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DCMN HERZFELD

EPA'S PROPOSED CARBON DIOXIDE

REGULATIONS FOR POWER PLANTS

THURSDAY, JUNE 19, 2014

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 9:30 a.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Shimkus, Pitts, Terry, Burgess, Latta, Cassidy, Olson, McKinley, Gardner, Pompeo, Kinzinger, Griffith, Barton, Upton (ex officio), Rush, McNerney, Tonko, Yarmuth,

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Engel, Green, Capps, Doyle, Barrow, Matsui, Castor and Waxman (ex officio).

Staff Present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy and Power; Annie Caputo, Professional Staff Member; Patrick Currier, Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and Power; Brandon Mooney, Professional Staff Member; Mary Neumayr, Senior Energy Counsel; Graham Pittman, Staff Assistant; Peter Spencer, Professional Staff Member, Oversight; Tom Wilbur, Digital Media Advisor; Jean Woodrow, Director, Information Technology; Jeff Baran, Minority Staff Director, Energy and Environment; Phil Barnett, Minority Staff Director; Caitlin Haberman, Minority Policy Analyst; Bruce Ho, Minority Counsel; Elizabeth Letter, Minority Press Secretary; Karen Lightfoot, Minority Communications Director and Senior Policy Advisor; and Alexandra Teitz, Minority Chief Counsel, Environment and Energy.

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Mr. Whitfield. I would like to call the hearing to order this morning, and today we will be discussing EPA's proposed regulations targeting carbon dioxide emissions from existing electric power plants, which was proposed on June 2nd.

Before I introduce -- before I recognize myself for an opening statement, I want to welcome Ms. McCabe. We appreciate her being with us this morning.

It is also my understanding that we have a number of interns here today, some from offices here in the Congress, but I know we have quite a few also from EPA, so we welcome the EPA interns as well as the interns from Capitol Hill. And with that, I will recognize myself for a 5-minute opening statement.

Ms. McCabe, we are delighted that you are here today. All of us view this as a significant, in many ways unprecedented, regulation, and pursuant to the Constitution, I can assure you that Congress is going to do its role and look very closely at this over 600-page regulation that would dramatically change the way electricity is produced in America.

And it is certainly a lot more than about coal. This is one of those regulations that will affect every person in America, whether it be a manufacturing plant, electric generator, a consumer of electricity, or whatever it might be, so we -- and this will be the

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first of many hearings on this regulation.

Now, this proposal looks similar to the cap-and-trade legislation that the Obama administration advocated for a long, long time. They attempted to pass it in 2009. It passed the House, but it was not successful in passing the Senate. Now, the President, as he has said, is going to act unilaterally, and he has directed EPA to set rules and regulations that are essentially, and many of us believe, the majority of us believe on this committee at least, they are unworkable and will not even have an impact on our future emissions of greenhouse gases or affect global temperatures.

Former EPA Administrator Lisa Jackson confirmed this when she testified before this subcommittee: We will not ultimately be able to change the amount of CO<sub>2</sub> that is accumulating in the atmosphere alone. And then the EPA Administrator Gina McCarthy summed up the views of this administration when she testified before this subcommittee saying that EPA does not measure whether its regulations and the tens of billions of dollars spent by the administration will actually affect future climate change. It is simply part of an overall strategy to demonstrate the President's global leadership. So these actions appear to be about removing coal as an energy source in America and promoting President Obama's leadership perception in the international community.

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Now, beyond the President's unwillingness to listen to the American people, this proposal raises serious policy and legal questions. EPA has never been this extreme under 111(d) before. Instead of the States establishing a performance standard for units within the source category, EPA is now dictating to the States the level of emission reductions that each State must make, so statewide rather than individual units. In essence, they are requiring the States to alter the way in which electricity utility systems make power, and in our experience with oversight of this Agency, the proposed rule rarely changes significantly before it is finalized, so we are talking about a proposed rule that was just introduced a few -- a couple of weeks ago, but our experience is that even after the comment period, that rule really becomes final.

Now, the Clean Air -- the original Clean Air Act respected the appropriate role for States and local governments. In fact, the statute begins with the congressional finding that air pollution prevention is the primary responsibility of State and local governments. This policy is also reflected in the language of section 111(d), which has previously been used by EPA in a very limited and very differential manner. But with this proposed rule, as I said earlier, EPA appears to be casting aside all precedent and expansively interpreting its authority under this section as a justification to

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force States to redesign their electricity-generating systems even though two previous EPA Administrators have said it will not have any impact on global warming.

So, is this a power grab? It seems to demonstrate once again that this administration is getting the reputation that we hear repeatedly of being a unilateralist; that the President will decide what is best for America as he did when he went to the Copenhagen conference in 2009 and unilaterally committed America to certain emissions without discussing it with the Congress, without discussing it with job creators.

So we welcome this opportunity to talk to you in depth about this proposal, and thank you again for being with us.

[The prepared statement of Mr. Whitfield follows:]

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Mr. Whitfield. And at this time I would like to recognize the gentleman from California for his 5-minute opening statement. Mr. Waxman.

Mr. Waxman. Thank you, Mr. Chairman.

On June 2nd, Administrator McCarthy released a central piece of President Obama's Climate Action Plan: proposed carbon pollution limits on power plants. In time historians may identify this as the moment that America got serious about tackling climate change.

We know that carbon pollution from fossil fuels is accumulating in the atmosphere, trapping more heat and warming the climate. We are experiencing the result all around us in every part of the country. We also know that power plants are our largest source of carbon pollution, yet today there are no limits at all on the amount of carbon pollution they can emit.

The good news is that there are many cost-effective ways to reduce the pollution. As the proposed rule demonstrates, the power plants can operate more efficiently, production can shift from the dirtiest and oldest coal-fired plants to modern natural gas plants, retirements of nuclear power plants can be postponed, investments can be made in clean renewable energy, and we can all contribute by becoming more energy efficient. The path outlined in the proposal is the path to cleaner air, better health, a safer climate, and a stronger economy.

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If we make these investments in cleaner energy, the United States can be the world leader in the industries of the future. That is not just a perception; that can be a reality.

But you would never know that from the House Republicans. They are using the same scare tactics that opponents of clean air have always used. The fossil fuel industry and House Republicans have a credibility problem when it comes to claims about the economic impacts of the Clean Air Act. I have been in Congress for almost 40 years, and for 40 years industry has made doomsday claims that clean air regulations would shut down businesses, destroy jobs, drive prices skyward, and cripple economic growth, and they have been wrong every time. This morning I released a fact sheet that documents some of these inaccurate claims, and, Mr. Chairman, I ask that this be made part of the record.

Mr. Whitfield. Without objection.

[The fact sheet follows:]

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Mr. Waxman. In 1990, when Congress last amended the Clean Air Act, electric utilities widely overestimated the cost of acid rain controls under a cap-and-trade program that we adopted, and which has been tremendously successful. They projected allowance prices of 1,000 to \$1,500 per ton. The actual prices were less than \$150 per ton.

Ford Motor Company testified that, quote, "we just do not have the technology to comply," end quote. Not even with technology, quote, "on the horizon," end quote. In fact, the industry began making vehicles that met the new standards in just 3 years. Dupont testified that the provisions to protect the ozone layer would cause, quote, "severe economic and social disruption," end quote, while Mobil Corporation predicted that the requirements for reformulated gasoline would cause, quote, "major supply disruptions," end quote.

Well, these dire predictions never happened. Today House Republicans claim that the clean power plant will cause a surge in electricity bills and effectively end coal use in America. This is just the same old scare tactic. We heard that it is not enough to deal with the climate change problem. Well, it is not in and of itself, but you don't take the -- you don't refuse to take a step in that direction because you haven't taken all the steps yet.

We have air pollution reductions at the State and local level.

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That is the way the Clean Air Act has always worked under the EPA rules. The Clean Power Plan is eminently reasonable and achievable. It gives the States the flexibility to choose how to achieve the reductions. The goals are State-specific and cost-effective. Polls show the public supports proposals by large majorities.

It is time for this committee to stop its partisan obstruction. If my Republican colleagues have a better idea for protecting our planet for our children and grandchildren, they should speak up, but just saying no, shortchanging American ingenuity and condemning the next generation to a world wrecked by heat waves, droughts, wildfires, and extreme storms is not an option. If you have another idea, let us hear it, but all we hear from Republicans is, there is no problem, this is not enough to solve it, we shouldn't do anything at all, and that is why I am supporting the President's plan.

Mr. Whitfield. The gentleman's time is expired.

[The prepared statement of Mr. Waxman follows:]

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Mr. Whitfield. I might respectfully say to the gentleman that we did present what we viewed as a better plan, the Manchin-Whitfield bill, that passed the House of Representatives with a large margin of victory.

Mr. Waxman. Mr. Chairman, if you would yield to me, that plan simply said EPA may not act.

Mr. Whitfield. No, it did not say that. It said EPA could set the standard of existing plants, that Congress would set the effective date, and it also set a standard for new coal-powered plants. But anyway, we did submit a proposal. It is waiting in the U.S. Senate for action now and --

Mr. Waxman. Do you think that will solve the problem of greenhouse gases?

Mr. Whitfield. You said we are not submitting a proposal. That was one of our proposals.

Mr. Waxman. Did your proposal accomplish solving the problem?

Mr. Whitfield. We feel quite confident -- by the way, our energy emissions are the lowest today they have been in 20 years, and our -- and our Manchin-Whitfield bill would even be -- make it even better.

At this time I would like to -- the gentleman from Michigan Mr. Upton, chairman of the full committee, is not here, so I am going to recognize Mr. Barton of Texas, and if he does not utilize all of his

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time, if he wants to yield to someone else, that would be great.

Mr. Barton. Does the chairman know if there are other Members on our side that wish time?

Mr. Whitfield. Is there anyone that would like time? You want any time, Mr. Shimkus?

Okay. All right. Then I will recognize the gentleman from Texas Mr. Barton for 5 minutes.

Mr. Barton. Well, thank you.

Mr. Chairman, members of committee, and our witness and folks in the audience, one could argue that the audacity of this proposal is so breathtaking that -- in and of itself, it is a health hazard because it literally takes my breath away that -- what they have proposed.

In the case of my State, Texas, if Texas were to implement this in its entirety between 2012 and 2030, we would have to reduce CO2 emissions by 41 percent. Forty-one percent. We would also, in terms of the national total, have to reduce CO2 emissions -- our CO2 emissions would be 25 percent of the national total in one State.

Now, I understand that Texas is somewhat unique because we still are creating jobs in our State. We still have an economy that is growing. In fact, over half of all the net new jobs created in the country in the last 10 years have been created in Texas. Most people think that is a good thing, but apparently the Obama administration

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thinks that is a bad thing, so it is punitive in its nature.

As Chairman Whitfield has pointed out, there are no -- there are no health claims. There is nobody claiming that this actually improves the public health, which is the number one goal of the Clean Air Act. There is no net environmental benefit. Even if one were to be a global warming believer, which I am not, this doesn't allege or -- that there are any net benefits to changing global warming.

What it is is an exercise in political arrogance that the EPA has the power, I believe, and that is debatable, under the Clean Air Act. All these power plants that are currently in operation are regulated under section 112 of the Clean Air Act. This claims that we can now regulate those same power plants that are already regulated under section 111(d). That is a questionable legal standing, and I believe that the courts will overturn this proposed regulation, if it comes to that, on that basis alone.

My good friend from California in his opening statement referred to carbon pollution. Well, actually what this is, what we are regulating is CO<sub>2</sub>, carbon dioxide, which I am creating as I speak, and which every person in this room is creating as you breathe in and out. Now, I don't know about the rest of the people, but I don't believe everybody that is alive and breathing is a CO<sub>2</sub> mobile source polluter. That may be the stance of the Obama administration, but it is certainly

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not my stance.

So, calling CO2 to be pollution doesn't make it so. I could call Mr. Waxman a conservative, but that would not make him a conservative; or he could call me a liberal, but that would not make me a liberal.

Mr. Chairman, we need to seriously review this proposal, and I think, as the subcommittee does, and, if necessary, the full committee does, we will come to conclusion that this is more of a political proposal than it is an environmental proposal. And again, I pointed out Texas has reduced its CO2 emissions from the baseline of 2012 by 41 percent; Louisiana, 50 percent; Florida, 28 percent; Pennsylvania, 25 percent; Arizona, 45 percent; Oklahoma, 40 percent; Illinois, 20 percent; New York, 49 percent; Alabama, 24 percent; Arkansas, 46 percent.

What is glaring about this list, and that is the top 10 States, the State with the greatest population base and the State with the largest environmental problems, at least in the Los Angeles Basin, the Golden Gate State of California is not even on the top 10 list, and they are the number one State in terms of population.

So I could go on and on, Mr. Chairman, but I have only got 29 seconds. Simply let me say that we have great respect for the EPA. I voted for the Clean Air Act amendments in the early 1990s. This proposal does not comport with my understanding of what the Clean Air

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Act amendments were when we passed them in this committee over 20 years ago.

With that, I would yield back to the chairman.

[The prepared statement of Mr. Barton follows:]

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Mr. Whitfield. The gentleman yields back, and at this time recognize the gentleman from Chicago, ranking member Mr. Rush, for his 5-minute opening statement.

Mr. Rush. I want to thank you, Mr. Chairman, for this important hearing on the EPA's clean power rule. As part of President Obama's climate action plan to cut carbon pollution and help mitigate the disastrous effects of climate change, this rule would allow EPA to use its existing authority under the Clean Air Act to control carbon pollution from existing fossil fuel-fired power plants.

And, Mr. Chairman, I must say that this rule cannot be more timely as these power plants account for the largest source of greenhouse gases from stationary sources in this country, and they are responsible for about one-third of the total U.S. greenhouse gas emissions with no current Federal limits on their emissions of carbon pollution.

This new proposal seeks to cut emissions by 30 percent compared with the 2005 levels by 2030, and it gives States great flexibility with implementing the rule based on their existing utility infrastructure and policies.

Mr. Chairman, while we hear from some industry groups and opponents of any type of regulation that these new rules will be costly and overburdensome, the newly released report by the Office of Management and Budget contradicts that claim. From the annual OMB



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reports to Congress, we know that for the 34 major EPA rules issued between 2003 and 2013, the benefits have greatly exceeded the cost.

In fact, Mr. Chairman, it was two rules issued under the George W. Bush administration, the clean air interstate rule issued in 2005 and the particle pollution rule issued in 2007, that brought about the highest estimated benefits.

More importantly, the science, Mr. Chairman, is settled. Climate change is real, and it is negatively impacting the lives and livelihoods of the American people. You see this in extreme weather events and everything from extensive flooding on our coasts to relentless wildfires in the West, to costly drought and crop loss in the plains and in my beloved Midwest.

That is why, Mr. Chairman, four former Republican U.S. EPA Administrators who served under Presidents Nixon, and Reagan, and George H.W. and George W. Bush all praised the Agency's climate change rule in a Senate hearing just yesterday. As George W. Bush's first EPA Administrator Christine Todd Whitman told the Senate Clean Air and Nuclear Safety Subcommittee, and I quote, "The issue has been settled. EPA does have the authority. The law says so; the Supreme Court has said so twice. That matter, I now believe, should be put to rest, Mr. Chairman," end of quote.

The American people expect their legislators to address this

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serious threat not only to our environment, but to our national security. Even President Reagan's former EPA Administrator Lee Thomas agreed that the science is settled on this matter, telling the same panel just on yesterday, I quote, "We know that carbon dioxide and other greenhouse gases are warming the atmosphere. We know they have contributed to a more than 1.5 degree Fahrenheit rise in temperature," end of quote.

Mr. Chairman, if Congress refuses to address this issue as the American people demand, at the very least we should allow EPA to do its rule, do its job, and act accordingly, then this rule will go a long way in helping us to begin to address this dire issue.

I look forward to hearing from our witness today, and I yield back.

Mr. Whitfield. Thank you, Mr. Rush.

[The prepared statement of Mr. Rush follows:]

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Mr. Whitfield. The gentleman yields back, his time is expired, and at this time I am going to recognize Ms. McCabe, because we are going to give her 5 minutes to give her views on this issue.

And as I said in the beginning, we do look forward to your testimony and the opportunity to ask you questions. So, Ms. McCabe, you are recognized for 5 minutes.

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**STATEMENT OF JANET MCCABE, ACTING ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION, U.S. ENVIRONMENTAL PROTECTION AGENCY**

Ms. McCabe. Thank you, Chairman Whitfield and Ranking Member Rush.

Mr. Whitfield. I am not positive that your microphone is on.

Ms. McCabe. There we go.

Thank you, Chairman Whitfield, Ranking Member Rush, members of the subcommittee. Thank you for the opportunity to testify today on EPA's recently issued Clean Power Plan proposal.

Climate change is one of the greatest challenges of our time. It already threatens human health and welfare and economic well-being, and if left unchecked, it will have devastating impacts on the United States and on the planet. The science is clear, the risks are clear, and the high costs of inaction are clear. We must act. That is why President Obama laid out a Climate Action Plan, and why on June 2nd the Administrator signed the proposed Clean Power Plan to cut carbon pollution, build a more resilient Nation, and lead the world in our global climate fight.

Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic

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greenhouse gas emissions. While the United States has limits in place for the level of arsenic, mercury, sulfur dioxide, nitrogen oxides, and particle pollution that power plants can emit, there are currently no national limits on carbon pollution levels.

EPA's proposed Clean Power Plan will cut hundreds of millions of tons of carbon pollution and hundreds of thousands of tons of other harmful air pollutants from existing power plants. Together these reductions will provide important health benefits to our most vulnerable citizens, including our children.

The Clean Power Plan is a critical step forward. Our plan is built on advice and information from States, cities, businesses, utilities and thousands of people about the actions they are already taking to reduce carbon dioxide emissions.

The plan aims to cut energy waste and leverage cleaner energy sources by doing two things. First, it uses a national framework to set achievable State-specific goals to cut carbon pollution per megawatt hour of electricity generated; and second, it empowers the States to chart their own customized path to meet their goals.

We know that coal and natural gas play a significant role in a diverse national energy mix. This plan does not change that. It builds on action already under way to modernize aging plants, increase efficiency, and lower pollution, and paves a more certain path for

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conventional fuels in a clean energy economy.

The EPA's stakeholder outreach and public engagement in preparation for this rule was unprecedented. Starting last summer, we held 11 public listening sessions around the country. We participated in hundreds of meetings with a broad range of stakeholders across the country and talked with every single State.

Now, the second phase of our public engagement has begun. We have already had dozens of calls with States and other stakeholders, and the more formal public process, both a public comment period and public hearings, will provide further opportunity for stakeholders and the general public to provide input. These are not mere words. That is a proposal, and we want and need input from the public. That is why we have already engaged States, utilities, and other stakeholders to get their feedback.

To craft State goals, we looked at where States are today, and we followed where they are going. Each State is different, so each goal and each path can be different. The goals spring from smart and sensible opportunities that States and businesses are taking advantage of right now.

Under the proposal, the States have a flexible compliance path that allows them to design plans sensitive to their needs, including considering jobs and communities in a transitioning energy world. It

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allows them enough time, 15 years from when the rule is final until compliance with the final target, to consider and make the right investments, ensure reliability, and avoid stranded assets.

Our plan doesn't just give States more options, it gives entrepreneurs and investors more options, too, by unleashing the market forces that drive innovation and investment in cleaner power and low-carbon technologies.

All told, in 2030, when States meet their goals, there will be about 30 percent less carbon pollution from the power sector across the U.S. when compared to 2005 levels, 730 million metric tons of carbon dioxide out of the air. In addition, we will cut pollution that causes smog and soot by 25 percent. The first year that these standards go into effect will avoid up to 100,000 asthma attacks and 2,100 heart attacks, and the numbers go up from there.

In 2030, the Clean Power Plan will deliver climate and health benefits of up to \$90 billion, and for soot and smog reductions alone, that means for every dollar we invest in the plan, families will see \$7 in health benefits. And because energy efficiency is such a smart, cost-effective strategy, we predict that in 2030, average electricity bills for American families will be 8 percent cheaper.

President Obama's Climate Action Plan provides a roadmap for Federal action to meet the pressing challenge of a changing climate,

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promoting clean energy solutions that capitalize on American innovation and drive economic growth in providing a role for a range of fuels, including coal and natural gas. The proposal sets targets and a reasonable schedule that can be achieved by every State using measures they choose themselves to suit their own needs.

The EPA looks forward to discussion of the proposal over the next several months, and I look forward to your questions. Thank you.

Mr. Whitfield. Well, Ms. McCabe, thank you so much again.

[The prepared statement of Ms. McCabe follows:]

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Mr. Whitfield. And I neglected to mention that she is the Acting Assistant Administrator over at EPA, and so we do appreciate your being here.

At this time I would like to recognize myself for 5 minutes of questions and statements. I have noticed, Ms. McCabe, that sometimes when we have our question period, we oftentimes make statements, so I will probably do a little bit of both.

The first thing I wanted to do, I want to read a statement by a former IPCC coordinating lead article coordinator. His name is Dr. Stephen Schneider. Of course, that is the International Panel on Climate Change, which I think is recognized as the world leader in this issue of climate change. But Dr. Schneider made this statement. He said, on one hand, as scientists, we are ethically bound to the scientific method, in effect promising to tell the truth, which means we must include all the doubts, the caveats, the ifs, and the buts. On the other hand, we are human beings, and we want a better world, and to do that, we must have media support, so we must offer up scary scenarios, make dramatic statements, and do not mention any scientific doubt. And then he concluded by saying, so we decide what must be done to be most effective in getting our message out.

And I say that because you were really positive in your statement, and it is our responsibility to raise doubts about these kinds of

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regulations that have such an impact everywhere. And so I just wanted -- Dr. Schneider is not the only lead coordinator that has made these statements. Others have said we have to make them dramatic to put political pressure on political leaders. Others have said we use the worst-case model scenarios.

So, as I said in the beginning, our responsibility is try to focus in and see really what is going on here. And so the first question I would like to ask you this morning, I touched on it in my opening statement, EPA's carbon dioxide regulations for power plants are being pursued under section 111(d), and it is my understanding that you-all issued regulations under that section on five occasions. And now section 111(d) has traditionally focused, and, in fact, of those five times it has always focused, on emissions standards for specific sources, specific units, and it has never been attempted to do it in a statewide way, and that is what your recent proposal does. It sets a standard that can be achieved only statewide.

What precedent under section 111(d) is there for this type of standard setting which has never been done before?

Ms. McCabe. There actually have been six regulations issued under 111(d), the last one being the clean air mercury rule in 2005, which addressed this sector, and that took an approach that allowed utilities to trade among themselves to reduce emissions. But the fact

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is that what we have done in this rule is completely within the four corners of 111(d), which directs us to identify the best system of emission reduction that has been adequately demonstrated for the particular sector that we are looking at. And in the case of the power sector, it is a fully integrated system that encompasses the kinds of technologies that we included in the rule, and we know that because that is what we heard from States and utilities. These are the things they are already doing to reduce carbon from fossil power plants.

Mr. Whitfield. But, you know, in this rule, you, for the first time -- I mean, you basically are directing the States on setting up renewable mandates. You are setting the efficiency of the coal plants. You are determining the natural gas capacity, what percent of the capacity must be run. You are setting consumer demand. You are going further than you have ever done before, in my opinion.

Ms. McCabe. We are not actually setting any mandates in the rule.

Mr. Whitfield. But you set this out in the regulation.

Ms. McCabe. But they are not mandates. The States have absolute flexibility to use whatever method --

Mr. Whitfield. They -- don't they have to meet those four standards?

Ms. McCabe. They do not have to meet those four standards. Those were the --

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Mr. Whitfield. You have to meet -- they have to meet your target, though.

Ms. McCabe. They have to meet the overall carbon intensity target, but they have complete flexibility to get there however they choose, which is what they told they wanted.

Mr. Whitfield. We are going to explore it some more, but I have 15 seconds left. I want to ask one other questions. One of the real concerns we have -- now, this relates to the new power plant rule. We can't build a new plant in America because the technology is not there that commercially makes it feasible. The Kemper plant in Mississippi is like a 5 billion cost overrun. In Europe, they are closing down natural gas plants. They are mothballing them because natural gas prices are so high coming out of Russia, so they are building new coal-powered plants, and last year they imported 53 percent of our coal exports.

So they have the flexibility, if gas prices go up, to build a new plant. We don't have that flexibility. Do you think that that is fair to the American people?

Ms. McCabe. I actually disagree respectfully, Chairman. We think that new coal plants can be built under the new rule, and they are going forward.

Mr. Whitfield. At this time I would like to recognize the

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gentleman from Illinois Mr. Rush for his 5-minute opening statement.

Mr. Rush. Thank you, Mr. Chairman. I want to commend Ms. McCabe, I want to commend the EPA, I want to commend all your colleagues for the way you have approached this proposal. I think that you have been extremely open during this process of creating this proposal, and from what I hear today, that this process has not concluded, that there will be more and more opportunities for States and stakeholders to add their voices and to look at this proposal and to engage in positive commentaries with you on this proposal. You already reached out and asked for suggestions and been guided by that feedback.

I am from the Midwest, and we get a lot of our electricity from coal. We have a higher climate pollution, rates are -- at the beginning, starting out at the gate, but also means that we have more opportunities for cost-effective reductions.

And I want you, if you would, explain to me and to others in more detail how you develop the States' loans, particularly for the Midwest, and how the different situations and the different States are reflected in the individual State loans.

Ms. McCabe. That is a very good question, Congressman Rush, and one that we have been getting a lot from people, and it really goes back to the fundamental approach that we took in this rule, which is to take every State from where it started. One of the loudest things

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that we heard from States was please don't do a one-size-fits-all, every plant across the country has to meet a certain emission limit. Give us flexibility and recognize that States are in different places in terms of their energy mix, the age of their plants, and all that sort of thing. So that is the approach that we took.

We looked across the whole country at the power sector, and we looked at the things that people were already doing, and there are many things that can be done to reduce carbon from the existing fleet, but we found four that were the most prominent and the most promising, we thought, to satisfy the standard of best system of emission reduction. And those things are let's have the coal and gas plants be as absolutely efficient as they can be so that we get every -- we get every electron, as many electrons as possible for every ton of coal that is burned, and we found that a lot of efficiency improvements are being made across the country.

We then looked at what else are States and utilities doing to reduce their carbon intensity. Well, they are using their gas plants more than their coal plants, and that is due to a lot of reasons, but it results in less carbon, so that was number two.

Number three was that States all across the country are looking at increasing the amount of energy they get from renewable sources, from zero-carbon-emitting sources, and that is a very positive trend

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being pursued by a lot of people. So that was our third element.

And fourth was the great interest across the country, in almost every State, to employ energy efficiency or demand sites so that we are more efficient. We know there is many, many ways to waste less energy, and all of these things are important in order to bring carbon down, as well as other pollutants.

So we came up with a national framework that set a reasonable and moderate expectation for each of those four, recognizing that those were not the only things that States could do. And we then looked at every State, and we took the most recent information that we had for the power sector, which was 2012, and we applied those four building blocks, we call them, to each State, and that generated a carbon intensity rate that, if those were applied, that is where that State would get. And these are things that we think are very reasonable to achieve.

Mr. Rush. Thank you. Thank you very much.

My constituents, when they heard about this proposed rule, the thing that was most important in their mind was the price of electricity. My friends on the other side here, they have been engaged in a lot of fear mongering about the cost of electricity is going to increase and be unaffordable by low-income constituents. And my question to you is how will the Clean Power Plan affect the electricity

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bills for my constituents?

Ms. McCabe. Well, the first and most important thing to say is that each State will be in charge of designing its own plan, so that means two things. One is that they will have the opportunity to take those kind of considerations into -- build those into their plan, but also that EPA at this moment can't predict exactly what every State is going to do.

We did do some illustrative examples of what States might do, and so in our regulatory impact assessment, we do include those numbers, and that we show that with the significant increase in energy efficiency that will be implemented as a result of the rule, that electricity bills in 2030, we predict, will go down because -- electricity bills -- because people will be using less energy. We also show that the price of electricity will go up a little bit, but overall, bills will come down.

I also just want to note that low-income families are most at risk of the adverse effects of carbon pollution and climate change and can greatly -- will greatly benefit from the health benefits that will be achieved by this rule.

Mr. Whitfield. Gentleman's time is expired.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Whitfield. At this time I recognize the chairman of the full



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committee, Mr. Upton of Michigan, for 5 minutes.

The Chairman. Thank you, Mr. Chairman.

Ms. McCabe, I believe a number of us have concerns with this proposed rule. EPA, an Agency with no energy policy authority or expertise, and under questionable statutory interpretation, has now placed itself above State governments and public utility commissions on electric-generation issues, not to mention, DOE, FERC, or other Federal agencies. Last month the D.C. circuit ruled that absent, and I quote, "clear and specific grant of jurisdiction," end quote, the Federal Government cannot regulate areas of the electricity market left by the Federal Power Act to the States, like electricity generation and intrastate transmission. But what EPA calls flexibilities in its proposed reg, changing dispatch rules, mandating efficiency, utilizing other generation sources, are, in fact, the very intrastate generation transmission and distribution matters explicitly reserved by the Federal Power Act for the States.

So where do you see specifically the clear and specific grant of jurisdiction over intrastate electricity matters? Where is the cite that you can refer to.

