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ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

December 14, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Jackson:

Pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce seeks information regarding analyses published by the Environmental Protection Agency (EPA) containing estimates of the public health benefits expected to result from regulatory actions. In March 2011, EPA published estimates which attributed \$2 trillion of benefits to regulations issued through 2005<sup>1</sup>, nearly 9 percent of the GDP forecasted for the year 2020<sup>2</sup>. Most of those benefits are attributable to reductions in premature mortality associated with reductions of a single pollutant in the ambient air, fine particulate matter. Additional estimates of benefits published by EPA include up to \$280 billion associated with the Cross State Air Pollution Rule (published August 8, 2011), and \$140 billion estimated for the proposed Utility MACT rule (published May 3, 2011). Nearly all of the monetized benefits estimated represent "PM-Related Mortalities Avoided" at concentrations much lower than the level of the protective national standard.

On October 5, 2011, you testified before the Committee's Subcommittee on Oversight and Investigations that the National Ambient Air Quality Standards (NAAQS) are set at a level to protect the public health with a margin of safety. However, in the above referenced and other analyses, EPA's estimates of extensive public health benefits that will accrue from avoiding exposure to airborne fine particulate matter are calculated for air concentrations much lower than

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<sup>1</sup> EPA, March, 2011, "The Benefits and Costs of the Clean Air Act Amendments 1990 to 2020", available at <http://www.epa.gov/air/sect812/feb11/fullreport.pdf>.

<sup>2</sup> Forecasts of 2020 nominal GDP from CBO, "The Budget and Economic Outlook: Fiscal Years 2010 to 2020", available at <http://www.cbo.gov/ftpdocs/108xx/doc10871/01-26-Outlook.pdf>.

the current fine particulate matter NAAQS. The apparent conflict between EPA's definition of clean air and the mortality reductions estimated by EPA at significantly lower (cleaner) concentrations raises questions about the interpretation of information provided to Congress and to the public.

It is well documented that, under existing standards and regulations, air quality in the United States has improved considerably and will continue to do so. EPA's data shows significant improvements in a variety of environmental measures, including all six common air pollutants. A critical component of protecting public health and the environment is accurate analysis based upon robust science, including estimates of the benefits and costs of alternative policy strategies. EPA's mandate requires that such analyses rely upon the best available science, interpreted in an unbiased manner.

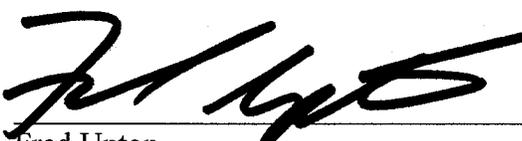
To assist the Committee in evaluating the estimates contained in agency reports, EPA testimony, and other public information, we request that you provide written responses to the following questions and the requested documents by January 6, 2012:

1. In the regulatory impact analysis for the Portland Cement rule published September 9, 2010, EPA reported that it has changed its assumption concerning the concentration threshold for PM 2.5-related mortality: "EPA now estimates PM-related mortality without assuming an arbitrary threshold in the concentration-response function." (August 2010, "Regulatory Impact Analysis: Amendments to the National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry, Final Report", Section 6.2.1.)
  - a. Did EPA change its assumption concerning the concentration threshold at which PM is likely to cause premature mortality?
  - b. If EPA changed the assumption, explain who gave ultimate direction to change the assumption, when was it changed, and what was the basis for making the change.
  - c. If EPA changed the assumption, provide all analyses and briefing or decision memoranda, for the EPA Administrator or EPA Assistant Administrator for Air and Radiation, relating to the change in assumptions.
2. For each final economically significant rule issued by EPA after January 1, 2007, what proportion of monetized PM 2.5 benefits represent reductions in mortality at air concentrations below 15 micrograms per cubic meter averaged annually, the level of the current PM 2.5 NAAQS?
3. For each final economically significant rule issued by EPA after January 1, 2007, what proportion of monetized PM 2.5 benefits represents reductions in mortality at air concentrations below Lowest Measured Level as defined by EPA in regulatory analyses using Laden, et al. 2006. "Reduction in Fine Particulate Air Pollution and Mortality" (*American Journal of Respiratory and Critical Care Medicine*)?

4. For each final economically significant rule issued after January 1, 2007, what proportion of monetized PM 2.5 benefits represents reductions in mortality at air concentrations below Lowest Measured Level as defined by EPA in regulatory analyses using Pope, et al. 2002. "Lung Cancer, Cardiopulmonary Mortality, and Long-term Exposure to Fine Particulate Air Pollution" (*JAMA*)?
5. Do you consider the level of air quality that is established through the NAAQS process, including peer review by science advisors, to result in an "arbitrary" threshold, or do you believe that the NAAQS standard represents a level of air quality that is protective of public health, including sensitive populations, with an adequate margin of safety, as required by the Clean Air Act?
  - a. If the NAAQS standards protect the public health with an adequate margin of safety, explain how can the EPA estimate that short-term exposure to air in attainment areas would result in hundreds of thousands of deaths each year?
6. Please provide any scientific studies EPA has relied upon to show a causal or associative relationship between fine particulate matter and premature mortality at levels below what EPA calls the "Lowest Measured Level" in the Pope and the Laden studies.
7. According to the most recent Particulate Matter Risk Assessment, EPA estimates that "total PM<sub>2.5</sub>-related premature mortality ranges from 63,000 and 88,000" each year above the lowest measured level. EPA's estimate of benefits from the CSAPR rule, which involves almost all PM-related benefits, notes that mortality ranges between 130,000 and 320,000 deaths per year.
  - a. Please explain how EPA came to these two different estimated mortality ranges.
  - b. Please explain the basis for EPA's monetization of a dramatically higher number than is identified in the peer-reviewed Risk Assessment.
  - c. Did you or the Assistant Administrator for Air and Radiation approve the public report of a dramatically higher number?
  - d. If so, please provide all documents relating to such approval.
  - e. If not, please explain why not.

We request that you adhere to the instructions relating to the requests for documents attached to this letter. Thank you for your prompt attention to this request. Should you have any questions, please contact Peter Spencer of the Majority Committee staff at (202) 225-2927.

Sincerely,



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Fred Upton  
Chairman



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Cliff Stearns  
Chairman  
Subcommittee on Oversight and Investigations



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Ed Whitfield  
Chairman  
Subcommittee on Energy and Power

Attachment

cc: The Honorable Cass Sunstein  
Administrator of the Office of Information and Regulatory Affairs  
Office of Management and Budget

The Honorable Henry A. Waxman, Ranking Member

The Honorable Bobby L. Rush, Ranking Member  
Subcommittee on Energy and Power

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations