

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
“A Review of EPA's Regulatory Activity During the Obama Administration: Energy and
Industrial Sectors”
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(As Prepared for Delivery)

When the Obama Administration took office in early 2009, Americans were struggling with the worst economic recession in a generation.

There is no question that today many Americans continue to struggle to make ends meet. And there's no question that during this time period, EPA has continued to promulgate thousands of pages of new regulatory requirements each year, with a number of major rules imposing annual compliance costs measured in the billions of dollars.

Current estimates put the total EPA's regulatory compliance burdens, based on the agency's own numbers, at more than \$380 billion per year, or 2.1% of U.S. GDP. Heritage Foundation researchers added up EPA's own estimates and determined that annual costs to comply with EPA rules have grown by more than \$50 billion since 2009.

During my chairmanship, we have held 40 hearings that have looked at various EPA rules and proposals that affect—or will affect—the nation's energy and industrial sectors. These are the critical sectors for ensuring our nation's economic productivity and prosperity. The costs and burdens of EPA's unrelenting rulemaking upon these sectors have been a constant concern. We have seen the impacts of these rules in scores of shuttered coal power plants, the delayed and cancelled projects, and the destruction of thousands of jobs in communities dependent upon this abundant energy resource.

But the impact of compliance costs is only part of the story.

Our hearing record—which reflects testimony from federal officials, state energy and environmental regulators, legal experts, and economists— shows EPA's highly controversial and continuously evolving interpretations of its statutory authorities to transform its role from that of a traditional environmental regulator to that of the nation's ultimate energy regulator.

We see this firsthand in the EPA's implementation of the Administration's climate change agenda, which is reflected in what is already more than 100 greenhouse gas related rules. EPA's pursuit of greenhouse gas standards for the power sector is a case in point.

The agency's new interpretation of its authorities have led to new source standards that effectively prohibit the construction of power plants in the United States that use the most advanced, commercially proven clean coal technologies—the kind being built today in Japan and around the world. The prospect of this regulation, combined with Utility MACT and related rules, has undermined the diversification of our nation's future energy supply.

The agency's assertion of new authorities to set energy policy is even more troubling with EPA's existing source rules. The so-called Clean Power Plan would effectively place the EPA in the driver seat over the states and the Federal Energy Regulatory Commission in transforming how electricity is generated, transmitted, and consumed in the United States—an influence over state electricity systems never contemplated by Congress in the Clean Air Act.

And given EPA's preferred reading of its authorities, there is only increased influence over energy policy to come. EPA is already setting greenhouse gas standards for new and existing oil and natural gas production. We have to ask, what will be next under EPA's interpretation of its authorities?

The Administration and EPA's Administrator admit the goal is to reduce massively the use of fossil fuels—but that is not the purpose of the Clean Air Act.

Congress did not write the Clean Air Act to be the vehicle for taking command of state energy planning, the efficient and economical dispatch of electricity, or the production of oil and gas. Congress did not write the Clean Air Act to provide EPA with the ability to create new regulatory powers and authorities so it can “transform” the nation's energy system. Yet, this agency is pursuing these actions.

And I might add that Congress rejected the idea of cap and trade once, yet this EPA is pursuing a back door cap and trade policy without Congressional approval.

Fortunately, the Courts have checked EPA's overreach in several recent decisions. The numerous legal infirmities of the Clean Power Plan have led to an unprecedented stay of those power sector rules by the Supreme Court, pending completion of judicial review.

This morning, we have two panels to discuss the regulatory issues and their practical impacts on states and the energy and industrial sectors. I'm pleased to welcome back Acting Assistant Administrator Janet McCabe, who will testify on EPA's regulatory activity during this Administration.

And I particularly look forward to our second panel, which will provide us the real world experience with agency's rules on state energy and environmental regulation.

Ultimately, it will be up to Congress to ensure EPA stays in its statutory lane for environmental standard setting. It will also be up to Congress to take a holistic look at the statutes that govern our energy and electricity markets, and energy policy—to ensure our laws enable a growing, productive economy.

The hearing today will help further develop the record necessary to do this.

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