Ms. McCabe. Chairman Upton, this is not an energy plan. This is a rule done within the four corners of 111(d) that looks to the best system of emission reduction to reduce emission. No State is required

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to enter into any particular agreement or take interstate efforts. We are not controlling the power sectors through this.

The Chairman. So you don't have a specific cite, right? Is that right?

Ms. McCabe. I can --

The Chairman. Because neither DOE nor FERC has the authority to dictate how States plan and operate their energy systems, so if they can't do it, what authority does EPA have to mandate that the States actually restructure their electric systems and subject State energy decisions to Federal oversight and control?

Ms. McCabe. That is not what the rule does. The rule is a pollution control rule, as EPA has traditionally done under section 111(d).

The Chairman. Well, assuming that you had the legal authority to go forward with the rule, have you identified all the Federal and State agencies that would have to play a role in the redesign of the State electricity systems under the proposed rule?

Ms. McCabe. We have been talking to many agencies at State and Federal level, but it is State governments, as they always are with respect to 111(d) plans, that will be responsible for putting these plans together.

The Chairman. So, as we look in EPA's budget, and this year EPA

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took a reduction in appropriation levels, an agreed-upon amount in a bipartisan way, from the CR that was passed 6 to 1 last January, have you identified more funding of personnel that is going to be required at the Federal level to conduct this review and oversight for existing plants?

Ms. McCabe. These are State plans. The States will put them together, and EPA will act in its traditional role with respect to State air quality planning.

The Chairman. But you still got -- you know, you have got the hammer to go after them, so are you -- is it going to be a new -- new folks engaged in that?

Ms. McCabe. We think States will want to take a leadership role on this and --

The Chairman. What if they don't? I heard the West Virginia Governor saying that every utility in his State would be closed. Every coal-fired facility in his State was going to be closed.

Ms. McCabe. Again, I think that States are going to want to be in the lead on this plan.

The Chairman. I think I know where they want to be.

Ms. McCabe. I also would suggest that our plan certainly does not require that all coal plants be closed in that State or any State.

The Chairman. Well, I will leave that for Mr. McKinley to ask.

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I yield back.

Mr. Whitfield. The gentleman yields back.

At this time I would like to recognize the gentleman from California Mr. Waxman for 5 minutes.

Mr. Waxman. Doesn't the EPA, under the Clean Air Act, set standards that States have to meet which affect their energy resources within that State?

Ms. McCabe. To the extent that it addresses pollution emissions, yes.

Mr. Waxman. So this is not unprecedented?

Ms. McCabe. It is not.

Mr. Waxman. Okay. I understand EPA asked a lot of stakeholders for input. Did the States ask for greater flexibility, or did they argue that EPA should just tell them what to do?

Ms. McCabe. They were very strenuously arguing for greater flexibility and, in fact, the ability to use some of the very tools that we have outlined in our proposal.

Mr. Waxman. You indicated there are a number of ways that the States can meet the objective of reducing the carbon pollution coming from the power plants, and it is up to the States to design how to do it, but they have to achieve that goal.

Ms. McCabe. Uh-huh.

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Mr. Waxman. This isn't a mandate from Washington, how to accomplish the goal. It sounds to me like a mandate from Washington to achieve the goal.

Ms. McCabe. That is correct.

Mr. Waxman. Isn't that the way the Clean Air Act has always worked since 1970?

Ms. McCabe. With respect to 111(d) and some other elements of the Clean Air Act, that is exactly right.

Mr. Waxman. The arguments I hear from the other side is, one, they don't believe the science; two, they don't think there is anything to do; three, this is not good enough because it doesn't achieve the goals; four, it tells the States what to do. Seems like every one of those points is incorrect, and then they come up with an argument that this is going to have a bad impact on the economy. Did you look at whether this will have a negative impact on the economy, or do you have people who make the claim that it is going to help the economy?

Ms. McCabe. Well, we looked at the expected impacts on the power sector, and we also looked at and heard from a lot of States that are moving forward aggressively with some of the very measures that we outlined in the proposal, and indeed those States are enjoying job growth and additional investment in innovative strategies in the creation of jobs in pursuance of things like energy efficiency.

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Mr. Waxman. I ask that we put in the record a paper that we drafted of all the quotes over the last 40 years of the industries who said they couldn't achieve what the EPA was asking them to achieve under the law passed by Congress on a bipartisan basis. They said they couldn't achieve it without closing down their businesses or suffering dire economic consequences.

We hear exaggerated claims about electricity costs, job losses, and even impaired electric reliability. These are doomsday claims. We have heard them before. And in the paper we put out, we showed how these claims were made and how inaccurate they were. What has been the history of the advances made under the Clean Air Act to give us some guidance as to whether we have to choose between clean air or a strong economy?

Ms. McCabe. We don't have to make that choice between clean air and a strong economy, and, Congressman, I think as you have illustrated, the history of the Clean Air Act shows that we do not. Air has gotten cleaner, and the economy has grown, and the United States has been a global leader in pollution-control technology, energy-efficiency investments, and we expect that to continue with this program as well.

Mr. Waxman. We heard a claim on the other side of the aisle that this EPA proposed rule would have no impact on public health. Can you give us your view of that?

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Ms. McCabe. We disagree with that. In fact, as I noted, the rule will result in 25 percent reduction in soot and smog pollutants, as well as 30 percent reduction in climate carbon pollutants. All of these issues affect public health, and reducing those emissions, taking them out of the air, will improve public health.

Mr. Waxman. So this isn't just to do with the global problem of a warming planet that leads to climate change, but it will have an impact on the health of people near some of these power plants?

Ms. McCabe. That is right. Those are important cobenefits of the rule.

Mr. Waxman. Well, I compliment you on the rule. I think it makes a lot of sense, it gives a lot of flexibility, and it achieves the goals, and it encourages entrepreneurship to develop the industry and technology that will make us the leader in the world to accomplish these goals.

Thank you, Mr. Chairman. Yield back.

Mr. Whitfield. The gentleman's time is expired.

At this time recognize the gentleman from Illinois Mr. Shimkus for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman. It is great to be here and -- no?

Mr. Whitfield. I am sorry, Mr. Barton actually was on the list

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first.

Mr. Barton. No, no, I will yield to John, and then I will follow up later.

Mr. Whitfield. Okay. Mr. Shimkus is recognized for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman.

And I am glad Mr. Waxman is here because he and many of my friends on the other side have seen this poster before. These are the real live job losses from the last Clean Air Act. Kinkaid, Illinois, I have invited you-all to come by there, 1,200 miners lost their job under a flexible system controlled by the State. The State made the decision, this mine closed, 1,200 miners.

So those of us who talk about this debate, we are trying to save our coal miner jobs in this country, and the President promised to make electricity generation by coal so expensive that he would drive that out of our market. Promises -- San Francisco Chronicle, well documented, he is just following up on his promise, so those of us in the coal region of this country are under attack, and we have to deal with this, with our constituency and the debate. So that is why there is a lot of emotion, as you can imagine.

Also, part of my portfolio of areas, the nuclear portfolio, the nuclear side, and so there are some curious things about this rule that begs -- that creates a problem based upon States that had clean-burning



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nuclear power or generators that have shut down, but still have a standard by which now they can't meet because we are incentivizing the closing of nuclear power, which, if we are into clean air, climate change, we should be incentivized.

Let me give you an example. 2013, four nuclear reactors premature to close. One of those reactors was Kewaunee plant in Wisconsin. When you-all set the reduction target for Wisconsin, it did so based on electricity production in 2012, a year in which Kewaunee was still operating. So, you are calculating your reductions a year when you have got a nuclear plant operating, no carbon emissions, that facility closed, now that State and many States that have nuclear power -- I have one of the largest nuclear power-generating States in the country -- is now disproportionately harmed by these rules, extremely harmed. So, the result is that Wisconsin will be forced to compensate for the loss of this plant and reduces emissions even further than the EPA targeted; is that correct? Is that analysis all correct?

Ms. McCabe. So let me explain, Congressman.

Mr. Shimkus. Quickly, please, as quickly as you can.

Ms. McCabe. Yeah, yeah. So this rule addresses the fossil fuel sector. That is our responsibility under 111(d), so that is where we start, and our job is to identify the best system of emission reduction for fossil-fired plants. That doesn't include nuclear. So in 2012,

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we looked at emissions in each State from their fossil generation, and we then looked at what that best system of emission reduction, from a national basis, would result in in 2030. We recognize that there are States that rely on nuclear power that is zero carbon emitting. That is very good for carbon intensity.

Mr. Shimkus. But we are disenfranchising those States that have the nuclear option.

Ms. McCabe. We are, in fact, giving States credit for some portion of nuclear in their compliance plan so that --

Mr. Shimkus. But to meet the standard, they have to even have more cuts, especially when a plant is closed, because you are basing that off the emissions in 2012, but their generating portfolio was based upon a nuclear plant that was operating.

Ms. McCabe. This is not an energy plan for the State. This is a --

Mr. Shimkus. That is our problem.

Ms. McCabe. But that is not our job to --

Mr. Shimkus. But that is the problem for our ratepayers, and because if you -- if a generating facility that has zero emissions drops off 1,200 megawatts, 800 megawatts, whatever the base load is, they have to make that up, otherwise their costs are going to go up. And so we are not taking into consideration, in this carbon debate, zero

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emittant. We should be incentivizing this; should we not?

Ms. McCabe. We are, and for any State that uses zero-emitting generation to replace coal-fired generation or to meet their needs, they absolutely will be able to count that in their compliance plan and move them towards their goal.

Mr. Shimkus. Okay. Let me get to these final last few questions, and I appreciate that answer.

What happens if the EPA doesn't approve a State implementation plan?

Ms. McCabe. There is a provision -- there is a little bit of language in 111(d) that says if we are not in a position to approve a State plan, then EPA is to move forward with a plan for that State.

Mr. Shimkus. You will have a Federal implementation plan?

Ms. McCabe. We are not focused on that right now because --

Mr. Shimkus. But that is what the law will be -- I mean, the rule will be.

Ms. McCabe. That is what the law provides.

Mr. Shimkus. What will that Federal implementation plan look like?

Ms. McCabe. We have not come anywhere near to proposing a Federal implementation plan.

Mr. Shimkus. I would suggest you start looking at that and be

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prepared to answer those questions on that.

I yield back my time, Mr. Chairman.

Mr. Whitfield. The gentleman's time is expired.

At this time recognize the gentleman from Kentucky Mr. Yarmuth for 5 minutes.

Mr. Yarmuth. Thank you very much, Mr. Chairman, and welcome, Administrator.

Last fall, EPA Administrator McCarthy met with our Governor Steve Beshear to discuss the proposed rule, and, after that meeting in Kentucky, sent a framework to EPA with recommendations on ways to develop a rule that would reduce carbon pollution cost-effectively while offering our State the flexibility in meeting the new standards. My understanding is that EPA followed almost all of the Commonwealth's recommendations; is that correct?

Ms. McCabe. I believe so, Congressman.

Mr. Yarmuth. And those included, again, allowing States to reduce emissions; flexibly using measures such as energy efficiency, renewable energy, and fuel switching to natural gas, rather than forcing States to reduce emissions in any specific plant; also recognizing differences among States' resource potential, current generation portfolios, and allowing a variety of compliance options, including energy efficiency and so forth, as you said.

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But here is another example of how that flexibility can help. The American Recovery and Reinvestment Act established a rebate program that helps spur development and adoption of energy-efficient appliances to replace older, less efficient appliances. General Electric has a major manufacturing facility in my district, and because of that program, they were able to bring a manufacturing line of refrigerators from Mexico back to Louisville and creating hundreds of jobs in the process.

Does the proposed rule allow States to take credit for reductions achieved through energy-efficient initiatives like this one?

Ms. McCabe. Certainly any program that encourages, or incentivizes, or provides for ways for people to save energy, which means less carbon going up the stack, are completely creditable under the plan.

Mr. Yarmuth. Well, we are happy that EPA agrees with that. That is a good example of how to create flexibility, and also create energy efficiency and help consumers save money and reduce emissions.

And I am glad the chairman mentioned Waxman-Markey earlier in his opening remarks, because I was one of a group of 10 or 12 or so Representatives from States that were heavily dependent on carbon, on coal-based energy, who went to our leadership at the time -- Rick Boucher from Virginia led that effort -- and we basically said to our

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leadership and to Mr. Waxman that we couldn't support the bill as it was originally drafted, that it would have been devastating for our consumers and our businesses, and they made changes in that bill.

And before I voted for that bill, I talked to all the major consumers of energy in my district, General Electric being one, Ford Motor Company has two major manufacturing facilities, the University of Louisville, the Jefferson County Public School System, Louisville metro government, UPS, we are the global hub of UPS.

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[10:32 a.m.]

Mr. Yarmuth. And not one of those users of electricity objected to that law, proposed law, and said they were either for it or neutral on it, saying we could live with it. I talked to our utility company and asked what the impact of that law would be on residential customers, and they said we think that after 10 years, the average residential user will have their rates go up 15 percent, if they do nothing else. They don't adjust their thermostat; they don't change; light bulbs; they don't insulate, so forth.

So if they are paying \$200 a month at the beginning of the period, 10 years from now they will be paying 230 a month. So, I felt pretty comfortable that I could vote on that and knowing that there would be minimal negative impact on my constituents. So I am glad that the chairman compared what the EPA rule does now to that law back then, proposed law back then, which Republicans in the Senate killed.

But I want to get to this whole scare tactic, with manufacturing businesses being affected and moving out of state and so forth, because, again, I haven't heard from any of my major manufacturers and I have a lot of them in my district. They are not afraid of this proposed

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rule.

So my question is to you, assuming -- it is not easy to move a manufacturing company. Ford has almost a couple billion dollars invested in my district, in their two plants. They just can't pick up and leave even if the energy went up. But you made an estimate at what the increased potential rates would be even in the short term of this, and I think it was about 3 percent. Is that correct?

Ms. McCabe. That is correct.

Mr. Yarmuth. So it seems hard to logically predict that a 3-percent rise in a manufacturing company's rates would be enough of a financial disincentive to force them to pick up a major investment and move somewhere else. Is that part of the calculation that you did when you were creating this rule?

Ms. McCabe. Well, energy efficiency is good for everybody and good for business. I think we all know that, and as you say, the increases in electricity prices we see are modest in the short term and then go down over the long term. So I think businesses will take that into account.

Mr. Yarmuth. Great. Thank you.

I yield back.

Mr. Whitfield. At this time, recognize the gentleman from Texas, Mr. Barton, for 5 minutes.



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Mr. Barton. Thank you, Mr. Chairman.

Am I not correct, Administrator McCabe, when I say that this proposal that we are discussing today is not actually required by the Clean Air Act; isn't that a true statement?

Ms. McCabe. No. It is required when we issue a 111(b) standard for a sector to then go forward with a 111(d) standard.

