 like Ohio or like my home state of Indiana that has a lot of
1349 coal-fired generation, ends up with a significantly higher rate
1350 in the final plan than a state with less coal-fired generation.

1351 Mr. Latta. Well, you say in your testimony that this rule
1352 sets an achievable standard for power plants, but seeing as Ohio
1353 has achieved approximately 30 percent reduction in CO2 emissions
1354 between 2005 and 2014 in its coal-fired power plants, doesn't your
1355 choice of a 2012 baseline mean power plants that are not coal-fired
1356 at that time then?

1357 Ms. McCabe. Well, it treats all the states the same, so many
1358 states and utilities across the country have been moving towards
1359 cleaner energy. That's what our rule found to be the case, and
1360 that can continue. So, we took a snapshot in 2012 and said okay,
1361 going forward what's reasonable to achieve beyond where people
1362 are in 2012? And it --

1363 Mr. Latta. Well, let me just -- I'm cutting you off because
1364 my time is running out here. Just real quick, because I know since

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1365 Ohio was over 70 percent coal-fired, my recollection was since
1366 -- I'm right next to Indiana. Wasn't your state about 90 percent
1367 coal-fired just a few years ago?

1368 Ms. McCabe. 90 plus, I think it still is, Congressman.

1369 Mr. Latta. Do you think there's going to be a measurable
1370 impact on industries in the State of Indiana because of what's
1371 going to happen there, that you are over 90 percent in the state?

1372 Ms. McCabe. I think that with the amount of time in the rule
1373 and with the options that are out there for cleaner energy, that
1374 we're going to be able to move forward, implement this, and it
1375 is not going to have significant impacts on the economy; that it's
1376 going to be positive.

1377 Mr. Latta. Thank you, Mr. Chair. I yield back.

1378 Mr. Whitfield. The gentleman's time has expired. At this
1379 time, the Chair recognizes the gentlelady from Florida, Ms.
1380 Castor, for five minutes.

1381 Ms. Castor. Well, thank you, Mr. Chairman, for calling this
1382 hearing on the Clean Air Act and the Clean Power Plan.

1383 The Clean Air Act is one of America's bedrock environmental
1384 protection laws, and it has been for over 40 years. I believe the
1385 Clean Air Act reflects our values. We value the air that we
1386 breathe, we are willing here in America to tackle significant
1387 environmental threats, and to tackle these threats EPA uses the

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1388 best science, public input, examines health impacts. And what we
1389 understand here in 2015 is that we've got to tackle one of the
1390 most critical modern challenges yet, the changing climate, and
1391 the very costly impacts of the changing climate.

1392 I believe EPA has developed a flexible carbon pollution
1393 reduction plan that is good for consumers, it's good the
1394 environment, it's good for the public health, and it will be good
1395 for our economy. And I think, Ms. McCabe, that EPA is right to
1396 encourage and spur states to meet the challenges, and the rising
1397 costs of the changing climate.

1398 Coming from the State of Florida, these costs are daunting
1399 looking ahead. You've detailed some of them relating to public
1400 health, but what I see on the horizon if we do not act, increases
1401 in property insurance in Florida, flood insurance; boy, that's
1402 really hitting home now watching what's happening in South
1403 Carolina.

1404 I was a county commissioner before I came to Congress. Storm
1405 water fees, the ability of local governments, what they're going
1406 to have to do to replace storm water and waste water facilities,
1407 beach renourishment costs are going to increase.

1408 Another cost unless we act will be the failure to tap into
1409 these clean energy jobs and innovation. And I noticed in the Clean
1410 Power Plan you have -- EPA has included a Clean Energy Incentive

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1411 Program to reward early investments in renewable energy
1412 generation, specifically solar and wind during 2020-2021. Now,
1413 coming from Florida where we have huge potential for solar
1414 projects like other states do, I'm excited about what a program
1415 like this could mean for my state. Could you please elaborate on
1416 that initiative?

1417 Ms. McCabe. Sure. And you're sure right that local government
1418 is really on the front lines of facing these issues. So, the Clean
1419 Energy Incentive Program was intended to do exactly what you said,
1420 which is we know that these projects are going forward. They're
1421 teed up, they're moving forward, the costs are coming down,
1422 especially because we moved the start date from 2020 to 2022. We
1423 didn't want to inadvertently put the brakes on any projects that
1424 were going forward anticipating the Clean Power Plan, so this
1425 program would allow states if they opt into it, they certainly
1426 don't have to, to bring forward some of their compliance plan,
1427 which the federal government will then match to encourage, to
1428 provide that little bit of extra incentive for solar projects,
1429 for wind projects, and for energy efficiency in low-income areas
1430 to get a head start and really get rolling.

1431 Ms. Castor. I wondered, as well, the Union of Concerned
1432 Scientists recently issued a report as they do routinely, and they
1433 said that most states are already well on their way to complying

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1434 with the Clean Power Plan. They released an analysis in
1435 mid-August. They said they find that 31 states are on track to
1436 be more than halfway to meeting their 2022 emission rate
1437 benchmark, and that 20 states are on track to be more than halfway
1438 toward meeting their final 2030 compliance targets. They said they
1439 see great movement because of renewable energy standards, energy
1440 efficiency initiatives, nuclear power in states, and transition
1441 to natural gas. Do you agree with their analysis that we've got
1442 31 states on track to be more than halfway to 2020, and the other
1443 20 states closing in on halfway of 2030 targets?

1444 Ms. McCabe. I think what this is reflecting is exactly what
1445 we saw when we looked at the record, which is that states and
1446 utilities are moving forward to move to cleaner natural gas, to
1447 build new nuclear facilities, to invest in renewable and solar.
1448 That's the trend that we're seeing all across the country, that's
1449 what the rule is built on, that's what we're supposed to do in
1450 building the rule. So, without speaking to the exact numbers in
1451 the study; yes, that's exactly the idea, that these things are
1452 already underway.

1453 Ms. Castor. Thank you, and I yield back my time.

1454 Mr. Whitfield. The gentlelady yields back. At this time, the
1455 Chair recognizes the gentleman from Kansas, Mr. Pompeo, for five
1456 minutes.

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1457 Mr. Pompeo. Thank you, Mr. Chairman.

1458 I want to get to the substance of this rule, but it's
1459 difficult to do if we can't expect the witness to fulfill
1460 commitments that they've made to this committee. In June of last
1461 year when you testified, I asked you a question, I asked you a
1462 question about how many times you and EPA had spoken with Mr.
1463 Podesta, who is now the Chairman of the Hillary Clinton for
1464 President campaign. I asked you that question, you said you'd take
1465 it back and you'd get us an answer. We submitted a formal QFR asking
1466 you about meetings with the White House, and we got a letter back
1467 that said we had a lot of meetings, that we met with thousands
1468 of people. Ms. McCabe, how many times did you meet with Mr.
1469 Podesta?

1470 Ms. McCabe. I don't know the answer to that.

1471 Mr. Pompeo. So, still a year and two months later you haven't
1472 bothered to go back and look at your records to answer a legitimate
1473 question presented by this committee.

1474 Ms. McCabe. Congressman, we do our best to respond to the
1475 questions that we get from you, and we'll certainly do that in
1476 the future.

1477 Mr. Pompeo. So, the best you can do is tell this committee
1478 that you've met, when asked a direct question about the politics
1479 of this rule and who you met with, a simple administrative

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1480 question, the best you can do is say we met with thousands of
1481 people. I have the letter, that's what it says. It's your response,
1482 it's the EPA's response.

1483 Ms. McCabe. Without seeing my response, Congressman, I can't

1484 --

1485 Mr. Pompeo. I'll read it to you.

1486 Ms. McCabe. -- - what else we might have said in response
1487 to your question.

1488 Mr. Pompeo. It says, "We reached out to thousands of people
1489 through hundreds of meetings, listening sessions, video
1490 conferences, phone calls, conference calls, and almost 2,000
1491 emails." No mention of Mr. Podesta in the entire response, no
1492 mention of any officials from the White House in the entire
1493 response. You didn't answer the question, Ms. McCabe. It's a
1494 simple question.