Mr. Barton. Well, I think that is wrong. I think it is allowed, but I don't see any statutory authority that demands these proposals. I do accept that there is a Supreme Court case and a presidential finding of endangerment that allows the Clean Air Act to be used. But I see nowhere in this statute that that has to happen; do you agree with that?

Ms. McCabe. Respectfully, no. I believe we, the Clean Air Act does --

Mr. Barton. If you believe that, I want the general counsel of the EPA to back that up. Will you do that?

Ms. McCabe. Sure.

Mr. Barton. Send it to the committee?

Ms. McCabe. Yep.

Mr. Barton. My understanding that what you are attempting to propose is directed by a presidential speech dated June 25, 2013, that was called the climate action plan that has then been followed up by

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a presidential memo where some of these requirements were directed towards the EPA to implement that. I would assume that you are aware of this memo.

Ms. McCabe. I am.

Mr. Barton. Okay. Can you tell me what the legal force of the presidential memo is?

Ms. McCabe. Well, the President's memo and climate action plan laid out a series of steps that are within the responsibility of the EPA and other agencies to move forward with. The President gave us a schedule on which to move forward with this rulemaking but directed that we undertake the rulemakings that are within our authority under the Clean Air Act to address environmental challenges.

Mr. Barton. Well, I accept that the President has the right to give speeches, and I even accept the fact that the President has the right to issue memos and as the Chief Executive Officer of the Federal Government, to direct that the Executive Branch, in this case your agency, the EPA, to try to implement those presidential memos, but I don't accept that this is something that absolutely has to be done, and whatever documentation you can provide that shows that this is a forcing authority, I would like to have.

In your statement, you went to some lengths to talk about all the flexibility that the States are going to have. I am told in the case

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of Texas, the decisions were made before the State of Texas even had an opportunity to comment that they received a memo or a checklist almost after the fact; are you aware of that?

Ms. McCabe. I am not sure what you are referring to, Congressman. We had many conversations with States, both individually and in groups, and of course, this is a proposal, so we are still taking comment from people. I have had at least multiple hours of conversation with States even since June 2. So there has been lots of opportunity to talk with the States.

Mr. Barton. Well, just as an example, are you aware of the fact that if Texas closed down every existing fossil fuel generation plant in the State, every one, every coal-fired plant, every natural gas plant in the State of Texas, that it would still not meet the new proposed ESPS; are you aware of that?

Ms. McCabe. The plan relies on States implementing a number --

Mr. Barton. Okay. I am asking if you are aware of that in the case of Texas. If we shut down every coal-fired plant and every natural gas plant in the State, every one, we can't meet these suggested goals.

Ms. McCabe. I haven't done that calculation, Congressman.

Mr. Barton. All right. Well, I suggest that you do it. Texas would end up with a new source performance standard that is below EPA's own standard. The EPA standard is 1,000 pounds of CO2 per million

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megawatts, per megawatt of production, and for Texas to actually meet with the EPA as suggesting it should, we would have to go down to 791, which is about 21 percent below your own standard.

I mean, you know, the renewable standard for Texas is based on the energy renewable portfolio standard for Kansas. Now, I am not anti-Kansas. I want Mr. Pompeo to know, but Kansas' electricity demand and generation is 10 percent of the State of Texas. Texas leads the Nation in renewable generation, and Texas produces three times as much energy by renewable, as the next three States combined.

Ms. McCabe. Texas has immense opportunities when it comes to --

Mr. Barton. And we get no credit for that in your proposal.

None.

Ms. McCabe. Well --

Mr. Barton. None.

Ms. McCabe. -- the State does, actually and --

Mr. Barton. Well, the State of Texas tells me they don't.

Ms. McCabe. Well, we are happy to have further conversations with the State of Texas about the goal.

Mr. Barton. My time has expired.

Mr. Whitfield. The gentleman's time has expired.

Mr. Barton. Put me down as extremely undecided on this proposal.

Mr. Whitfield. Yeah, I will.

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At this time, I would like to recognize the gentleman from California, Mr. McNerney for 5 minutes.

Mr. McNerney. Thank you, Mr. Chairman, and I thank you, Ms. McCabe, for coming here today.

You mentioned that the EPA predicts a reduction in energy costs, family energy bills, I take it, by the year 2030?

Ms. McCabe. Yes.

Mr. McNerney. Would you elaborate on that and maybe give us some idea of what the reduction estimates look like?

Ms. McCabe. Sure. Sure. So as the States implement their plans, we expect a large reliance on demand side and energy efficiency measures, that will reduce the number of kilowatts a family needs to consume over the course of a month, and so when we project that out, we show that it is about an 8 percent decrease in a bill, in a family's bill.

Mr. McNerney. So American family might look to something almost like 10 percent of reduction in their monthly energy bills by 2030 as a result of this rule, of the proposed rule?

Ms. McCabe. That is what the proposed rule predicts based on our forecast. Of course, each State, as I have said, will do its own plan.

Mr. McNerney. That is not too bad. Would you please describe the outreach that the EPA conducted to the various States. Give us

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some idea of the magnitude of that effort?

Ms. McCabe. Sure. We started last August, well before we even put pen to paper on the rule. In my experience of decades in working, first, from the State side, most of my career from the State side, I am not aware of EPA ever doing this kind of outreach, and it was broad ranging with all stakeholders.

But in particular, with respect to States, we met with States in groups, they have regional organizations. We met with those regional organizations. Our regional offices convene groups of State officials, both from the environmental and the energy side, as well as other stakeholders and utilities.

Mr. McNerney. Were most States cooperative, or did they stand aside and give a, you know, a less cooperative stance?

Ms. McCabe. Oh, I would say that there was great interest and continues to be great interest from the State officials on talking with us about the program.

Mr. McNerney. Would you describe the reduction of conventional pollution, its projected impact on health and the monetary impacts of those health benefits from these rules, if implemented?

Ms. McCabe. Sure. So as co-benefits of reducing carbon, there would also be reductions in particle pollution, nitrogen oxide, sulfur dioxide, which have very immediate and localized, as well as regional

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health benefits and we predict about a 25 percent in reduction of those pollutants compared to what they would otherwise be in 2030 without this rule.

So that will result in reduced asthma attacks, reduced emergency room visits, reduced missed days of school in the billions of dollars of health benefits to the American people.

Mr. McNerney. Is there any way to talk about the return on investment that might have to be made by the different States?

Ms. McCabe. Well, we do show that for every dollar invested there's a \$7 return in public health benefits as a result of the program.

Mr. McNerney. And then would these investments be made by States or by the private entities involved?

Ms. McCabe. Well, they would be made by the private entities, the businesses investing in technology, investing in new workers to employ energy efficiency around the State with all the benefits that those bring.

Mr. McNerney. Well, you know, I understand the four pillars of this are increasing upbringing efficiency of the different plants. What could be more reasonable than that? Using gas-fired plants at 70 percent of their capacity, which is a good idea if you have a gas-powered plant. In fact, gas is more affordable now than many other forms, using renewable energy that the applicable locally to the State

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and using nuclear as long as possible, and it is encouraging user efficiency, end-user efficiency.

So, these are all pretty reasonable, in my mind. I don't see how that would be viewed, any of those, as too intrusive. Are there other measures that can be taken that would also help reduce pollution that are included in this rule, or --

Ms. McCabe. Yeah. Those are so reasonable that they are being done in a widespread manner, but there are other things that States or utilities can think about doing. There is other types of fuel switching they can do. They can look at their transmission systems and see whether there is leakage there that can be tightened up. So there are a number of other things that folks can do.

Mr. McNerney. And the last thing is the State flexibility. I mean, I understand there is a great deal of flexibility the States have adopted and it will make it a lot easier for the different States to implement these proposed rules.

Ms. McCabe. Yes, that is right.

Mr. McNerney. All right.

Thank you, Mr. Chairman. I yield back.

Mr. Whitfield. At this time, recognize the gentleman from Ohio, Mr. Latta for 5 minutes.

Mr. Latta. Well, thank you very much, Mr. Chairman, and thanks



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very much for being with us today. We greatly appreciate it.

Last week, the Governor of Ohio signed a piece of legislation citing energy costs leading our growth concern, that put a 2-year freeze on Ohio's renewable energy mandate that the State imposed on itself. I would like you to consider this hypothetical situation going into the future.

Assume that the Ohio renewable energy standard was included in its State implementation plan, the SIP, and to comply with the EPA's existing plant rule. Assume also that the EPA approved that SIP, okay. In that scenario, would the State of Ohio maintain its discretion to freeze the renewable energy program in order to protect the interest of Ohioans?

Ms. McCabe. The State would continue to have flexibility if circumstances change in the State to replace one particular measure with another, and the proposal lays out the process by which a State could do that. So there is opportunities for States to adjust their plans along the way.

Mr. Latta. Let me ask then, would the State have to get that approval from the EPA?

Ms. McCabe. If a State wants to replace one measure with another, they would come to EPA and say, this is what we are doing.

Mr. Latta. Okay. And how did the process overall work, and how

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much time would it take for a State to get that implemented, then, if they want to make a change?

Ms. McCabe. Well, we work with States all the time in circumstances where they wish to change their State implementation plans and so we work with the State to prioritize those actions and try to meet the State's needs in terms of timing.

Mr. Latta. And then also, would Ohio be subject to Clean Air Act penalties if they didn't first obtain any EPA approval before they make any implementation to a change at that time?

Ms. McCabe. I don't believe so, Congressman. The provisions in the Clean Air Act for penalties are pretty clearly laid out and there is a pretty clear process for when those could be invoked. So I think in any circumstance like this, we would work with the State to make sure that they can do what they needed to do as long as it met the ultimate goal.

Mr. Latta. Well, just to be on the safe said, if you can get that back to the committee, that they wouldn't face penalties if that were to occur?

Ms. McCabe. Sure, we will answer for that.

Mr. Latta. And also, just talking a little bit about Ohio, we get about 70 percent of our generation in the State of Ohio comes from coal. In my district, which I have about 60,000 manufacturing jobs,

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it is even higher than that that we are a coal-based generation and up in my area of the State, I also have a very unique situation. I have a lot of electric co-ops.

So how do the EPA's clean power plant avoid putting these small co-ops at a competitive disadvantage and especially the customers? Because, again, in my district, when you look who they are serving, you are talking about a lot of -- I have 60,000 manufacturing jobs, I also have the largest numbers of farmers in the State of Ohio.

How do you put them not at a competitive disadvantage under the clean power plan? Because, again, you have got the farmers, you have got these small businesses out there, you have got a lot of retirees --

Ms. McCabe. Yeah.

Mr. Latta. What happens? How do we make sure they are not at a competitive disadvantage?

Ms. McCabe. Well, this is where the design of Section 111(d) and the flexibility and the plan really shows its value. It is because it will be up to the State of Ohio to design a plan that works for the State of Ohio. I come from Indiana, and so it is very similar in terms of the types of sources --

Mr. Latta. Well, if I could just interrupt, because you coming from Indiana, you know that just a few years ago, especially when the President was talking about his cap and tax plan, that when Ohio was

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at about 70 percent generation of coal, Indiana was at about 90 percent. So they are really in harms way when it comes to these new rules and standards. So excuse me for interrupting.

Ms. McCabe. No, I gave you the opening. I actually don't think they are in harms way. I think that the way we have designed the plan is very respectful of the fact that States like Ohio and Indiana do rely heavily on coal. They have different opportunities than States with a different energy mix and they can design a plan that addresses concerns related to small rural co-ops, public power, particular concerns.

This plan works. It doesn't require any particular plant to meet any particular emission rate, and it looks at emissions over a long averaging period. So that is another way in which the plan gives lots of flexibility for the State to be able to adjust to its particular needs, its manufacturing community, its rural communities, cities, whatever the particular needs are.

Mr. Latta. Thank you, Mr. Chairman.

My time has expired and I yield back.

Mr. Whitfield. At this time, I recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. Green. Thank you, Mr. Chairman.

And I have a little different Texas accent, and I'm sorry to my

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colleague from Texas, Joe Barton is a good friend and we work together on a lot of things.

EPA does have the authority to regular CO2 under the Clean Air Act. Supreme Court ruled it and the rule we are discussing will have significant impact for decades on industries in my area, in Houston.

The issue of climate change is one of the most important issues we should face as a Congress. The EPA has constructed a framework that provides States with the flexibility and opportunity. It is important to remember those four building blocks proposed by the rules are not the exhaustive list. The four building blocks are a prescription for success.

States are allowed to construct a plan that matches their needs and those in their affected communities and as I said before, the EPA is legally justified in regulating carbon, and I would prefer Congress take the lead in doing it. I believe as elected officials, we have the duty to act on behalf of our constituents to regulate these pollutants.

Again, Ms. McCabe, I am sure you are aware EPA in my home State of Texas have had some issues in the past and for more than 3 years, EPA was responsible for issuing GHG permits which caused significant problems for our industry looking to build and expand even new facilities. Just this last week, the Governor of Texas along with six

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other State governors sent a letter to the President asking him to dispose of the carbon rule. It is my hope that we will not go down that path again.

My first question, having said that, Ms. McCabe, can you explain to the committee what concerns your office receives from stakeholder groups, including States, as you prepared the rules, and what did EPA do to mitigate these concerns?

And obviously, from my part of the country, I appreciate if Texas had some input in how you responded to it.

Ms. McCabe. Yes. We heard a number of very specific things from States and other stakeholders. We heard that States wanted to be able to, for example, do their own plans or they wanted the ability to perhaps join with other States and do a multi-State plan, and our proposal allows for that.

States were very concerned about the time that they would have for two things: One, to develop a plan; and two, to actually achieve the carbon reductions, and so our proposal response to both of those, first, by giving an extended compliance time period all the way out to 2030 with a long glide path down to that, but also in response to their first concern, how long would they have to submit a plan. We have provided for either a 1- or a 2-year extension for States to get them some additional time to put their plans together if they need that.

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Another thing that we heard from States is to allow them the flexibility to either craft their plan around a rate-based approach or a mass-tons-of-carbon-emitted approach, if that is the way they wanted to manage their plan, and so our plan allows for both of those approaches.

Mr. Green. Okay. I have reviewed the rule and the four proposed building blocks. EPA has estimated that the majority of the carbon reductions from the State of Texas would come from building blocks, two of them, utilize utilization of the existing natural gas, compound cycle power plants; however, there are other additional reductions calculated under building blocks three and four.

And you may know, Texas has more wind generation than any other State. Texas is the first State in the Nation to pass legislation establishing energy efficiency resources standards.

My concern is, EPA has proposed that Texas is capable of meeting higher renewable energy and energy efficiency demands. My next questions have to do with the studies conducted included by EPA to meet these demands. EPA states these estimates are subject to significant limitations and market barriers, including consumer behavior.

My next question: Are EPA estimates in the proposed rule expected to overcome these limitations and barriers?

Ms. McCabe. Well, the estimations that we use for each building

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block are based on a national framework. So they are not individualized to every State, but of course, the State, as I have said, has the ability to apply them in any way that it wishes and that it makes sense for them. So if there are market barriers, for example, to additional renewable energy efficiency, the State can look to other more reasonable, more appropriate measures for them to employ.

Mr. Green. Okay. I only have 30 seconds.

The State EPA estimates that two building blocks are expected to raise prices. Further, EPA estimates that 90 percent of the efficiency, energy efficiency comes from the rate payers. What effect do you think these prices increase will have on consumer behavior? Will they actually be more efficient? And won't consumers be more inclined to maintain the status quo as opposed to paying more for new programs?

The last thing, though, the studies that EPA is relying on, are they available to the public before the close of the public comment period so that people can respond to?

Ms. McCabe. Yes, all of our technical support documents in the studies are available in the docket, which I believe opened yesterday when the rule was published.

But the answer to your first question is that, we have seen in States that have very proactive and forward-looking energy efficiency



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programs that they are quite successful and that measures do get implemented and consumers do save money.

Mr. Green. Thank you.

Mr. Chairman.

Mr. Whitfield. At this time, we recognize the gentleman from Louisiana, Mr. Cassidy for 5 minutes.

Dr. Cassidy. Thank you, Mr. Chairman.

Ms. McCabe, I will also first make a statement and then ask some questions.

When you say that utility bills are going to go down by 8 percent, it reminds me of candidate Obama, saying that under his health care plan, insurance premiums would decrease by \$2,500 per family without increased taxes and without a mandate. Of course, now they are up by \$2,500 per family. When you say that you are going to give States flexibility, it reminds me of, "if you like your doctor, you can keep it."

Now, I will tell you, I know of a family losing their home. They have refinanced their mortgage and so it is actually paying less for that. But their cost of food, gasoline, insurance is all going up. They have been denied the economic benefits of projects like Keystone XL pipeline, which now Canada is going to ship their oil to China to create Chinese jobs and you want to raise their utility prices.

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Now, you may say that conservation will not decrease, but let's be clear, let's not mislead. The reality is poor people, those who are lower income are less able to invest in those conservation measures. This is just going to be a bull's eye on other families' ability to do things such as keep their homes.

Now, there has been a lot of, this administration has raised to an art level misleading the American people by doing certain things, manipulating statistics. But let's at least be honest about it. Now, I will go to Mr. Yarmuth's question earlier. If Ford has a decision to invest in Kentucky or to invest in Mexico, and we are raising their input cost of energy, we are going to tilt them towards investing elsewhere. Is that a fair statement?

Ms. McCabe. There are many things that go into people's decisions.

Dr. Cassidy. Is it a fair statement? If one of your key inputs is energy costs and you are raising that cost, we can't compete on labor. So our energy costs a little lower, so people have been reshoring jobs. Reality is now you wish to increase those energy costs. Now, that said, doesn't it just make sense, we will tilt them towards doing further economic development elsewhere?

Ms. McCabe. I don't think I can agree with that statement.

Dr. Cassidy. I have got to tell you. Somehow, at some point,

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we have to be honest with each other. Now, on the other hand, if you say this is not an energy plan, and you are not saying any State has to cut down their coal usage or decrease or eliminate coal usage, but the only way to achieve this goal, which, if they do not, you will come in with your own plan, is to eliminate coal-fired plants.

You may say you don't demand something, but the inherent nature of the rule, the only way it can be reached without the Federal Government squeezing the State will be to shut down coal. Do you deny that?

Ms. McCabe. I do, actually, Congressman. The plan predicts that in 2030, coal will provide 30 percent of the energy --

Dr. Cassidy. So we have something here which is based upon an analysis of Washington State which has to have a 90-percent decrease in their use of carbon, and the only way they get it is to completely shut down coal.

Now, you may say Washington State does not have this mandate to shut down the coal, but the only way they get there is to shut down the coal. So, again, I just feel like there is a lack of openness.

Let me ask you something else. Has the EPA examined the ripple effects of this throughout the economy?

Ms. McCabe. The EPA has focused on the impacts in the power sector.

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Dr. Cassidy. But throughout the economy, the users of that power, the Ford motor plant or Louisiana has \$90 billion in announced construction projects involving polymers, petrochemical, gas to liquids, industry that will create great paying jobs for working Americans. Have you analyzed the impact of this regulation upon that \$90 billion of announced expansion to manufacturing base?

Ms. McCabe. No. No, we haven't.

Dr. Cassidy. Yeah. Yeah. So these jobs are on the bubble. There are more families that will lose their homes, and you have not done the analysis. Now, if you call me skeptical, I will join Mr. Barton in being incredibly skeptical.

Now, what else do I have here? I am sorry if I seem so aggravated, but I keep on thinking of that family losing their home. Their food is going up, their gas needs is going up, their insurance is going up after they were told it would decrease, and now we are told that their electricity bill will go down 8 percent. By the way, a coal-fired plant supplies their electricity. This administration is so busy saving the Earth they are willing to sacrifice the American family.

Now, I am sorry to be so aggravated but I keep on thinking of them, and I can't imagine the insensitivity of this President and this administration to their plight, but it is evident to see.

I yield back.

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Mr. Whitfield. Gentleman yields back.

At this time, we recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Ms. Capps. Thank you, Mr. Chairman. And may I ask permission to include in the record a letter from several public health organizations in favor of this ruling by the --

Mr. Whitfield. Without objection.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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Ms. Capps. Thank you, Mr. Chairman, for holding this hearing.

And I thank you, Ms. McCabe, for being here today and for your hard work on these clean power rules.

I know climate change is a critical issue and it demands action, and EPA's clean power rules, I believe, are a major step forward. Climate change, as we know, is already having such a wide range of impacts on weather, on food and water supplies, ocean, health, air quality and so much more. My background as a public health nurse, I am particularly concerned about climate change's impacts on public health.

EPA's analysis show that there will be significant health benefits from implementing these clean power rules, and as I understand it, these health benefits come on two levels; this is what I would like to ask your confirmation on.

One, the primary benefit of reducing the greenhouse gas emissions that are driving climate change; and two, the coal benefits of reducing emissions of other harmful air pollutants like sulfur dioxide, nitrogen oxides and particular matter. Do you affirm that this is accurate?

Ms. McCabe. That is correct.

Ms. Capps. And some have criticized the methodology used to evaluate these coal benefits, and they accuse EPA of double counting. Can you respond at this point, how did EPA calculate the health benefits

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of this rule?

Ms. McCabe. Yeah, when we look at the health benefits of any given proposal, we build those on top of the health benefits that have already accrued from rules that are already on the books.

Ms. Capps. Right.

Ms. McCabe. So we don't include those benefits. These are all additive on top of that, incremental.

Ms. Capps. Okay. Now opponents of these rules frequently cite the cost of compliance as a reason not to pursue them, and of course, we have to acknowledge, there will be compliance costs. There will also, though, however, be significant benefits and I would like to argue that the benefits are particularly there for children and for families.

Ms. McCabe. Yes.

Ms. Capps. Can you add to our discussion here about how the health benefits of these rules compare to the estimated compliance cost; in other words, what is that cost benefit ratio?

Ms. McCabe. Uh-huh, yeah. So and, again, the costs that will be incurred by the rule ultimately will be decided by how the States choose to go forward with their plans.

Ms. Capps. Right.

Ms. McCabe. But in our assessment, we estimate a \$7 to \$9 billion cost compared to up to \$90 billion health benefits and in particular,

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with respect to the health code benefits, each dollar spent on the rule will generate \$7 in health benefits.

And I should note in response to that and in partial response to the previous question then, that State programs that will be used to implement these, many of them build in assistance to low income, rate payers and, again, those are the citizens and the families that are most at risk and most vulnerable to the health impacts that we see from air pollution and from climate change.

Ms. Capps. Okay. It is clear that these clean power rules will have some significant benefits for the American people. I believe they deserve our support. I hope we can find a way to work together to get these rules implemented as soon as possible. I, for one, really don't believe we can afford to wait any longer.

You know, there are States like California, where I am from, that have seen some great economic benefits from renewables and energy efficiencies. As these are implemented, there are cost savings just in putting people to work on efficiencies and on developing new resources for renewables.

There is a minute left, if you would like to use it to outline some of the economic benefits as these could offset the cost of a change over.

Ms. McCabe. Yeah. So California, clearly, has been a leader on



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renewables and investment in energy efficiency, and these create good jobs that are localized jobs, machining equipment, installing insulation, weatherizing homes, whether it is existing homes or new construction. So these are jobs that happen in our communities and result from these sorts of programs.

Ms. Capps. Thank you. Just in the quarter of a minute that I have left, you remind me of some programs that went into effect with some of our low-skilled workforce during the recession to get them to weatherize and put in efficiency opportunities for some of our low-income housing, reducing energy costs for the occupants of the housing, putting people to work, learning some new skills that could continue and this is, frankly, an ongoing process that as technology advances will never slow down or stop.

And thank you for your answers.

And thank you, Mr. Chairman. I yield back.

Mr. Whitfield. This time, recognize the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. Terry. Thank you, Mr. Chairman. I appreciate that.

And I am humored by the argument that this is not a mandate. I mean, if the Federal agency said I live in Omaha but I have to make it to Lincoln at a certain time, and I can only take 45 minutes to get there, that is a mandate. Even if you left me up to my own imagination

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of how I would get there, it is still a mandate, and so it is interesting that we can play word games, but it is still a mandate and it will have cost.

We are a State that is 72 percent reliant on coal. We are a State where you take 6 to 7 hours at 75 miles an hour to get across. So, some of this doesn't make a lot of sense, but I have reached out to our major public power entities. We are an all-public-power State, so Omaha public power, Nebraska public power, as well as our, NDEQ, NPA, our National Power Association and some of our rules. They are all working together, that is the good news. Bad news is they are completely panicked in how to actually do the plan and how to actually meet the 26 percent mandated reduction. Because we are 72 percent relying upon coal.

So in reaching out to them, they are frustrated in the lack of direction, what they see as conflicting information from the EPA on how to move forward. But one of the areas that they would like to have nailed down is the percentages for reductions are based on, is it 2012 numbers or 2005 numbers?

Ms. McCabe. Where we look to start to see where States were was the data, most recent data, which is 2012 so --

Mr. Terry. So that is the baseline, is 2012. Why would they get confused about 2005?

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Ms. McCabe. There isn't really a baseline, but 2012 is the --

Mr. Terry. How is there no baseline?

Ms. McCabe. -- is the starting carbon intensity. The reason that people are confused about 2005 is because 2005 is a year that people have been using a lot to talk about our progress towards reducing greenhouse gases.

And so in describing the impacts of the rule, EPA has compared the reductions that will be achieved into 2030 to that 2005 number. But the starting point for this rule is 2012.

Mr. Terry. So bottom line, then, just like you finished, 2012 is the date that the State of Nebraska has to use to calculate the 26 percent reduction on, correct?

Ms. McCabe. That is the date that we used to calculate their goal that they need to meet in 2030.

Mr. Terry. So, again, if they are using 2012 as their baseline to reduce 26 percent, they are okay with the EPA?

Ms. McCabe. As long as their plan shows that they will get to the goal that is set forth in the rule.

Mr. Terry. For 26 percent?

Ms. McCabe. For 2030.

Mr. Terry. By 2030?

Ms. McCabe. And if that is 26 percent, I don't know the Nebraska

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target off the --

Mr. Terry. That is the stated reduction that was told to the State of Nebraska.

Ms. McCabe. Yeah.

Mr. Terry. So now, is there any flexibility in the States of using a different year as the baseline?

Ms. McCabe. Well, no.

Mr. Terry. Okay.

Ms. McCabe. We need to start the States at a --

Mr. Terry. Okay.

Ms. McCabe. -- where they are.

Mr. Terry. No is a solid answer. That is clear. Clear is sometimes good even if you disagree with it.

Now, if States include a renewable portfolio standard in their State implementation, does that make it a Federally-enforceable mandate?

Ms. McCabe. So the --

Mr. Terry. De jure or de facto.

Ms. McCabe. Right. The plans will be Federally approved. We actually lay out an extensive discussion on this issue in the preamble that we are very interested in getting people's feedback on because we heard this question a lot, and we are looking for feedback on how

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to design that.

But the plan itself would be enforceable so that to make sure that the reductions would get done.

Mr. Terry. All right. I have got four pages of questions from our NDEQ in power districts, but we will submit those in writing to you.

Ms. McCabe. Please do. And we have had a number of conversations with officials from your State and certainly would be happy to set up other opportunities.

Mr. Terry. Well, I will state for my last few seconds that I have talked to some of the board directors of OPPD and NPPD, and they said the only conclusion they have come to so far is it is going to cost them, quote, "a hell of a lot of money," end quote.

Mr. Whitfield. And we are going to have more hearings, so you will have the opportunity to ask more questions, as well.

At this time, recognize the gentleman from Pennsylvania, the manager of the Democratic baseball team, Mr. Doyle for 5 minutes.

Mr. Doyle. Thank you, Mr. Chairman.

Welcome, Ms. McCabe.

Ms. McCabe. Thank you.

Mr. Doyle. As you know, Pennsylvania generates significant amount of our electricity from coal, and over the last few years, we

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have seen several coal plants retired in Pennsylvania to be in compliance with the MATS standard. I have heard this type of early action will be acknowledged, and EPA officials said on a recent conference call that it is their intent to credit plant retirements forced by the MATS rule.

So I am curious, how will States and generators get credit for plants they retire or will retire between 2012 and the final rule?

Ms. McCabe. So anything that a State does that reduces the amount of the carbon intensity of the generation in the State, will be eligible to be part of their plan. So if a State is closing a coal plant, for whatever reason, and there are many reasons why coal plants are being closed around the country, if that power is replaced with either lower carbon natural gas, or zero carbon renewables, or not as much generation as needed because of energy efficiency, that will all work to the State's advantage in building their glide path towards the goal that is required.

Mr. Doyle. But they will get credit for -- I mean, basically we want to make sure that we are getting credit for doing the right thing in advance of the final ruling, whenever that final ruling comes out.

Ms. McCabe. Right.

Mr. Doyle. And you are saying that that will be the case?

Ms. McCabe. Yes.

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Mr. Doyle. Okay. Can you talk specifically about some of the opportunities my State might have to reduce carbon pollution from our power sector? I mean, do you anticipate that coal will continue to be a big part of our power mix going forward?

Ms. McCabe. I do expect and, in fact, we show across the country that coal will continue to be about a 30 percent share of production, and although I don't have the Pennsylvania figures in front of me right now, a coal intensive State like Pennsylvania, we presume, would continue to have a significant amount of its power generated from coal.

And the targets that we calculated, in fact, very much took that existing energy mix into account and we think that Pennsylvania, like other coal intensive States, has things that they can do, and the target was designed to capture the things that Pennsylvania can reasonably do.