1495 Ms. McCabe. I will go back and talk with folks about how we
1496 responded to your question.

1497 Mr. Pompeo. When you see the frustration and you hear members
1498 of Congress talk about the EPA being out of control, can you
1499 understand when you won't answer simple questions why someone
1500 might conclude that you don't give a darn what Congress thinks?

1501 Ms. McCabe. Well, it's unfortunate if that's your view,
1502 because I think that we're all here to serve the public.

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1503 Mr. Pompeo. Not just my view, Ms. McCabe, it's the view that
1504 you expressed when you said we're not going to give you an answer,
1505 Mr. Pompeo. We're going to blow you off. Unacceptable,
1506 unacceptable.

1507 You said today that if a state needs more time, it's a
1508 ministerial action, you'll give them an incremental two years.
1509 At the end of those three years, if the Governor of Kansas, this
1510 one or the next governor concludes that there'll be massive
1511 brownouts in Kansas as a result of complying with this rule, and
1512 writes you a letter to that effect, what will the response of the
1513 EPA be?

1514 Ms. McCabe. I can't speak to a future eventuality like that.
1515 We did ask the states -- -

1516 Mr. Pompeo. No, no. You can answer it. This is a legal
1517 question, this is about the rule. The governor says we can't
1518 comply, or we're going to have poor people freezing in the winter
1519 in Kansas if we comply with this rule. Tell me what the EPA's
1520 actions will be in response to what I'm sure you will view as
1521 non-compliance with the state's obligation under this rule? Tell
1522 me what the Environmental Protection Agency is going to do to those
1523 poor people in Kansas?

1524 Ms. McCabe. I cannot speak to a future action of the EPA based
1525 on facts that we'll need to look at very carefully.

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1526 Mr. Pompeo. All right. But you'll have the right to put a
1527 federal plan in place.

1528 Ms. McCabe. We will go through a process to make a
1529 determination -- -

1530 Mr. Pompeo. That's a yes or no question, Ms. McCabe. You'll
1531 have the right to put a federal program in place. You might
1532 conclude not to do so, but you'd have the right do so under this
1533 rule.

1534 Ms. McCabe. If a state submits a plan that we feel does not
1535 comply with the law, we have the authority. It's not a question
1536 of right, we have the authority and the responsibility under the
1537 Clean Air Act.

1538 Mr. Pompeo. Right. So, you talked earlier about states
1539 cooperating. You said they're cooperating. I don't view it as
1540 cooperation. If someone comes up to me on the street and threatens
1541 my life, and I hand them my money, I just simply don't view that
1542 as cooperation. These governors will be under enormous pressure.
1543 It's not about them cooperating, it's about the heavy hand of the
1544 EPA forcing them to make decisions that they believe are
1545 inconsistent with their duty to the state, and to protect the
1546 citizens of their states. But that's a far cry from cooperation,
1547 the word that you used three times so far this morning.

1548 Ms. McCabe. Well, I know from conversations that I've had

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1549 and meetings that I've had with people that states are talking
1550 about working -- -

1551 Mr. Pompeo. Because they know what's coming. Let me go down
1552 a -- you said there were fewer missed school days. How many fewer
1553 missed school days per student per year will there be as a result
1554 of the Clean Power Plan?

1555 Ms. McCabe. Well, I'd be happy to get you the numbers that
1556 we put together, Congressman. No, really. I mean -- -

1557 Mr. Pompeo. I'll look forward to it. I mean, this is the kind
1558 of data. If you're going to make assertions here to this committee
1559 today about fewer missed school days, and you said there will be
1560 shorter allergen seasons, it would seem to me, response of you
1561 to say this allergen season in a particular region will be shorter
1562 by 7 hours 26 minutes, plus or minutes whatever your science can
1563 determine. But you throw these things out without any foundation
1564 in the data set and expect us to accept that as a fait accompli.
1565 So, I'd just like to know how many fewer school days as a result
1566 of this. And I'll look forward to your letter.

1567 Mr. Pompeo. Do you have a response? Sure.

1568 Ms. McCabe. I can answer that.

1569 Mr. Pompeo. Sure.

1570 Ms. McCabe. Because we did put that information together.

1571 Mr. Pompeo. Great. Tell me what it is.

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1572 Ms. McCabe. I just didn't want to fish through a bunch of
1573 papers while I was listening to you. What we predicted is that
1574 in 2030 when the plan is in place, there would be 140,000 fewer
1575 missed school days.

1576 Mr. Pompeo. Great, thank you very much. I'm way out of time.
1577 Thank you.

1578 Mr. Whitfield. At this time, the Chair recognizes Mr.
1579 Loeb sack of Iowa for five minutes.

1580 Mr. Loeb sack. Thank you, Mr. Chair. First, I do want to thank
1581 Administrator McCabe for testifying here today.

1582 I may not take up the whole five minutes. I want to focus
1583 on the 2012 date that was already mentioned, and go to my home
1584 state, Ms. McCabe. You know that over 28 percent of our electricity
1585 in Iowa is generated by wind power. We're the leader in the
1586 country. And I applaud the EPA, of course, for working to cut
1587 America's carbon pollution. I think it's a great idea, and we've
1588 got to move our energy and environmental policy into the 21st
1589 century. But in my state we've made a hell of a lot of progress
1590 over the years, and I just -- I have a concern that starting this
1591 2012, doesn't really recognize what states like Iowa have already
1592 done. Can you talk to me about that, you know? I mean, it's really
1593 difficult, you know, to sort of start it at a particular point
1594 when a place like Iowa has made so much progress, and then a number

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1595 gets attached after 2012, and it just didn't seem to honor the
1596 commitment that folks in Iowa have already made up to this point.

1597 Ms. McCabe. Yes, I'm glad you asked that, Congressman. I
1598 think that there are a number of states who can legitimately make
1599 a similar claim and utilities where they have invested early. And
1600 the way this program works, it actually reflects the good work
1601 that states who have been forward-looking have already done
1602 because they have less far to go, ultimately, in getting to that
1603 2030, because they're already well along the way. So, the way the
1604 Clean Power Plan works, since it takes into account each state's
1605 mix, current mix as of 2012, states that are further ahead were
1606 further ahead when we took that snapshot and projected into the
1607 future. So, there's lots of opportunity, and for those
1608 technologies to continue to be invested in, but states, some of
1609 them are well along the way. It's similar to what the Congresswoman
1610 cited before.

1611 Mr. Loeb sack. I've seen a 42 percent number attached to Iowa.
1612 I don't know if that's accurate or not, but that's going to be
1613 very difficult, of course; and we've already come a long way. If
1614 we had set that date back to 2010 or whatever the case might be,
1615 it would be a less onerous burden certainly on the State of Iowa.
1616 We all want clean energy, we all want to cut, you know, obviously
1617 carbon pollution. We all want to do those things, and Iowa is going

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1618 to continue to do the right thing. The governor there is just now
1619 putting together a team to try to come up with some kind of an
1620 energy plan, and I commend him for that. And we're going to do
1621 the right thing, we're going to keep doing it.

1622 Ms. McCabe. Yes.

1623 Mr. Loeb sack. But it just does seem a bit unfair to start
1624 it at that 2012 date and not recognize all the progress that was
1625 already made in a place like Iowa. And, hopefully, we'll be able
1626 to take advantage of the incentive program, as well. You know,
1627 we'll continue to work with you on that but, you know, I'm making
1628 a plea for some degree of flexibility in all this at this point.

1629 Ms. McCabe. Well, I think the fact that the final plan focuses
1630 much more than the proposal did on the regional nature of the power
1631 market, goes directly to your point, as well.

1632 Mr. Loeb sack. Right.

1633 Ms. McCabe. Because it allows the regions, the utilities and
1634 the regions to work together. And, again, states that are further
1635 ahead are further ahead, and will benefit from that investment
1636 that they've made.

1637 Mr. Loeb sack. Right. Well, we'll stay in touch going forward,
1638 and I just wanted to express the concern that I have about that
1639 date. And, hopefully, we'll have a little bit of flexibility that
1640 we'll see from you folks moving down the road. Thank you so much.

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1641 Ms. McCabe. Thank you.

1642 Mr. Loeb sack. Thank you, and I yield back the rest.

1643 Mr. Whitfield. The gentleman yields back. The Chair
1644 recognizes the gentleman from Virginia, Mr. Griffith, for five
1645 minutes.