Mr. Doyle. Uh-huh. I want to talk to you a little bit about the flexibility options in this in terms of the potential for increased flexibility. So my understanding is that State specific emission goals were derived from one calendar year of actual operations, 2012 --

Ms. McCabe. That is right.

Mr. Doyle. -- which people are calling the baseline year. You know, in the past rules, an average of several years were used in order to smooth out any anomalies and it seems that a 1-year snapshot might

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yield an inaccurate starting point, especially if the State had several plants on extended outages, for example, or some anomalies existed in 2012 that didn't exist in other years.

Would the EPA be willing to consider more flexibility of sorts, like averaging a few years to establish a more accurate starting point or baseline?

Ms. McCabe. Yeah. I know we will get comment on that issue, and it is something we certainly would consider and talk with States about.

Mr. Doyle. And finally, let me ask you about nuclear, too. Several nuclear generating stations have closed recently, and it is common knowledge that others are on the bubble and I realize the main culprit is market conditions, but market rules in competitive markets disadvantage base load power including nuclear.

Can we meet the greenhouse gas rules goals if more nuclear plants close? And since most nuclear plants operate in competitive deregulated markets, did you consider this in your analysis?

Ms. McCabe. So the nuclear question is an interesting and a complicated one, and we did recognize what you have just reflected going on in the market with respect to nuclear plants. So we actually have tried to send some signals in the proposal to encourage the retention of that nuclear generation that, as you say, is kind of on the bubble. So we definitely would like to work with States to see how the plan



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can help encourage the continued operation of those zero emitting carbon sources.

Mr. Doyle. And finally, let me ask you about reliability, too. I mean, one of the most important duties that State regulators have is to maintain a reliable electric system and that is vital to our economy, obviously. How does the EPA's proposal ensure that States can achieve carbon pollution reductions while maintaining reliability?

Ms. McCabe. Yeah, it is a very good question and one that was paramount in our minds as we worked through the proposal and also as we consulted with FERC and DOE and other agencies that have this as a chief responsibility. So there are a couple of things that we think make it clear that reliability will not be threatened.

One is the length of time for implementation here. There is a long period of time for people to plan, and the utilities sector, this is what they do. They know how to do this, and if you give them enough time, they can plan accordingly.

The flexibility in the plan, the fact that no particular plan is required to meet any particular emission rate over any particular time period is another way in which reliability will be protected, because States have the flexibility to plan their resources accordingly, and the fact that we have an annual averaging periods and longer averaging periods, again, provides a lot of flexibility. If somebody needs to

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bring a plant up to deal with a short-term issue, an annual average allows them to do that without compromising their compliance with their own plan.

Mr. Doyle. Thank you.

Thank you, Mr. Chairman.

Mr. Whitfield. At this time, recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. Olson. I thank the chair.

Ms. McCabe, I hope you have the same concerns I hear back home about President Obama's announcement on new regulations for coal power, carbon regulations. There is a common theme back home: Why does the EPA that works for me want to kill my job? Why does that same EPA that works for me want to hurt my family? Those questions can't be answered here. They will be answered in November.

I do have a few questions you can answer today. The first few follow the example of Chairman Emeritus Engle that require a yes or no answer.

Question one: EPA added a grid safety valve in the 2012 mercury rule as a way to slow implementation if reliability is threatened. Now America's impartial grid operators, including the ones that keeps the lights on at your headquarters, have asked their staff about a similar valve here. My question is, will you commit to including a reliability

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valve in the final carbon rule? Yes or no.

Ms. McCabe. I can't commit to anything in the final rule. We haven't even gotten the public comments yet, but it is something we will certainly consider if people comment on it.

Mr. Olson. It is important, ma'am. We will follow up later on this.

Second question is: EPA has justified in these new rules to the public with up to 90 billion in, quote, "climate and health benefits," unquote. Health benefits is an important phrase. According to the EPA's impact analysis, the vast majority of this rule's benefits come from cutting traditional pollution, not carbon. Mostly microscopic dust, PM. We already regulate PM. In fact, you are just now starting to implement a brand new ambient air quality standard. My question being yes or no, is do EPA's national ambient air quality standards fully protect human health with, quote, "an adequate margin of safety," unquote? Yes or no.

Ms. McCabe. Yes, they do.

Mr. Olson. That is what I thought. That complies with the law.

The second question: In the entire country would have to apply with the existing PM 2.5 standard in the coming years, yes or no?

Ms. McCabe. I am sorry. Can you repeat that?

Mr. Olson. The entire country, all of America will have to comply

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with the existing 2.5 PM standards in the coming years, yes or no?

Ms. McCabe. That is the air quality standards that States need to meet, yes.

Mr. Olson. Yes, ma'am. Many parts of the country already meet the new PM rule. Is that correct? Yes or no.

Ms. McCabe. Yes.

Mr. Olson. Okay. That begs the question, your scientists have just approved a rule designed to push us to perfectly safe levels of PM. Existing rules will protect America's health and then some, and yet, this new rule says that there will be billions in new PM protection benefits for EPA to trumpet to the public and that begs the question, is EPA giving this carbon rule credit for what it is already doing? Are you double counting?

Ms. McCabe. Well, there are two answers to that, Congressman.

One is that the PM rule that was just finalized is the standard. It is not the path to get there, and so States will need to implement measures in order to reduce PM to meet that standard and this proposed plan would be one way for them to do that. So it could be a critical element of a State's PM compliance plan.

The second answer to your question, Congressman, is that the scientists show that there are health benefits from reductions of PM even below the standard. We set the standards to protect from a public

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health perspective at the national level, but there continue to be health benefits, real health benefits that are experienced by people when those particle pollution levels go down, and so it is appropriate, in our view, to reflect the benefits that will accrue from those further reductions.

Mr. Olson. I have a letter here that you put out in December 2012 and January of 2013, a fact sheet on the PM standard. I want you to square your comments with this language. It says, and this is your document: "Emission reductions from EPA and States rules already on the books will help 99 percent of counties with monitors meet their revised PM 2.5 standards without additional emission reductions." You are already there. Why do the standards? You have said it. You are there.

Ms. McCabe. Well, these standards are not driven by PM reductions. These standards are driven in order to reduce carbon, which is a climate change pollutant causing significant health and welfare and economic impacts in this country. The benefits that we reflected in terms of PM are additional health benefits that will be achieved as a result of implementing this carbon pollution rule and but will be real health benefits that Americans will experience.

Mr. Olson. My time is expired.

Mr. Whitfield. The gentleman's time has expired.

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At this time, recognize the gentlelady from California, Ms. Matsui, for 5 minutes.

Ms. Matsui. Thank you, Mr. Chairman, and thank you for having this hearing today.

Ms. McCabe, I want to applaud the administration in the EPA for the release of this critically important proposed rule to cut carbon emissions from existing plants. Now, we already set limits for other air pollutants, but we let power plants release as much carbon pollution as they want, yet the effects of climate change are already being felt across the nation. Droughts are becoming more severe, which is putting an incredible strain on water supply in California, and specifically my district in Sacramento, where we have experienced historic drought. In addition, extreme weather from hurricanes to heat waves is hitting communities across the country. We can't wait any longer. We have to do something.

In California, as you know, we have made great strides with a cap and trade program, energy efficiency programs and renewable energy portfolio standards. Nationally, we have already made progress by moving to cleaner sources of energy and improving the energy efficiency of our cars, trucks and buildings. Now, EPA is setting carbon standards for power plants to protect public health and welfare, and I support these efforts in making our communities and planet a cleaner

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and safer place.

Now, my State has a lot of companies who have invested in other States. How will EPA determine who gets credit towards compliance when one State or company has invested in renewable energy, and clean energy production in other States? I know that EPA has asked for comment, but we are hoping that the EPA encourages a fair way of assigning credit.

Ms. McCabe. Yeah, we look forward to the public comment on this and to discussions with people. Basically, we start from the perspective of States being responsible for the carbon emissions in their States, but we recognize that there are programs like renewable energy programs where systems are set up so that States or companies will invest in renewable resources that are outside State boundaries. So the proposal does contemplate letting those States take account of those investments as part of their plan.

Ms. Matsui. So does California get credit, then, for energy efficiency programs that deal with imported electricity?

Ms. McCabe. The energy efficiency is a little bit different from renewable energy. So we are focused there in the proposal on energy efficiency that takes place in the States that reflects reductions in use in that State.

Ms. Matsui. Okay.

Ms. McCabe. But, again, I am sure we will get lots of comment

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on this issue because it is a complicated one, and you want to make sure that, both, you are not double counting, but also that all energy efficiency is being counted somewhere in the right place.

Ms. Matsui. Absolutely. Now, will the EPA have ongoing oversight of State plans or multi-State plans?

Ms. McCabe. Like we do throughout the Clean Air Act, we will provide oversight to the State implementation of approval and implementation of plans as we normally do with State implementation plans for other pollutants.

Ms. Matsui. Okay. Now, California would have to convert EPA's rate-base standard to a mass-based standard due to programs it has in place. Will this conversion affect this reduction target?

Ms. McCabe. It should work out to be just exactly the same; that is the whole point. And we have a technical support document that walks States and others through how you would do that conversion.



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[11:30 a.m.]

Ms. Matsui. Okay. Now, would California get credit towards compliance for its new Pacific coast collaborative with Oregon, Washington, and British Columbia. The leaders of all four jurisdictions have agreed to account for the cost of carbon pollution and that where appropriate and feasible make programs to create consistency and predictability across the rejudge of 53 million people?

Ms. McCabe. Yeah. So if states choose to join with other states in a plan, they would be able to pool their resources and pool their targets and be able to put in a joint plan that we could review and approve. That provides a lot more flexibility, those can be very attractive arrangements.

Ms. Matsui. Okay. Great. Now, did EPA find any parts of the country that don't have the potential to boost their use of cleaner energy?

Ms. McCabe. No, every State has many opportunities.

Ms. Matsui. Okay. If a State does not comply or create a plan, can it affect a neighboring state's reduction target?

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Ms. McCabe. No, I don't believe so. Each State is responsible for its own target, and as I said, if they go in on a joint plan with others, then we would look at that as a joint plan, but each State is responsible for itself.

Ms. Matsui. Okay. There is an interim reduction goal that must be met by 2020. What happens if the State does not meet the interim standard?

Ms. McCabe. Well, actually the interim standard needs to be met on average over the decade between 2020 and 2029, so they can kind of plan that out.

Ms. Matsui. All right.

Ms. McCabe. They don't have to have a straight trajectory. There can -- there is some States, for example, that know they are going to have plant closures later in the decade so they can do less in the first part.

Ms. Matsui. Okay.

Ms. McCabe. So, each State's plan will lay out what it expects to do over that 2020 to 2029 period and show how it is getting that average.

Ms. Matsui. Okay.

Ms. McCabe. And then we will work with the States to help them along the way.

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Ms. Matsui. Great. Well, thank you, Ms. McCabe.

I yield back.

Mr. Whitfield. The gentlelady's time is expired.

At this time recognize the gentleman from Kansas, Mr. Pompeo for 5 minutes.

Mr. Pompeo. Thank you, Mr. Chairman.

I want to follow up on a question from Mr. Whitfield. He asked you for precedent about going beyond the source under 111(d), and you cited the Clean Air Mercury Rule. Are there other precedents that EPA has for going beyond regulating existing sources?

Ms. McCabe. Well, we actually don't think this is going beyond existing sources because it is focused on the fossil generation, and all --

Mr. Pompeo. But you gave that example where you have gone beyond the actual source, and you cited the Clean Air Mercury Rule. Do you have other examples like the Clean Air Mercury Rule, yes or no?

Ms. McCabe. No. The other examples, though, are industry specific like this one is.

Mr. Pompeo. Right. And under the Clean Air Mercury Rule, there is nothing outside of regulated sources that you attempt to regulate. You could trade among the regulatory.

Ms. McCabe. Correct.

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Mr. Pompeo. But you couldn't go beyond that to appliances as you are proposing here; is that correct? It is a yes or no question.

Ms. McCabe. That is right.

Mr. Pompeo. And my recollection is the Clean Air Mercury rule was overturned.

Ms. McCabe. But not on that basis.

Mr. Pompeo. But it is no longer in effect.

Ms. McCabe. It is no longer.

Mr. Pompeo. Right. So, it is gone. It was unlawful, it was lawless, much like you are proposing here. Yeah.

Let me talk about -- but have you met with John Podesta in the course of developing these regulations?

Ms. McCabe. I have.

Mr. Pompeo. How many times.

Ms. McCabe. I don't recall.

Mr. Pompeo. One time, three times, five times, do you have an estimate?

Ms. McCabe. Not that --

Mr. Pompeo. Do you have a parking --

Ms. McCabe. Not --

Mr. Pompeo. -- spot at that building? Is it infrequent?

Ms. McCabe. It is infrequent.

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Mr. Pompeo. Okay. How many times has your staff met with he or someone else at the White House on this set of regulations?

Ms. McCabe. Not to my knowledge or infrequently.

Mr. Pompeo. And Ms. McCarthy, has she met with Mr. Podesta as well on this set of regulations?

Ms. McCabe. I expect that she has.

Mr. Pompeo. Can you give me the information about the frequency of those meetings, the location of the meetings, and the subject matter of those meetings?

Ms. McCabe. I will take that back.

Mr. Pompeo. No, that is not the question. The question is can you get me the information?

Ms. McCabe. I know. I will take the question back.

Mr. Pompeo. Great. I mean, this is about politics, right, that is why Mr. Podesta has already appeared working on this. This isn't about law, we talked about that. It is about politics. It is also not about science, and I want to turn to science now.

I talked with Ms. McCarthy about this. I want to make sure nothing has changed in your view. So you have now 30 indicators. You have gone from 26 to 30 indicators on your website about how you measure impact of what you-all call climate change today.

So I want to ask you a series of yes or no questions about this

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set of regulations, these carbon regulations, and what you think they will do to the indicators that EPA uses.

So, yes or no, will this set of rules, when fully implemented, reduce sea surface temperatures.

Ms. McCabe. I can't answer that. I don't know.

Mr. Pompeo. Will this reduce ocean acidity?

Ms. McCabe. It will contribute to reducing ocean acidity.

Mr. Pompeo. Do you have the data to support that and can you tell how much and when he will see reduced ocean acidity as a result of these regulations?

Ms. McCabe. You can't predict the climate this way.

Mr. Pompeo. I will take that as you have no idea. Is that a fair statement? You don't know. You have no data. Do you have any science to support the reduction in ocean acidity connected to these rules?

Ms. McCabe. We have science to show that increased carbon in the atmosphere leads to things like ocean acidity, and if you have less carbon in the atmosphere, you will --

Mr. Pompeo. Decreases in the lake ice. How much -- how much less lake ice will there be as a result of these set of rules?

Ms. McCabe. Same answer I gave you before.

Mr. Pompeo. Right. You don't know. The answer is you can't show me how much less lake ice. I would just like to see the data.

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If you are proposing a set of rules and you have indicators, it would seem reasonable for the citizens of America to demand that you say, hey, we think this is the impact, and so we will -- this is what you are going to get in exchange for all the costs that is we have all talked about this morning, this is what you are going to get. You are going to get this much less -- or this much more of something that is really good.

Ms. McCabe. But that is in the way climate science works.

Mr. Pompeo. Right. Yeah. Science used loosely.

Have you met with FERC in connection with electrical reliability and talked to them about the impact?

Ms. McCabe. Yes.

Mr. Pompeo. And tell me about those discussions. Did you -- were there memos? Are there written materials where FERC provided you information about what they thought the impact of these rules would be on electricity reliability?

Ms. McCabe. So, I or my staff have consulted with staff at FERC. They are part of the interagency review process that we always go through, and so they have given us their input on electric reliability.

Mr. Pompeo. And do you have -- when you say their input, is there a memo? Do you have a document? Or did you just pass in the hallway and talk? There has got to be a written document.

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Ms. McCabe. I don't believe there are written documents, but it was more than passing in the hallway. We had discussions with them.

Mr. Pompeo. They were just discussions about something that is critical as electrical reliability. We have such a radical rule, and you didn't ask them to put anything in writing or you didn't demand and say, hey, tell us what you think in a formal scientific manner. You just said, hey, let's sit at a table and talk about it?

Ms. McCabe. We had substantive discussions with them.

Mr. Pompeo. Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back.

At this time I recognize the gentleman from New York, Mr. Tonko for 5 minutes.

Mr. Tonko. All right. Thank you, Mr. Chair, and Administrator McCabe, welcome, and thank you for your work on EPA's Clean Power Plan.

The President and EPA are doing exactly the right thing by placing the limits on the amount of carbon pollution that can be emitted from power plants. Climate change is a serious threat, as we all know, and we cannot address it without addressing the biggest source of carbon pollution in the United States.

In the 2 weeks since the release of EPA's proposed rule, we have heard a lot of attacks on the Clean Power Plan, so I want to give you a chance, Administrator, to clear up some of these misunderstandings.



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One of the claims is that no one goes to the hospital for breathing in carbon pollution so there can't be any real public health benefits from limiting carbon pollution. Could you please explain how this rule will help protect the public health from the effects of both conventional air pollution and carbon pollution?

Ms. McCabe. Yes, thank you. People do go to the hospital for breathing issues and for other ailments that are caused or exacerbated by air pollution, so this rule will -- by reducing both carbon but also other ancillary pollutants that are emitted by coal fired and other fossil fuel fired power plants, will reduce the amount of air pollution in the air, that means fewer asthma attacks, fewer visits to the emergency rooms, fewer premature deaths, and fewer heart attacks resulting from exposure to those pollutants.

Mr. Tonko. Right. There is also talk about the impact on modest income households. I can tell you representing households that saw their life savings washed away when their homes were totally destroyed is an effect that is never totally recovered, and so, the inaction here can be very expensive.

We have also heard repeatedly that the Clean Power Plan is a heavy-handed attempt by EPA to regulate the power system and to tell states exactly how much efficiency in renewable energy they must achieve. This charge must particularly be -- must be particularly

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frustrating for you. As I understand it, the proposal is designed to offer flexibility, as you have mentioned here today. The proposal sets a target, but it is left, is it not, to individual States to choose how to achieve it? Can you respond to this misrepresentation of the proposal?

Ms. McCabe. Yes, it is absolutely left to States, and we know that States will pick and choose the things that make the most sense for them, and if energy efficiency is where they want to put their investment, then they have the ability to do that. If investing in their existing coal fired generation can make it just as efficient as possible is where they want to put their investment, then the plan allows them to do that.

Mr. Tonko. Right. Thank you. And then, Administrator McCabe, I am sure that you are aware that New York is a member of the nine State compact of Regional Greenhouse Gas Initiative, or RGGI in the Northeast. Our nine State coalition has agreed to a cap on carbon pollution, and we have a regional trading market for carbon pollution credits.

The revenue from the sale of those credits has allowed us to fund a wide variety of initiatives, including efficiency and renewable energy, investment in education and training for jobs, new jobs in clean energy, transitioning of jobs, and support businesses and initiate

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plans for climate adaptation. In short, the RGGI States have accomplished much already.

In fact, since 2009, the nine member State compact has had an emission reduction by 18 percent, while our economies grew by 9.2 percent. By comparison, the emission in the remaining 41 states of our Nation, saw that emission reduced by 4 percent while their economies grew by 8.8 percent. So the track record is not intimidating. It is actually quite rewarding.

It appears to me that what states are doing under RGGI is consistent with EPA's proposal. So the states in our coalition are already on their way to meeting your proposed target. Is that the case, or are we going to have to rework our initiatives?

Ms. McCabe. No, that is the case, and the approach that these States have taken is certainly one approach that States can choose to take, and as you say, has been very beneficial to those States and very workable.

Mr. Tonko. Okay. Well, I appreciate that because I was involved in the early discussions about the formation and implementation of RGGI from my seat at NICERTA. I heard many of the states claim -- the same claims about threats to reliability and affordability of electricity, job losses, and predictions of everything short of returning to the days of reading by candlelight. It didn't happen. I won't say these

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aren't challenges. There are challenges, but they are manageable, and the effort is yielding significant benefits for public health and the economy.

Ms. McCabe, proponents of action to address climate change say that requiring coal fired power plants to control their carbon pollution is a part of a war on coal. Is the Clean Power Plan going to eliminate the use of coal?

Ms. McCabe. Absolutely not. In fact, coal will remain roughly a third of our power supply in this country in 2030 under this proposed plan.

Mr. Tonko. Okay. Well, my time has been exhausted, so I will yield back, and I thank you for, again, appearing before us today and offering clarification.

Mr. Whitfield. At this time, recognize the gentleman from Virginia, Mr. Griffith for 5 minutes.

Mr. Griffith. I have to just say, representing a coal district where lots of jobs have been lost and more expected to be lost because of these rules, we certainly feel like we are under attack from Washington, D.C., and if it is not a war, it sure is something that is pretty close to hell. Thank you.

That being said, it is my understanding -- and if I could get yes or no answers, I would appreciate it. It is my understanding that you

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are a lawyer by training; is that correct?

Ms. McCabe. I am.

Mr. Griffith. And it is also my understanding that the Attorney General of West Virginia, Patrick Morrissey wrote a letter to Gina McCarthy on June 6, 2014, regarding these new rules. In there, I understand the EPA agrees in its technical documents filed with this proposal that under the plain reading of the statutory language of section 111(d) found in the U.S. Code, EPA has no legal authority to regulate CO2 emissions from power plants under section 111(d). In particular, section 111(d) of the U.S. Code provides that if the EPA is already regulating a source under section 112 of the Clean Air Act, the EPA cannot also establish standards under section 111(d) for those same sources.

Isn't it true, that in 2012, EPA started regulating power plants under section 112 under its Mercury and Air Toxics Rule? Yes or no.

Ms. McCabe. We did issue a regulation under section 112.

Mr. Griffith. Under section 112. So, under the plain reading of the U.S. Code, and by the way, a plain reading of the legislation reported from this committee and the substantive provisions of law enacted by the House and the Senate, this decision by the EPA foreclosed, the decision to regulate under 112 foreclosed the agency's ability to regulate greenhouse gases under section 111; isn't that

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correct?

Ms. McCabe. That is not correct.

Mr. Griffith. And you base that upon your new understanding that the EPA takes the position that they don't read the provisions of the U.S. Code literally because there was a technical conforming amendment included in the 1990 Clean Air Act amendments that you-all assert, you and the EPA assert creates ambiguity in what is the law or about what the law is; is that your position, ma'am?

Ms. McCabe. This is not a new interpretation. This is the interpretation that the agency took in 2005 also in the Clean Air Mercury Rule, that reading of the statute.

Mr. Griffith. And do any of the following still work for the EPA, Carol Holmes, Howard J. Hoffman, or Wendy L. Blake?

Ms. McCabe. Yes, some of them.

Mr. Griffith. So then the court, in its ruling, made an error when it said that your position was the opposite of what you have said just. I read from the opinion that you referenced, that would be New Jersey versus EPA, 2008 opinion. For all the lawyers listening in, 517 F.3d 574, quote, "This requires vacation of CAMRs, regulations, for both new and existing EGUs. EPA promulgated the CAMR regulations for existing EGUs under section 111(d), but under EPA's own interpretation of the section, it cannot be used to regulate sources

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listed under section 112. EPA thus concedes that if EGUs remain listed under section 112, as we hold, then the CAMR regulations for existing sources must fall. EPA promulgated the CAMR regulations for new sources under section 111(b) on the basis that there would be no section 112 regulation of the EGU emissions and that new source performance standards would be accompanied by a national emissions cap and voluntary cap and trade program," end quote.

From the opinion that you just said where your people argued the opposite, the courts seem to think they argued what I think, and that is, you don't have authority if you regulated greenhouse gases under 112, you don't have the authority -- not greenhouse gases, but regulated the existing coal fired power plants, you don't have the authority under 111. How do you reconcile those two, your thought that this was your position before and now finding that your lawyers had previously argued the opposite, at least if the court is not mistaken, and I note that the case was appealed on other grounds but cert was not granted?

Ms. McCabe. The CAMR decision was based on a completely different basis, the decision to vacate the rule.

Mr. Griffith. I understand that, but you just stated here today that your position -- this was not a new position for the EPA because of this case. This case says the opposite. How do you reconcile that?

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Ms. McCabe. I am not intimately familiar with the court decision that you are reading. I will be happy to respond to this, and I am sure we will.

Mr. Griffith. I appreciate that. Let's just talk about good basic lawyering then. You know what a scrivener's error is. You have been around the process for a long time, you have gone to law school, you understand that when a bill passes, and this committee does it all the time, when we say at the end, our chairman will say that, you know, closes by saying the staff can make technical conforming amendments, what the EPA is hanging their hat on is a scrivener's error that was a confirming amendment, and you are saying that a scrivener's error and the conforming amendment should trump the law of the United States? Really. With your background and your education, I would expect a better argument.

Thank you very much, Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back.

At this time I recognize the gentlelady from Florida, Ms. Castor for 5 minutes.

Ms. Castor. Thank you very much, Mr. Chairman, and welcome.

I think it is very heartening that America is moving forward to tackle the challenges of the changing climate and carbon pollution. We are already making great progress when it comes to the cars we drive



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and fuel efficiency. We have reduced emissions substantially and put money back into the pockets of American families. That has been very positive.

Then look at what has happened with the appliances in our homes. They are more efficient than ever, and we can do even better, the building codes are better. New technology is out there so you can control with your smart phone what is going on in your own home and save money that way. Again, the new technology is improved by leaps and bounds, and this is part of American ingenuity, and we are going to bring that same ingenuity to tackling carbon pollution from the largest emitters.

Back home, all I have to do is look around the Tampa Bay area on top of the huge Ikea store, we have got large solar arrays, they are saving on their electric bills, the largest beer distributor in the area has a major warehouse. They said this makes sense for us now to put solar panels on the roof. Our local governments have done it at courthouses, and there is a corresponding benefit that we have created jobs and clean energy, and we have created new businesses, and we are boosting small businesses all across my community and all across America.

So now comes another important piece in the climate action plan focused on the largest sources of carbon pollution, and when you review

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the proposed rule by EPA, I think the hallmark of it is the flexibility granted to the States. So, by the year 2030, it is almost hard to imagine where we will be at 2030, but by 2030, States will have to meet these overall pollution reduction goals.

Now, some people expressed to me, Madam Administrator, that the rule grants too much flexibility. A State like mine in the State of Florida at the State level, we don't have much State leadership right now, surprisingly. The State, I would argue, that could be the most impacted by the changing climate, the leaders at the State level had receded from energy efficiency standards. We don't have any renewable goal at all, so some folks say, gosh, couldn't have EPA done a little bit better by setting some targets on energy efficiency and renewables? But I mean, Mr. Barrow, Georgia is producing more solar power than the Sunshine State. That is pretty ridiculous. So --

Mr. Barrow. It is a point of pride.

Ms. Castor. Point of pride for you in the Peach State but not so much from the Sunshine State, but there is progress at the local level. Like in any home county in Hillsborough County, they have a waste energy plant that has been expanded, they are getting greenhouse gas credits. The city of St. Petersburg is a leader nationally in what they are doing in lighting and solar power and eliminating methane and waste energy, so here is a question.

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What will states be able to do to harness the improvements at the local level? And it is not just local governments. It is nonprofits and it is businesses. How will that count towards our goal, our State goal of reducing overall carbon pollution?

Ms. McCabe. This is a great point. I think there is something like a thousand mayors across the country that have pledged to address carbon emissions in their cities, and it is just so encouraging and so positive, and the way these programs will fit into a State's plan is that any measure that helps the State reduce the amount of energy it needs to produce from its high carbon sources will be able to be counted in the State's progress towards their goal. So, all these local programs, weatherization programs, building efficiency programs, they all will be able to count.

Ms. Castor. But you all have a State organization that will be able to bring all of that data together; isn't that right?

Ms. McCabe. Well, the State Government is responsible for the plan under the Clean Air Act, as they always are, and they know how to do these things, and so we are working with the State agencies that are definitely thinking about how they will do this and asking lots of questions, and I think they have the opportunity to work with their mayors and their utilities and their local businesses and utilities to make sure they know what is going on and --

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Ms. Castor. It is really a call to action to everyone. We all have a responsibility to do this, and I think there is a great potential for cost savings for consumers. It is interesting that you have identified a potential for reduced electric bills because of energy efficiency. If you can save, you save money, but one of the problems, though, is the State incentives, do not encourage energy efficiency and conservation. Hopefully we can do better there, don't you think?

Ms. McCabe. We think States will find that energy efficiency is a very positive program for them to invest in as some other States that are further along that path have found.

Ms. Castor. Thank you very much.

Mr. Whitfield. At this time, recognize the gentleman from Texas, Mr. Burgess for 5 minutes.

Dr. Burgess. Thank you, Mr. Chairman. I appreciate you having the hearing.

I appreciate our witness being here so long with us this morning and your forbearance through our questions.

I want to go back, I think it was Mr. Barton or maybe it was Mr. Shimkus who asked the question to which you responded that there would be an 8 percent reduction in electricity prices in Texas; did I hear that correctly?

Ms. McCabe. Electricity bills. We predict that electricity

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bills will go down. This is a national average, not --

Dr. Burgess. Can you provide us with the formula and the data that you put into the formula to come up with that answer?

Ms. McCabe. Sure. That is all laid out in our regulatory impact assessment, and the attachment is in the record, so we will be happy to point you to where that is.