1646 Mr. Griffith. Thank you, Mr. Chairman.

1647 Ms. McCabe, I've heard some confusion here today. I read you
1648 some quotes out that said on four occasions over the last few years
1649 it said that you all weren't going to move towards a cap and trade
1650 program. I then read you something that indicated you are going
1651 to a cap and trade program, and then you told Congressman Barton
1652 that you weren't going to a cap and trade program. And I find that
1653 hard to understand. Is it your position that you all are not
1654 heading towards a cap and trade program?

1655 Ms. McCabe. This rule does not set up a cap and trade program,
1656 Congressman.

1657 Mr. Griffith. All right. I beg to differ. Let me go through
1658 some of the documents, and I guess we just have to start with your
1659 own documents. You know, when you take a look at it in the
1660 Environmental Protection Agency in the pre-plan that's out there
1661 and the summary, it says, "This proposal," talking about your
1662 plan, and I can be glad to give you a copy of this after I finish
1663 reading it. "This proposal presents two approaches to a federal

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1664 plan for states and other jurisdictions that do not submit an
1665 approval plan to the EPA; a rate-based emissions trading program,
1666 and a mass-based emissions trading program." Now that to me sounds
1667 like cap and trade of one form or another.

1668 It goes on to say on page 43, "As discussed at length in the
1669 emission guidelines, electric generation units operate less as
1670 individual isolated entities, and more as multiple components of
1671 a large interconnected system designed to integrate a range of
1672 functions that insure an uninterrupted supply of affordable and
1673 reliable electricity, while also for the past several decades
1674 maintaining compliance with air pollution control programs. Since
1675 as a practical matter under both the emission guidelines and any
1676 federal plan, emissions reductions must occur at the affected
1677 electric generation units, a broad scale emission trading program
1678 would be particularly effective in allowing the electric
1679 generation units to operate in a way that achieves pollution
1680 control without disturbing the overall system of which they are
1681 a part, and the critical functions that this system performs. In
1682 addition, consistency of requirements benefits the affected
1683 electric generation units, as well as the states, and the EPA in
1684 their role as administrators and implementers of a trading
1685 program. The EPA believes that there are," skip a line, and then,
1686 "The EPA believes there are compelling policy reasons that support

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1687 the provisions of a proposed model trading rule at this time."

1688 It goes on to talk about the public hearings that you had
1689 which you didn't have in my district, where you would have heard
1690 something completely different. As I told you before, I was
1691 elected on this issue, and a 28-year incumbent who agreed with
1692 you all isn't here because of this issue, cap and trade. And you
1693 go on to talk about, "There's strong interest in seeing a model
1694 state program," and then it goes on to say and I find this
1695 fascinating. "In addition, some states have indicated that they
1696 may prefer to rely on a federal plan, either temporarily or
1697 permanently, rather than develop a plan of their own. This
1698 proposal of a model trading rule addresses these policy interests.
1699 The approach of proposing model trading rules that are identical
1700 in all key respects to proposed federal plans that may be
1701 promulgated later is consistent with prior Clean Air Act Section
1702 111(d)."

1703 Now, I don't know in what kind of a universe or what English
1704 language you're looking at, but I just picked out some small parts
1705 here, and every time I turn around it's talking about this rule
1706 pushing on the states a trading plan similar to cap and trade,
1707 if not cap and trade heavy, it's cap and trade of some form, and
1708 two different versions of it. And then it says, and I will -- I
1709 interpret it differently. It says, "In addition, some states have

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1710 indicated they may prefer to rely on a federal plan." That's
1711 because they're not going to do it, because isn't it -- am I correct
1712 that if a state says like we heard earlier that one of the states
1713 feared blackouts and people freezing in their homes, if they
1714 choose not to do it, you all are going to come in with your federal
1715 trading program and do a federal program. Isn't that correct; yes
1716 or no? It's simple yes or no.

1717 Ms. McCabe. No, it's not, it's not a simple question to
1718 answer.

1719 Mr. Griffith. It is a simple question. Are you going to make
1720 the states do a trading program; if they don't comply with your
1721 Clean Power Plan, are you coming in there and impose a federal
1722 trading plan on them, and the answer is either yes or no.

1723 Ms. McCabe. We have not finalized a federal plan. We have
1724 a proposal out there, so I cannot speak to what the --

1725 Mr. Griffith. Okay. Under this proposal, wouldn't that be
1726 the natural and logical conclusion, for someone reasonable
1727 reading the English language that I just read to you out of your
1728 own document. Would that not be reasonable?

1729 Ms. McCabe. We have proposed trading programs, a rate-based
1730 one, and a mass-based one, and I would commend you to the comment
1731 record, Congressman, where we got overwhelmingly inputs from
1732 states and utilities saying --

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1733 Mr. Griffith. Where you --

1734 Ms. McCabe. -- -the trading programs were effective and
1735 efficient, and they were using them, and it works.

1736 Mr. Griffith. And where you disenfranchised the people of
1737 Appalachia because you didn't come to talk to any of the
1738 coal-producing areas in Central Appalachia. You refused to come
1739 and have a hearing there. We asked you all to do it, you wouldn't
1740 do it, didn't have to be my district, could have been Mr. Johnson's
1741 district, or Mr. McKinley's district, or somebody else's
1742 district. You wouldn't do it. That's why your comments are going
1743 to support what you got, because you went out and found the people
1744 that agreed with you to go put your hearings in.

1745 Mr. Chairman, I apologize. I am over my time; I yield back.

1746 Mr. Whitfield. The gentleman yields back. At this time, the
1747 Chair recognizes the gentleman from Texas, Mr. Green, who I guess
1748 represents part of Houston, as well, Astros.

1749 Mr. Green. Yes.

1750 Mr. Whitfield. Okay, five minutes.

1751 Mr. Green. I'm proud to be a co-fan with my good friend from
1752 the south with the Astros. But I want to thank the Chair and the
1753 Ranking Member for holding the hearing, and I want to thank Acting
1754 Administrator McCabe for coming. The EPA's Clean Power Plan has
1755 been subject to much debate. We're happy to have you here today.

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1756 Administrator, the EPA's Clean Power Plan changed
1757 significantly from the proposed rule to the final product. My
1758 understanding was the EPA wanted to be responsive to stakeholder
1759 feedback, including many concerns brought by the industry. The
1760 final rule included both reliability safety valve, and what looks
1761 like a reliability assurance mechanism. My question is, does the
1762 Memorandum of Understanding between DOE, EPA, and FERC function
1763 as the beginning of a reliability assurance mechanism? Can you
1764 explain what steps EPA took to insure that reliability before the
1765 implementation?

1766 Ms. McCabe. Yes, that's a good question, Congressman. The
1767 Memorandum between the three agencies is really a continuation
1768 of the relationship that we've developed, our three agencies, to
1769 make sure that we're focused collectively on what's going on in
1770 the power industry as they're responding not just to EPA rules,
1771 but to the various trends in the industry, and moving forward,
1772 how it's going so that we're all on the same page, and in good
1773 communication.

1774 The variety of things that we built into the Clean Power Plan
1775 that were directly responsive to the reliability issues that we
1776 heard were more time, more flexibility in the glide path, making
1777 sure that the states in developing their plans specifically
1778 address reliability which may involve, up to them, but may involve

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1779 consulting with their reliability entities or with their PUCs,
1780 making sure that those conversations are happening.

1781 The reliability safety valve that you mentioned is also
1782 something that we put in that was very important, the ability for
1783 states to adjust their plans. So, it's the whole package really
1784 that collectively addresses the reliability concerns.

1785 Mr. Green. Both Congressman Olson and Congressman Doyle over
1786 the past two Congresses and I have worked on legislation to address
1787 the must-run orders. Through a strange twist in the law, the DOE
1788 told a power plant to run even in violation of the Clean Air Act,
1789 the operator could be civilly liable. Does CPP include your
1790 reliability safety valve that allows 90-day must-run orders in
1791 the event of an emergency? Would an operator face potential
1792 litigation for following those orders?

1793 Ms. McCabe. We actually think it's very unlikely that an
1794 operator would be put in that position because of the flexibility
1795 in the plan, and how states can set up their plans. But in the
1796 event that an operator was put in that position, that's the purpose
1797 of the reliability safety valve, to give them the ability to go
1798 forward without being worried about being in violation of the
1799 Clean Air Act.

1800 Mr. Green. EPA stated that federal implementation has not
1801 been finalized. EPA is deciding between rate-based or mass-based

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1802 federal implementation plan. The final rule indicated a 90-day
1803 comment period. How many comments has the agency received thus
1804 far?

1805 Ms. McCabe. We actually -- that comment period will start
1806 when the Federal Register publishes the rule, which we expect to
1807 be later this month, so we haven't gotten any formal comments yet.

1808 Mr. Green. Does the agency anticipate extending the comment
1809 period? I guess will that depend on the amount of comments you
1810 receive?

1811 Ms. McCabe. If we get those requests, Congressman, we'll take
1812 a look at them and decide. We wanted to start out with quite a
1813 lengthy comment period to make sure that people had time to put
1814 their thoughts together.

1815 Mr. Green. The final rule changed the way EPA views nuclear
1816 power. Can you explain further how existing or under construction
1817 nuclear could be counted?

1818 Ms. McCabe. Yes. So, any under construction or upgraded
1819 nuclear power since 2012 can be included by a state as part of
1820 its compliance plan, just like any -- it's treated just the same
1821 as any other zero emitting generation, which was a lot of the
1822 feedback that we got from folks.

1823 Mr. Green. Okay. Well, in Texas we have invested significant
1824 amounts in wind power, and I'd like to see the same done with solar.

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1825 How does EPA envision the Clean Energy Incentives Program
1826 encouraging new construction of solar?

1827 Ms. McCabe. It allows states, if they choose, to sort of front
1828 load by providing some extra incentive to those projects. And in
1829 order to make that an incentive, the federal government will match
1830 the investment that the state would put in in terms of compliance
1831 allowances or credits, however they choose to do it.

1832 Mr. Green. My last 20 seconds, how does EPA envision the Clean
1833 Energy Incentive Program encouraging new construction? The EPA
1834 wants to establish a credit reserve, and will run into problems
1835 of verification, authenticity issues before, but how is EPA going
1836 to do that?

1837 Ms. McCabe. So, we proposed an approach for people to have
1838 accountability systems. It's very important, as you recognize,
1839 that everybody be following a good set of rules, and there's a
1840 lot of information out there because of the renewable energy
1841 markets that already exist. So, we'll work with all of that
1842 information and get a set of guidelines out there for people that
1843 everybody's comfortable with.

1844 Mr. Green. Okay. Thank you, Mr. Chairman.

1845 Mr. Whitfield. The Chair recognizes the gentleman from
1846 Texas, Mr. Flores, for five minutes.

1847 Mr. Flores. Thank you, Mr. Chairman. I appreciate the

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1848 opportunity to have this important hearing today. Thank you for
1849 being here, Ms. McCabe.

1850 States have to file, if they want an extension to produce
1851 plan, they've got to file before 2016. Correct?

1852 Ms. McCabe. In September of 2016. Yes, sir.

1853 Mr. Flores. Okay. If the Texas legislature doesn't meet until
1854 2017, how are they supposed to file a plan in 2016?

1855 Ms. McCabe. Well, every state is different, but in many
1856 states it's the environmental agency or on behalf -- --the governor
1857 through the environmental agency that has the responsibility for
1858 filing the plan.

1859 Mr. Flores. But the representatives of people really don't
1860 have any input into it, because the legislature doesn't meet. Did
1861 cap and trade pass Congress?

1862 Ms. McCabe. Well --

1863 Mr. Flores. No, it didn't.

1864 Ms. McCabe. For acid rain, it did. This is not a cap and trade
1865 rule, Congressman.

1866 Mr. Flores. Well, I think, Mr. Griffith, if you look at pages
1867 1174 and 1775 of the rulemaking, it's pretty clear that Mr.
1868 Griffith was right. He was on to something. EPA is going to have
1869 cap and trade in this, and we both know that that's the direction
1870 you're trying to go.

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1871 Let's talk about new natural gas EGUs for a minute. Do those
1872 improve the emissions profile of the country?

1873 Ms. McCabe. Sure they do. Yes, that's clean energy.

1874 Mr. Flores. Okay. Does EPA support the construction of new
1875 natural gas EGUs?

1876 Ms. McCabe. We support the move towards cleaner energy.
1877 Natural gas is a very important part of our diverse energy mix.

1878 Mr. Flores. Okay. On page 346 of the 111(d) rule, it says
1879 in the second full paragraph, the EPA says, "Unlike emission
1880 reductions achieved through the use of any of the building blocks,
1881 emission reduction is achieved through the use of," and I'm going
1882 to put parenthetically here, "natural gas combined cycle plants
1883 require the construction of additional CO2 emitting generating
1884 capacity, a consequence that is inconsistent with the long-term
1885 need to continue reducing CO2 emissions beyond the reduction that
1886 will be achieved by the rule." So, can you explain what that means?

1887 Ms. McCabe. I think what that's reflecting is that natural
1888 gas is a fossil fuel. It does have CO2 emissions, and there's a
1889 range of options that this country has to make sure that we're
1890 always moving towards a cleaner energy supply. Natural gas and
1891 some coal is part of that, but there are also even cleaner types
1892 of energy that we want to encourage.

1893 Mr. Flores. So, does the EPA support or oppose the

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1894 construction of natural gas EGUs?

1895 Ms. McCabe. We do not oppose the construction of clean energy
1896 in this country.

1897 Mr. Flores. Okay, thank you. Because solar is not going to
1898 produce base load, wind is not going to produce base load power,
1899 but natural gas EGUs do produce base load power, as coal does,
1900 as nuclear, but you're not giving any credits for nuclear power.

1901 This is going to be fully implemented by 2030 according to
1902 your present plan. What will the emissions reduction be across
1903 the nation for CO2 in the year 2050 versus today?

1904 Ms. McCabe. I don't have that number. We'd be glad to get
1905 some information back to you on that.

1906 Mr. Flores. Yes, that would be good. I mean, you give us these
1907 metrics about 140,000 fewer lost school days, and a shorter
1908 allergy season. You know, it seems to me like you start with what's
1909 the sort of the headline number, we're going to have experts that
1910 said reduction. It seemed like that that would be a number that
1911 would be on top of your mind.

1912 In order to get to this 2030 standard, how much of the
1913 technology exists today to get to that standard?

1914 Ms. McCabe. All of it.

1915 Mr. Flores. All of it, every bit of it.

1916 Ms. McCabe. Yes, sir.

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1917 Mr. Flores. Okay. What's the mean cost per reduced ton of
1918 CO2 emissions to get there?

1919 Ms. McCabe. I don't have that number off the top of my head.

1920 Mr. Flores. That would be a really good number to have.

1921 Ms. McCabe. Sure.

1922 Mr. Flores. So, when we have -- let's roll back out to 2050
1923 again. So, what's the change in the mean temperature going to be
1924 around the world?

1925 Ms. McCabe. Again, we'd be happy to provide you more
1926 information about the specific metrics.

1927 Mr. Flores. Okay. And what's the change in sea levels going
1928 to be?

1929 Ms. McCabe. Again, that's something -- -

1930 Mr. Flores. But we talk about school days, but the whole thing
1931 here, all the arguments I've heard particularly from the other
1932 side of the aisle about how this is going to make the world a
1933 better, happier place.

1934 Ms. McCabe. Yes.

1935 Mr. Flores. But you don't have the information we need, so
1936 I'd really like to know.

1937 So the other thing that would be nice to know, what's the
1938 economic impact of reduced reliability? I mean, you've heard the
1939 states say that there's going to be reduced reliability. The only

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1940 people in this room that say we're going to have improved
1941 reliability are the folks in the EPA.

1942 Ms. McCabe. Respectfully, I disagree with that. There are
1943 many people who weighed in on the climate plan that have taken
1944 just the opposite view, and gave us advice about how to make sure
1945 that our rule would not impair reliability.

1946 Mr. Flores. Well, I can tell you in the winter of 2013, and
1947 this plan had been in effect in Texas where we had a record cold
1948 snap, there would have been a lot of school days missed because
1949 there was no power for schools because a big chunk of the
1950 coal-powered plants would have been offline because of this. And
1951 I'm at the end of my time, I yield back.

1952 Mr. Whitfield. The gentleman yields back. At this time, the
1953 Chair recognizes the gentleman from New York, Mr. Tonko, for five
1954 minutes.

1955 Mr. Tonko. Thank you, Mr. Chair. And thank you, Assistant
1956 Administrator McCabe for joining us today. Thank you for your
1957 patience and your responses which are very much governed by
1958 civility, so I appreciate that.

1959 The Clean Power Plan has the goal of reducing carbon
1960 emissions by 32 percent below 2005 levels by 2030. States will
1961 have 15 years to achieve those goals under this plan. This is
1962 definitely achievable, in my opinion. New York's experience

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1963 demonstrates that it, indeed, is possible. Since 2005, New York
1964 and the other states participating in the Regional Greenhouse Gas
1965 Initiative, or REGGI, have seen a decrease in carbon emissions
1966 of more than 45 percent. And we have not sacrificed economic growth
1967 or reliability to achieve those given reductions. And according
1968 to several reports done by an independent group, New York's
1969 auction proceeds generated over \$1 billion in savings for New
1970 Yorkers, so this can be done. So, I look at a charge of 32 percent
1971 over 15 years, and look at a record achieved of 45 percent over
1972 10 years in contrast.

1973 Ms. McCabe, one of the current statements the opposition to
1974 the Clean Power Plan is making is that the rule mandates an
1975 emissions trading scheme. As I read it, there is no mandate to
1976 use emissions trading as the way to meet the standard. Is that
1977 correct?

1978 Ms. McCabe. That's correct.

1979 Mr. Tonko. And as I understand it, it was utilities and system
1980 operators who advocated for including this compliance option in
1981 the final rule, not just state governments that were already
1982 participating in these systems. Is that correct?

1983 Ms. McCabe. Yes, we heard from many utilities that this was
1984 a preferred way that they're already operating.

1985 Mr. Tonko. What reasons did the utilities and system

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1986 operators offer in support of including this option?

1987 Ms. McCabe. Well, trading has been shown through the acid
1988 rain program and a number of other programs to be the most flexible
1989 way for operators to manage their assets. Many utility companies
1990 operate in multiple states. They have a range of assets, they may
1991 have coal, they may have renewables, they may have gas, and having
1992 a system where they can average, they can trade back and forth,
1993 it just makes sense. They're going to have more ability to make
1994 the investments where they are the most cost-effective, and not
1995 make them in places where they won't. And then they can use the
1996 system to average over. And if they can trade with other companies,
1997 it just broadens the capacity for the system to find the cheapest
1998 and most cost-effective technologies and approaches.

1999 Mr. Tonko. Was it just about that cost, or was reliability
2000 also a consideration?

2001 Ms. McCabe. Reliability is -- the more flexible and open the
2002 system is, the easier it is for companies to feel confident that
2003 they have play in the system, and they'll be able to meet the load
2004 needs.

2005 Mr. Tonko. Thank you. I also want to express my appreciation
2006 for the agency's efforts at outreach, outreach to state
2007 governments, and to the wide range of stakeholders in this effort.

2008 One of the things that the original proposal did not include

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2009 was a reliability safety valve. This was something mentioned by
2010 a number of witnesses at our hearings on the original proposal.
2011 The final rule does include a safety valve, and I heard you
2012 exchanging with Representative Green a few moments ago. Can you
2013 further develop or describe for us how that would work?

2014 Ms. McCabe. Yes. So, as I mentioned, states can certainly
2015 design plans that will minimize the chance that an operator will
2016 be put in the position of having to choose between complying with
2017 a must-run order and violating the Clean Air Act. But if that
2018 should occur, what the reliability safety valve does, is it allows
2019 that plant to continue running. In fact, our expectation is that
2020 if a plant gets a must-run order in an emergency situation, it
2021 will run. And it sets up a period of 90 days for the company to
2022 take a breath, do what they need to do, and figure out whether
2023 there's a problem with the state plan, whether this is a situation
2024 that's going to resolve itself, and what it needs to do long term.
2025 So, for that safety valve period of time, they can do what they
2026 need to do, relax, and figure out the next steps.

2027 Mr. Tonko. Thank you. I believe the final rule addresses a
2028 number of the concerns raised and provides an achievable,
2029 affordable path for reducing emissions. And, you know, it's been
2030 stated time and time again that there are many concerns about
2031 climate change in this nation, and for our world. And I believe

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2032 that the leadership that we can all provide will inspire responses
2033 around the world to make certain that we, in fact, will have a
2034 global response to what is a critical situation that faces not
2035 only this generation, but the many to follow. So, thank you very
2036 much, again, for our appearance here.

2037 Ms. McCabe. Thank you.

2038 Mr. Whitfield. At this time, the Chair recognizes the
2039 gentleman from Ohio, Mr. Johnson, for five minutes.

2040 Mr. Johnson. Thank you, Mr. Chairman.

2041 Assistant Administrator McCabe, I'm incensed and I think the
2042 American people are incensed, and I'm certain that the people that
2043 I represent in Eastern and Southeastern Ohio are incensed at the
2044 logic that's being used by the EPA as it addresses the concerns
2045 around employment. The logic that seems to be applied to coal
2046 regions of the country where we've got communities of 1,000, 1,500
2047 people that are all coal miners, and such, that they can just plant
2048 seeds like a seasonal garden and all of a sudden industries and
2049 new job opportunities might crop up. The logic that the EPA is
2050 using in their rationale, I certainly understand it because every
2051 time a new government regulation by the EPA comes out, new offices
2052 are stood up, employees are hired, and the Washington bureaucracy
2053 grows ad nauseam. It happens like that at the expense of the
2054 American taxpayer.

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2055 I'm concerned about that, and if you look at page 47 of the
2056 Clean Power Plan, and the heading that reads, "Addressing
2057 Employment Concern," on page 47 your agency states, "The EPA
2058 encourages states in designing their state plans to consider the
2059 effect of their plans on employment and overall economic
2060 development to assure that the opportunities for economic growth
2061 and jobs that the plans offer are realized. To the extent possible,
2062 states should try to assure that communities that can be expected
2063 to experience job losses can also take advantage of the
2064 opportunities for job growth or otherwise transition to healthy,
2065 sustainable economic growth."

2066 You're obviously not familiar with Appalachia, Ohio and
2067 rural America, and how these rules will affect places like that.
2068 So, I'm trying to understand what you mean by economic
2069 development. You're asking states to prematurely retire and
2070 replace existing plants with new energy infrastructure, and then
2071 claim this as a net benefit for jobs and economic growth. This
2072 is like breaking a window and then claiming the spending on the
2073 replacing of that window as a net benefit. So, what would the EPA
2074 do if a state chooses to show it could use the funds that the EPA
2075 wants it to spend on replacing perfectly good and reliable energy
2076 infrastructure by putting those funds toward a more productive
2077 economic use?

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2078 Ms. McCabe. Congressman, our job under the Clean Air Act is
2079 to implement the Clean Air Act, and we believe that we put forward
2080 --

2081 Mr. Johnson. I've heard that, Assistant Administrator
2082 McCabe. That incenses me even more. You work for the President
2083 of the United States who was elected by the American people with
2084 a mandate to care for all of the American people. For the EPA to
2085 blindly like a mule going down a furrow say that we don't have
2086 to look to the right and the left, and our job is to keep the air
2087 clean, or job is not to consider the economic viability of the
2088 communities that we're affecting, that is not only irresponsible,
2089 it is incomprehensible that an agency in the United States federal
2090 government would do that to its own people. So, I'm not even going
2091 to engage in that dialogue because it doesn't make any sense.

2092 Ms. McCabe. Could I reply?

2093 Mr. Johnson. I'll give you --

2094 Ms. McCabe. I wasn't able to get very many words out.

2095 Mr. Johnson. Quickly.

2096 Ms. McCabe. The President and the Administration absolutely
2097 cares about these issues. That's a key reason why he put forward
2098 the Power Plus Plan, which is specifically targeted at the
2099 transitions that are happening in coal country, and -- -

2100 Mr. Johnson. All right. Let me ask you a specific question.

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2101 Let's get -- if that's what the President really believes, and
2102 that's what Administrator McCarthy really believes, and if that's
2103 what you really believe, tell me what you're going to do in
2104 Beallsville, Ohio when you shut down that coal mining operation
2105 that employs about 1,500 people. Tell me what you're going to do
2106 to establish a new industry there and create economic growth.

2107 Ms. McCabe. These are the conversations that --

2108 Mr. Johnson. No, it's not a conversation. It's not a
2109 conversation that needs to be had. A conversation is not going
2110 to put food on the table, clothes on the kids, pay for school
2111 supplies. A conversation is not going to solve this problem. And
2112 I don't understand how you folks in the Administration do not see
2113 the devastating impacts that it's going to wreak on -- you know,
2114 I'm totally off my questions, Mr. Chairman, but I'm just so
2115 incensed by the answers to these questions. And I've extended my
2116 time, and I apologize. I yield back.

2117 Mr. Whitfield. The gentleman's time has expired. At this
2118 time, the Chair recognizes the gentleman from Vermont, Mr. Welch,
2119 for five minutes.

2120 Mr. Welch. Well, I want to in a way take up where Mr. Johnson
2121 was speaking. I had a chance to go to West Virginia and go into
2122 a coal mine with Mr. McKinley, and I'll tell you, it was a really
2123 powerful experience. Those folks work hard, as you know, and we

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2124 don't have coal in Vermont, but we have electricity, and those
2125 coal miners, many from the UMW, they kept the lights on for us,
2126 kept our farms humming, kept the factories going. And there is
2127 dislocation. It happens to be the case that I am a strong supporter
2128 of efforts to clean our air and to move away from fossil fuels,
2129 but that trip really brought home to me that there is an impact
2130 on real people who are proud, who are hardworking, who approach
2131 things in a patriotic and team-oriented way, and are doing good
2132 work.

2133 And what I think this whole committee has to do, not just
2134 the Administration, is get behind some legislation that my friend,
2135 Mr. McKinley, is sponsoring; two things, in particular. One, a
2136 lot of folks who have paid into their health care and the
2137 retirement benefits are in jeopardy of having them be lost, and
2138 Mr. McKinley and others have legislation that would protect that.
2139 And I strongly support it, and I hope a lot of my colleagues,
2140 whatever side of the debate they are on on the Clean Air rule
2141 support Mr. McKinley in that.

2142 And the second is, there is that kind of economic dislocation
2143 that my colleagues who are from coal country are acutely aware
2144 of. And it's amazing to meet those coal miners, and I saw Mr.
2145 McKinley in his heartfelt relationship with them in real world
2146 understanding. One very vivid example, we were there on Friday.

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2147 Friday night the big custom down there is to go to the high school
2148 football games. They used to have -- in this region they used to
2149 have eight high schools, now they have three. So, it's really,
2150 really tough.

2151 So, I'm a supporter. I think that climate change is a real
2152 issue, and some of my colleagues disagree. But there in my view
2153 can't be any disagreement about the reality that there is
2154 dislocation. These are good people, and somehow, some way we've
2155 got to help them, and Mr. McKinley has two ways to do it.

2156 But it also suggests to me that to the extent that you in
2157 doing your job at EPA can also have some flexibility, I think it's
2158 worthy of as much consideration as possible because while we have
2159 to make this transition, in my view, we also have to mitigate the
2160 real world consequences of what's happening.

2161 So, I appreciate you being here, I appreciate the work that
2162 you're doing. I say to my colleagues that this is not just an EPA
2163 issue, because whatever impact is occurring because of rules,
2164 there are also market forces that are very much at work. The price
2165 of natural gas is a big factor, efficiency which is a good tool
2166 is reducing the demand in some cases from what it would be. So,
2167 this is a kind of all of the above approach that we have to take.

2168 And I just want to end by saying thank you for the work you
2169 do, but I also want to say to my colleagues from coal country that

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2170 you've got some allies on our side who want to be there to help
2171 you help those extraordinary people who have kept the lights on
2172 in Vermont, kept our farms running, kept our factories operating.
2173 So, thank you.

2174 Mr. Whitfield. The gentleman yields back. At this time, the
2175 Chair recognizes the gentleman from Mississippi, Mr. Harper, for
2176 five minutes.

2177 Mr. Harper. Thank you, Mr. Chairman. Ms. McCabe, thank you.

2178 You know, I come from a state where we rely heavily on
2179 electric co-ops to help keep lights on. I've been in close contact
2180 with them as the Clean Power Plan has been discussed, and I would
2181 like to share just one of their concerns today, if I may.

2182 South Mississippi Electric; one of South Mississippi
2183 Electric's biggest concerns is the drastic and unproven shift to
2184 renewables in the final version of the Clean Power Plan that would
2185 require that 21 percent of SMEs generation come from renewables
2186 by 2030. If I could put that in perspective, SME just executed
2187 a power purchase agreement for all of the output of a 52 megawatt
2188 solar facility being constructed in Lamar County, Mississippi.
2189 The capital cost associated with this one solar facility is \$102
2190 million with a 30 percent tax credit. The output of the facility
2191 will total less than 1 percent of SME's total generation in a year.
2192 Therefore, to meet the 2030 emissions rate, over 21 of these

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2193 facilities would be required at a cost in excess of \$2 billion.
2194 To put that further in perspective, SME currently has just over
2195 \$2 billion in assets that have been accumulated over about a
2196 50-year time frame, and under this rule it would double in a mere
2197 decade.

2198 So my question for you is, how will people in my state be
2199 able to afford costs associated with the dramatic shift from
2200 fossil generation to renewable energy generation set forth in the
2201 Clean Power Plan?

2202 Ms. McCabe. Yes. We've spent a lot of time with co-ops, and
2203 they have some particular concerns that they've raised to us. I
2204 think the important thing to think about in response to that
2205 question is that the way the Clean Power Plan, no individual
2206 company needs to do it on its own, no individual state needs to
2207 do it on its own. The regional approach, ability to average and
2208 trade allows people to make appropriate choices so that the most
2209 cost-effective and achievable -- -

2210 Mr. Harper. Trade as in cap and trade?

2211 Ms. McCabe. Trading as in trading. Trading as in trading.

2212 Mr. Harper. Okay.

2213 Ms. McCabe. Which is a perfectly reasonable approach to use
2214 whether you're in a rate-based approach, or whether a state
2215 chooses to go with a mass-based approach.

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2216 Mr. Harper. Here's what it appears. It appears that the
2217 President and the Environmental Protection Agency have, in
2218 effect, declared war on affordable energy for families in my state
2219 and throughout the country. And I want to remind you, and I know
2220 you know it, is what then Candidate Obama said in 2008. And I just
2221 want to repeat what he said, because we've addressed this on
2222 concerns on coal plants, as well. He said, "So, if somebody wants
2223 to build," and this is President Obama when he was running in '08.
2224 "So, if somebody wants to build a coal-powered plant, they can.
2225 It's just that it will bankrupt them because they're going to be
2226 charged a huge sum for all that greenhouse gas that's been
2227 emitted." Further, he said, "Under my plan of a cap and trade
2228 system, electricity rates would necessarily skyrocket, even
2229 regardless of what I say about whether coal is good or bad, because
2230 I'm capping greenhouse gases, coal-powered plants, you know,
2231 natural gas, you name it, whatever the plants were, whatever the
2232 industry was, they would have to retrofit their operations. That
2233 will cost money. They will pass that money on to consumers, pass
2234 that cost on."

2235 So, when you were asked earlier by Mr. Pompeo about meetings
2236 that you would have had that were political meetings within the
2237 Administration, have you ever had a political meeting with anyone
2238 in the Administration, not the number, but have you ever had any?

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2239 Ms. McCabe. We certainly meet with staff from the White House
2240 on major rulemakings that we do.

2241 Mr. Harper. I'm just curious, have you ever discussed this
2242 with President Obama himself?

2243 Ms. McCabe. I've had the pleasure of meeting the President
2244 only a couple of times.

2245 Mr. Harper. Was this discussed?

2246 Ms. McCabe. No.

2247 Mr. Harper. My remaining time that I have, I'm going to yield
2248 to Mr. Griffith from Virginia.

2249 Mr. Griffith. Thank you very much. The overarching policy
2250 of the Clean Power Plan is to limit the amount of carbon that an
2251 individual state can put out. Isn't that correct?

2252 Ms. McCabe. The overarching approach of the rule is to set
2253 emission rates for power plants that -- -

2254 Mr. Griffith. And certain limit on the emissions.

2255 Ms. McCabe. The amount of carbon they emit per megawatt hour.

2256 Mr. Griffith. And isn't another word of saying that a cap?

2257 Ms. McCabe. No, it is not.

2258 Mr. Griffith. All right. We're going to disagree on that.

2259 I will say this, I appreciate very much Mr. Welch's comments,
2260 appreciate his help. We are having problems. I also agree with
2261 Mr. Johnson, it's not something you just have a conversation on.

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2262 I've got a county where they fight over flat land because there's
2263 only about three pieces of it in the whole county that don't
2264 already have something built on them, or in a floodway, so it's
2265 not something you just easily say we're going to be able to create
2266 jobs.

2267 And with that, Mr. Chairman, I yield back.

2268 Mr. Whitfield. At this time, the Chair recognizes the
2269 gentleman from Kentucky, Mr. Yarmuth, for five minutes.

2270 Mr. Yarmuth. Thank you very much, Mr. Chairman. Ms. McCabe,
2271 thank you for being here, and I want to thank you in advance --
2272 well, thank you initially for the responsiveness you've had both
2273 to our state officials in Kentucky, but also to me personally and
2274 our office. We certainly appreciate the goals of this plan.

2275 Before I get to the question I have, I have to set the record
2276 straight, or at least revisit history a little bit about cap and
2277 trade, because I was here in 2009 when we passed Waxman-Markey
2278 in the House. No, it didn't pass the Senate, it didn't get 60 votes.
2279 It had a majority of senators for it, but when Waxman-Markey was
2280 introduced, those of us who were from states where a significant
2281 majority of our power was produced by coal couldn't support the
2282 initial plan because it was going to cost our consumers a lot of
2283 money. So, a group of us led by Rick Boucher, who's the incumbent
2284 that Mr. Griffith defeated, went to our leadership and said, "We

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2285 can't support this, and you need our votes in order to do it."
2286 And what we were able to do was change Waxman-Markey in a way that
2287 made it very, very reasonable for our states to comply, was not
2288 going to have an undue impact on our consumers. As a matter of
2289 fact, when I surveyed our businesses and our utility company they
2290 said it would have minimal impact. It might raise rates 15 percent
2291 over 10 years if the users did nothing else, and it would also
2292 create tens of thousands of new jobs in Kentucky. So, the reason
2293 we did that was because we didn't want to be here today, because
2294 we didn't want EPA to have a plan that might unduly impact our
2295 states.

2296 We had no way of guaranteeing that that wouldn't happen, and
2297 we knew that because of the Supreme Court decision and so forth,
2298 the obligation of EPA was to regulate carbon emissions. So, that's
2299 where we were. We're here today because Republicans stopped
2300 Waxman-Markey. That's why we're here. So, if they have a complaint
2301 about that, they can blame themselves.

2302 Now to my question, and this relates to the line of
2303 questioning that Mr. McKinley raised earlier. Kentucky is one of
2304 those states, as he mentioned, that in the initial plan we were
2305 supposed to reduce our emissions by 18 percent. We felt
2306 comfortable with that. We thought that was doable. In the final
2307 plan, we're up -- it wasn't 41. I think we're closer to 30, but

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2308 still it's a significant increase. And I understand the rationale
2309 for doing that, the way the utilities deliver power is not
2310 commensurate with a state-specific target. But what I am concerned
2311 about is that with this increase, while the projections for
2312 long-term cost-savings seem attractive, there's the possibility
2313 of short term price increases to rate payers, and certainly, if
2314 I were not in the United States Congress, I would say I'm all for
2315 the plan. I'm for clean air, I'm a tree hugger, you know. I'm fine,
2316 but I do have responsibilities to my constituents to make sure
2317 that this doesn't unduly impact them.

2318 So, my fear is that if in our regional network, whatever that
2319 region might be, in our mix, that the way that the ultimate
2320 resolution of this, or accomplishment of this goal is something
2321 that Kentucky's utilities bear the brunt of, and that our prices
2322 rise disproportionately to those other areas in our region that
2323 are affected by this mix. So, my question is, is there any
2324 analysis, or is there any consideration in your Agency about how
2325 we would, if we're going to spread the responsibility over
2326 regions, how we might spread the increased costs so that one state
2327 doesn't have their rates go up 30, 40, 50 percent, and another
2328 state doesn't have their rates go up at all?

2329 Ms. McCabe. Well, our analysis doesn't show that even if you
2330 look at smaller regions than the whole country or the interconnect

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2331 that there would be a wide range of increases. But I think
2332 everybody's concerned about this, everybody wants to protect
2333 against that. And now that the plan is out and people are starting
2334 to dig in and think about, there's a lot of discussion going on
2335 about how to manage this in a way that would avoid that situation.
2336 So, the reliability entities are talking, the states are talking
2337 to find those ways to make sure that that doesn't happen.

2338 Mr. Yarmuth. Okay. Well, I appreciate that. I look forward
2339 to being a part of those conversations.

2340 Ms. McCabe. Absolutely.

2341 Mr. Yarmuth. And once again, I thank you for your
2342 consideration in our dealings together. And thank you for
2343 appearing today. I yield back.

2344 Ms. McCabe. Thank you, Congressman.

2345 Mr. Whitfield. The Chair recognizes the gentleman from
2346 Missouri, Mr. Long, for five minutes.

2347 Mr. Long. Thank you, Mr. Chairman. And, Ms. McCabe, in terms
2348 of complexity, the rules contain hundreds of pages regarding
2349 variations in state plans and emissions trading. For example, you
2350 could turn to page 65 of the proposed federal plan/model trading
2351 rule, beginning at the top of the page EPA states and I quote,
2352 "In the final emissions guidelines the EPA also discussed a
2353 concern that CO2 emissions reductions would be eroded in

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2354 situations where an effective EGU in a rate-based state counts
2355 the megawatt hours for measures located in a mass-based state,
2356 but the generation from that measure acts solely to serve load
2357 in the mass-based state. In that scenario, expected CO2 emissions
2358 reduction actions in the rate-based state are foregone as a result
2359 of counting the megawatt hours that resulted in CO2 emissions
2360 reductions in a mass-based state." Can you decipher that for me?

2361 Ms. McCabe. I think you're reflecting that there is some
2362 complexity in this rule. It's partly because of the choices and
2363 the flexibility that we provided in response to people's requests
2364 on it, but that's reflecting particular situations where states
2365 have been asking how do we deal with one another because power
2366 does flow across state borders?

2367 Mr. Long. Well, what does that have to do with standards of
2368 performance of a power plant? I mean, how does that relate to the
2369 states trying to work together? How does this relate?

2370 Ms. McCabe. It's all about the flexibility, and it's
2371 reflection that the power sector works as an integrated system.
2372 So, a system that demanded that each individual unit meet a
2373 specific rate would be more costly, would be more difficult, would
2374 have more reliability implications than a system that affords a
2375 lot of flexibility across the system, recognizing the way it
2376 actually works.

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2377 Mr. Long. Okay, I've got another question here, and this has
2378 been reflected today by other members that have used coal to supply
2379 a lot of their electricity. But in my home state of Missouri, we
2380 rely on coal for 83 percent of our energy generation, and I know
2381 that's not true on the east coast and the west coast, but in
2382 Missouri it is, and that's what the folks I represent are concerned
2383 about.

2384 The Clean Power Plan places a huge burden on coal-fired power
2385 plants, and this rule also restricts, and I don't understand this,
2386 the construction of new natural gas plants as a compliance
2387 measure. Could you explain to me why the EPA restricts the
2388 construction of natural gas-fired power plants as a compliance
2389 measure?

2390 Ms. McCabe. So, new generation to meet new load is subject
2391 to its own set of rules. This particular rule which addresses
2392 existing facilities is intended to manage that existing fleet of
2393 power plants and bring those emissions down. So, there's some
2394 provisions in there to make sure that that's what the rule is
2395 focused on, and those plans are actually delivering the reductions
2396 from that existing fleet.

2397 Mr. Long. I still don't understand the restriction on new
2398 construction of natural gas-fired plants.

2399 Ms. McCabe. Well, we'd be happy to follow-up with you or your

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2400 staff and walk through it a little bit in more detail, Congressman.

2401 Mr. Long. Okay. My staff is here today, so if we can do that,
2402 that would be greatly appreciated.

2403 And the final rule's interim and final goals for Missouri
2404 are even more stringent than the proposed rule's. What factors
2405 did the EPA consider when reaching this adjustment?

2406 Ms. McCabe. So, in the final rule there was adjustment across
2407 the board, across all states, and some of the states' targets went
2408 up, and some of them went down. It's a reflection of a couple of
2409 things. One is that, as I mentioned earlier today, in the final
2410 rule we set a uniform emission rate for all coal plants across
2411 the country. That's not the way the proposal was designed. And
2412 another key feature was information that we got from commenters,
2413 from states, and utilities, and others really suggesting that the
2414 appropriate way to look at this was on a regional basis because
2415 that's the way the power system worked. So, when you look at it
2416 across a regional basis, states have, and utilities in those
2417 states have more opportunities to invest in renewables and cleaner
2418 energy than if they were restricted to looking within their state
2419 borders, which is an artificial boundary when it comes to the way
2420 the industry works.

2421 Mr. Long. Okay, so we end up with more stringent rules in
2422 flyover countries, so we're used to that.

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2423 Mr. Chairman, I yield back. Thank you.

2424 Mr. Whitfield. The Chair at this time recognizes the
2425 gentleman from New York, Mr. Engel, for five minutes.

2426 Mr. Engel. Thank you, Mr. Chairman, and I appreciate your
2427 courtesy very much. Hello, Administrator. It's good to see you
2428 again. Last time we spoke, the Clean Power Plan was still a
2429 proposed rule, and now it's been finalized. And I really just want
2430 to applaud you for your commitment to this important issue. So,
2431 thank you.

2432 Ms. McCabe. Thank you.

2433 Mr. Engel. We know the U.S. emits more carbon pollution than
2434 any nation except China, and existing power plants are the
2435 country's largest single source of carbon pollution. And before
2436 now, most power plants could emit unlimited amounts of carbon
2437 dioxide, and those emissions have significant health impacts.
2438 They've threatened the lives and well-being of all people across
2439 America.

2440 I say this because my district has some of the highest rates
2441 of asthma in the United States. I'm from New York City, from the
2442 Bronx, and death rates from asthma in the Bronx are about three
2443 times higher than the national average, and hospitalization rates
2444 are about five times higher. And the EPA estimates that the climate
2445 and public health benefits of the Clean Power Plan will range

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2446 between \$34-54 billion in 2030, and it will help avoid between
2447 1,500 and 3,600 premature deaths, and 90,000 asthma attacks in
2448 children in the year 2030 alone. So, I believe that the Clean Power
2449 Plan is important because of the public health benefits associated
2450 with reductions in domestic emissions, and also because it signals
2451 to the international community that the U.S. is serious about
2452 reigning in its contribution to global greenhouse gas pollution.

2453 So, let me ask you this. When President Obama entered office,
2454 he set out to reduce our greenhouse gas emissions 17 percent below
2455 2005 levels by the year 2020. The intended nationally determined
2456 contribution that we submitted to the U.N. Framework Convention
2457 on Climate Change says that we plan to reduce our emissions by
2458 26 to 28 percent below 2005 levels by 2025. Do you think we'll
2459 hit those targets, and would we hit them without the Clean Power
2460 Plan? And how does implementation of the Clean Power Plan impact
2461 the international climate negotiations coming up in Paris in
2462 December?

2463 Ms. McCabe. Well, the Clean Power Plan along with a number
2464 of the other programs that we have underway across the federal
2465 government are critical to the United States meeting that
2466 ambitious goal that we've set for ourselves, and it would be
2467 extremely difficult to get to those targets without the reductions
2468 from the power sector, which as you said is the largest stationary

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2469 source of emissions in the country. So, it's really important.

2470 And as I mentioned earlier this morning, putting the Clean
2471 Power Plan out even in proposal really changed the debate
2472 internationally, and showed that the U.S. is really serious about
2473 doing this in a way that really counted, and would really result
2474 in reduced emissions. So, we think it has been hugely beneficial.

2475 Mr. Engel. Thank you. I certainly agree with you. And let
2476 me ask you this question. Since 1990, a vast majority of the new
2477 electric generation capacity in the United States has been built
2478 to burn natural gas, the second largest source of new capacity
2479 has been wind power which creates no air pollution at all, as we
2480 all know.

2481 I understand that with state flexibility built into the Clean
2482 Power Plan it's impossible to know the precise mix of fuels that
2483 will result, but do you anticipate the Clean Power Plan changing
2484 the fuel trends that we've seen emerging over the last 25 years?
2485 And if so, how?

2486 Ms. McCabe. What we see is that the Clean Power Plan will
2487 continue and enhance the momentum that you've already reflected,
2488 which is moving towards greater reliance on natural gas, and
2489 greater reliance on renewables, recognizing that you need a
2490 diverse supply, and you need a variety of sources to provide
2491 base-load power, and increased use of renewables, which is

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2492 becoming more and more affordable. So, we see a greater percentage
2493 becoming renewables of all sorts, a greater percentage becoming
2494 natural gas reliant over the period of time of this Clean Power
2495 Plan.

2496 Mr. Engel. Well, thank you very much. I'm happy to hear that,
2497 and keep up your good work. We really appreciate it. And thank
2498 you, Mr. Chairman.

2499 Ms. McCabe. Thank you, Congressman.

2500 Mr. Whitfield. Well, that concludes the hearing. I have one
2501 additional question, and you may or may not have an additional
2502 question, Mr. Rush. But, Ms. McCabe, we will be electing a new
2503 governor in Kentucky next month. The Democratic candidate who is
2504 currently attorney general, is one of those that filed the lawsuit
2505 against EPA. Of course, the lawsuit was dismissed for lack of
2506 standing because the rule has not been published in the Register
2507 yet, but he's indicated that he will not be submitting a state
2508 implementation plan. The Republican candidate for governor said
2509 if he wins, he would not submit a state implementation plan. My
2510 question is, what would be the earliest if that occurred that EPA
2511 could impose a federal plan?

2512 Ms. McCabe. So, the rule requires that by September 6th of
2513 2016 the state either submit a plan or a request for an extension.
2514 If the state does not submit something on September 6th, EPA would

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2515 then look to the steps that it needs to take in order to fulfill
2516 our responsibilities under the Clean Air Act. So, that would be
2517 the first event that could trigger our consideration.

2518 Mr. Whitfield. So, what do you think it would be like 30 days
2519 after September 6th?

2520 Ms. McCabe. I really couldn't speak to the timing,
2521 Congressman.

2522 Mr. Whitfield. I mean, you don't have any idea?

2523 Ms. McCabe. Well, I think we will work to -- -

2524 Mr. Whitfield. Would it be a year, or would it be 30 days?

2525 Ms. McCabe. I think we will look to work with those states
2526 and move in a prompt manner, but as to a specific calendar, I don't
2527 have one.

2528 Mr. Whitfield. Do you have any questions?

2529 Mr. Rush. No, I don't have any.

2530 Mr. Whitfield. All right. That concludes today's hearing.
2531 Thank you very much.

2532 Ms. McCabe. Thank you.

2533 Mr. Rush. Mr. Chairman?

2534 Mr. Whitfield. Yes.

2535 Mr. Rush. I would like to ask unanimous consent to entering
2536 two letters entered in the record; one being a letter from the
2537 Medical and Health Community Organization supporting the Clean

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2538 Power Plan. This is numerous organizations, community health
2539 organizations. And two, the letter from the American Lung
2540 Association urging the EPA to adopt strong standards to reduce
2541 carbon pollution from existing power plants.

2542 Mr. Whitfield. Without objection, and the record will remain
2543 open for 10 days. That concludes today's hearing.

2544 [Whereupon, at 12:37 p.m., the subcommittee was adjourned.]