Dr. Burgess. You also said in your opening statement, that we will avoid 100,000 asthma attacks under these rules. Can you tell us, since the passage of the Clean Air Act, when I wasn't here then, I mean that was before the earth cooled the first time. It has been so long ago, but how many asthma attacks have been prevented under the Clean Air Act?

Ms. McCabe. I don't know that figure, but we will be glad to get you some more information on that.

Dr. Burgess. Does this figure of 100,000 include those asthma attacks that would have been avoided simply because of the passage of the Clean Air Act?

Ms. McCabe. The health benefits that we predict from this rule are associated with the pollution reductions that are required by this proposal.

Dr. Burgess. Well, now you say pollution reduction, but of course, this all was predicated on the endangerment finding for carbon

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dioxide, and now carbon dioxide has become a regulated pollutant; is that correct?

Ms. McCabe. That is correct.

Dr. Burgess. So is regulation or reduction of carbon dioxide in the atmosphere going to result in 100,000 fewer asthma attacks?

Ms. McCabe. The asthma attacks that we associate with this rule in our analysis are due to reductions in other pollutants that will happen as the carbon is also reduced.

Dr. Burgess. Can you provide us with the journals that back up the 100,000 figure as well as the reductions that you are asserting.

Ms. McCabe. We will be happy to point you to where in the record we lay out our expectations on the benefits.

Dr. Burgess. I am really not interested, but what I really would like to see are, are there publication in refereed journals that will attest to this fact? The ones that I have been able to find really are rather nebulous about the finding that reduction of carbon dioxide means a lower number of asthma attacks.

Ms. McCabe. We will be glad to follow up with you.

Dr. Burgess. And in note planning, I brought my Harrison's Principles of Internal Medicine with me this morning just in case we wanted to look at it. I don't see carbon dioxide listed as a trigger for inciting reactive airway disease.

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Ms. McCabe. So, let me clarify because I think I didn't quite see where you were going. So, there are certain airplane pollutants that are very clearly associated with exacerbation of asthma attacks. The impacts that we are seeing from climate change also can create conditions in which asthma can be exacerbated, so --

Dr. Burgess. May I stop you there for just a moment because you seem to conflate climate change with carbon dioxide. My understanding of the purpose of this rule was because of an endangerment finding from carbon dioxide, and the asthma reductions that you are asserting in your testimony this morning are as a result of reductions in carbon dioxide.

Ms. McCabe. No, that is not correct, so let me be really clear. The endangerment finding found that emissions of greenhouse gases, including carbon dioxide, created adverse impacts to public health and welfare, and that is through a variety of impacts that a changing climate has, increasing heat, increasing bouts of --

Dr. Burgess. Again, I need to stop you because of time considerations, but those are relatively nebulous. And when I review the literature, I don't see the -- I mean, this is a fairly assertive statement that you have made for the record here in your opening statement, and I don't see the data to back that up.

But I would just ask that you be careful about the language because

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the language -- I think I see why that language is being used, but I don't think it is fair to use that, and I think, you know, we are oftentimes accused of using fear to motivate people to be against some of these principles, but here, I believe you are using fear, who wants more asthma attacks? No one. But your assertion that asthma will be reduced by 100,000 because of reductions of carbon dioxide in the rule that you promulgated as a result of a court opinion, I am sorry, it just doesn't follow.

Ms. McCabe. If I could be really clear then. The health benefits that we describe as a result of this rule, the asthma attacks, in particular, are the result of the reductions in other pollutants that will happen accompanying the reductions in carbon.

Dr. Burgess. So, I would just simply ask, what have you been doing? Why haven't you reduced those other pollutants? Why did it take this activity to motivate the EPA to reduce those other pollutants if it was within their power to do so all along under the Clean Air Act?

Ms. McCabe. EPA and the States have been working for many years to reduce air pollution that results in asthma attacks and other health effects and has made a lot of success along the way.

This is an additional program that will result in additional pollution reductions, and there are real health benefits associated



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with those.

Mr. Whitfield. The gentleman's time is expired.

Dr. Burgess. Mr. Chairman, I have some additional questions. I will submit those for the record. I appreciate your indulgence.

Mr. Whitfield. Absolutely, yes, we do have some other questions, and we are going to have some more hearings.

At this time I recognize the gentleman from Georgia, Mr. Barrow for 5 minutes.

Mr. Barrow. Thank you, Mr. Chairman.

Thank you, Ms. McCabe, for being here.

I am sort of in a lonely place in this committee, you know. Sometimes I think a lonely place is the only honest place to be in this town, but you be the judge.

I accept the scientific evidence of a climate change. I accept the scientific evidence and the common sense that tells me if you take all the carbon that God put down in the ground and belch it in the air, we are going to have an impact on climate sooner or later. I accept that.

But I reject previous legislative attempts to address this problem, and I don't accept and don't agree with the current Administration's efforts to do this by regulation, mainly because I don't think that it will work, but they will definitely hurt. They

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won't work, especially when you consider it in isolation or when you consider it against the backdrop of what is taking place in the rest of the world, and so I think we need to take another approach in this basically.

And the debate between those folks that say we need to put mandates out that in the hopes that technology will arrive, you know, on time, to the rescue, and those who think you ought to invest in technology, I am firmly in the technology first camp, and I don't think we are doing that with these regulations.

But, you talk about a number of things that we are doing that some folks are doing someplace, everybody ought to try and use those tools to try and get where we need to be. You talk about things like making coal plants more efficient, talk about shifting from coal to natural gas, talk about more renewables, you talk about consumer efficiency in a variety of different ways. Nowhere in there did I hear you talk about shifting from coal to nuclear.

Of the existing technologies that are on the shelf, nuclear is the only one that can provide significant base load capacity with zero emissions. My question is, does shifting from coal to nuclear count? Should it count?

Ms. McCabe. It should and it does.

Mr. Barrow. All right. In Georgia and in South Carolina, we are

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the only weight payers I know of in the nation making significant investments in shifting from coal to nuclear. In my district at Plant Vogtle, we are adding the two next nuclear power generators to come online in this county. Vogtle 3 is going to come online in 2017. Vogtle 4 is going to come on in 2018. How are they going to get counted toward the goals they are going to be held to in 2020 of getting down to 891 pounds per kilowatt hour?

Ms. McCabe. So when those megawatts are produced by a nuclear plant with zero carbon and they replace megawatts that were produced by a plant that emitted carbon, those will be counted for the State, and they will help it get towards its final goal.

Mr. Barrow. So, you are telling me the time between these come online in 2017 and 2018, the reductions that take place then will be counted toward the goal that you set for us of getting 891 as the adjusted average?

Ms. McCabe. They will, and with those plants as part of Georgia's --

Mr. Barrow. Base.

Ms. McCabe. -- base and how they produce their power, that it will help address, or achieve the carbon intensity goal, absolutely.

Mr. Barrow. Well, let me put this in context. In 2005, Georgia utilities were belching about 2,000 pounds per kilowatt hour into the

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atmosphere, and we have already achieved a 25 percent reduction in that amount, getting down to about 1,500 as of 2012. So in the 7 years between 2005 and 2012, we have already achieved a 25 percent reduction.

Now, against the President's goal of achieving a 30 percent reduction for 2005 to 2030, how come we haven't already gotten there? Why are we still being required to cut it from 1,500 down to 891 in 2020 and 834 in 2030?

Ms. McCabe. Well, each State is in a different place and they have made different progress, but what we did in our rule was we looked at these reasonable and existing technologies that people can use and how much more is reasonably able to be done.

Mr. Barrow. My point is, though, we are already achieving a 25 percent reduction and are shifting from coal to natural gas. One of tools in the toolbox you say we have got, and we have got plans to shift even more from coal to nuclear in 2017 and 2018. We have already achieved 25 percent of the starting goal of reducing what we were producing in 2005 to 2030 by 30 percent. We are most of the way there. Why do we have to cut it in half even further?

Ms. McCabe. This rule was not set up to achieve a specific goal of reduction. That is not the way it works. It was set up to look at what the available technologies are, and for each State, that results in a different trajectory and a different ultimate goal.

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Mr. Barrow. But we are utilizing two technologies, one you specifically list and one you haven't listed, need to add it to the mix, shifting from coal to nuclear, and we are already most of the way there.

Let me put it another way. Let me put it another way. It makes no sense to me that old itty bitty State like Wyoming is going to be held to producing belching 1,700 pounds per kilowatt hour into the atmosphere while a big old State like Georgia is going to be required to belch out no more than 834 pounds of CO2 per kilowatt hour.

Makes even less sense to allow little old itty bitty State like North Dakota to do 1,783 pounds in 2030, whereas a big old State like Texas has got to do no more than 700-and-something. That makes no sense to me in terms of whatever you want to do, whatever the existing technologies are, and that is a problem I have got with this whole approach.

Ms. McCabe. We would be glad to spend more time with you, Congressman, and explain how those targets got --

Mr. Barrow. This will take a lot explaining. Thank you, ma'am.

Mr. Whitfield. The gentleman's time is expired.

At this time I recognize the gentleman from West Virginia, Mr. McKinley for 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman.

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I would like to try to keep this issue in perspective and maybe have to get at the 30,000-foot level to look at this, because you know, according to the EPA's own website, it says that 82 percent of all manmade CO<sub>2</sub> comes from areas outside the United States, and so, to me, it is kind of ludicrous, as we have this discussion, to think that we are going to improve -- we are going to have health benefits to America and we are going to start reversing the climate change when 82 percent of those contributing to CO<sub>2</sub> are exempt around the world.

It just -- I can't think of any other way that we are going to make this policy work than by engaging the rest of the world into this discussion. But this experiment that he wants at 30 percent is just -- it doesn't seem to be working. If we go back to the Kyoto protocol, it called for a 5.2 reduction in CO<sub>2</sub> emissions, but by the end of that protocol, the globe had already, had increased by 10 percent and just ignored what was being documented.

So, while we want to experiment, while this Administration wants to experiment by reducing 30 percent, the International Energy Agency is already predicting that by 2030 the rest of the world is going to be producing 40 percent more CO<sub>2</sub> around the world.

While we are experimenting with reduction, the rest of the world is not following our lead, they are going to 40 percent. Just consider China and India alone. With this chart, you can see that, this is what

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they are going to be doing. Over this time period, China is going on the introducing 557,000 more gigawatts of coal fired power house; India, 519,000. In that time period, by 2030, China is going to increase their CO2 output by 60 percent while we are decreasing 30 percent. India is going to increase by 50 percent their CO2 output while we are decreasing our 30 percent.

This Administration just seems to be ignoring that China burns more coal than the rest of the world combined, and no one is following this lead. We seem to be operating in a vacuum.

Just recently the EPA administrator, former administrator -- EPA administrator Lisa Jackson said U.S. action alone will not impact world CO2 levels. Do you agree with that?

Ms. McCabe. I --

Mr. McKinley. Yes or no.

Ms. McCabe. I take your word that she said it.

Mr. McKinley. She said that just yesterday. Former EPA administrator William Riley said, absent action by China, Brazil, and India, what we do will not suffice.

Ms. McCabe. I don't think anybody disagrees that action is required by many countries to address climate change.

Mr. McKinley. So what we are doing -- so, with these regulations, we are ignoring the global reality that the rest of the world is not

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following us. We are going to affect our American economy. We are going to put it at risk where already the numbers are predicting that anywhere from 9 to \$40 billion annually we are going the pay for this experiment.

We are going to be increasing our utility bills. We are going to be putting Americans out of work. We are going to disrupt our manufacturing base. We are ignoring the advice of the predecessors with EPA over this thing, so I am going ask you a quick -- a year from now, if China and India and Japan have not reduced their CO2 emissions, will you withdraw this regulation.

Ms. McCabe. We are not --

Mr. McKinley. Just yes or no.

Ms. McCabe. No.

Mr. McKinley. Okay. How about 2 years from now? If no one is following, will you withdraw it?

Ms. McCabe. Congressman, this rule --

Mr. McKinley. Is that no?

Ms. McCabe. I can't speak to what --

Mr. McKinley. So, I would say in the final rule then, since you mention it earlier, in the final rule, you said that it is not final. We have -- final language has to be worked out, so will you agree to insert metrics into this? Engineers, we deal with metrics. We want



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to see how you measure success, so will you put into the final bill a metric that says that if America's economy is tanking because of this or the world isn't following and they are continuing to increase their CO2 emissions, that this will void this rule? Just a yes or no.

Ms. McCabe. I don't believe that would be an appropriate thing to do under a Clean Air Act rule, Congressman.

Mr. McKinley. Okay. So, again, trying to paint the final picture here as we go with this. This experiment in working separate from the rest of the Nation is kind of -- and you yourself have mentioned, efficiency. As an engineer, I agree with you about efficiency, but when I think of it, what comes to mind is someone insulating their home and then opening all the windows. What have we accomplished with this? We are not working in concert with the rest of the world. They are not following us.

So for us to expect to have health benefits from something while 82 percent of the rest of the world are exempt from this is ludicrous.

I have to -- my time is expired. I am sorry. I hope we can have more of a dialogue and follow back up with this. Thank you.

Ms. McCabe. Happy to. Happy to. We are absolutely not ignoring other countries, and we have many activities focused on it.

Mr. McKinley. You and I both know they are not joining us.

Mr. Griffith. [Presiding.] The gentleman's time is expired.

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The gentlemen New York, Mr. Engel is recognized for 5 minutes.

Mr. Engel. Thank you, Mr. Chairman. I want to welcome and thank you, Administrator McCabe, for joining us here and for your testimony.

I want to give you a chance to perhaps answer some of the things -- questions that Mr. McKinley asked because there are a couple of arguments that we hear over and over again from those who oppose U.S. action on climate change.

First, they say this is a global problem so why should the U.S. act first, and secondly, they say even if America acts, it is not going to solve the problem anyway because other countries are going to ignore it, so why bother. As far as I am concerned, there is no question that climate change is a global problem, and it demands a global solution, and it doesn't mean that we wait for other countries to act first.

So, to the contrary, I would say progress on big global problems almost always requires United States' leadership, and I don't think anyone would claim that the world will meaningfully make a slow climate change without U.S. leadership and action.

I wanted to give you a chance to answer some of the specifics because it is hard when you have to answer just yes or no to say what you really feel, so --

Ms. McCabe. Yeah. I appreciate it, Congressman, and I agree with the way you have characterized this.

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There is no question it is a global issue. There is no question that countries beyond the United States are going to have to take action. This has been the case with other environmental problems in the past. I also agree and the President agrees that the United States has a responsibility to act here both because we are a significant contributor. We are the second largest, I believe, contributor, and because we are a world leader, and we work in the international community with other countries, with China, with India, with other countries, and are working with them to get them to look at similar sorts of approaches so that we can together address this global environmental problem.

Mr. Engel. So on the specific issue of climate change, can you tell us why American leadership is particularly critical on this particular issue?

Ms. McCabe. Well, the global impacts of climate change affect us here in the United States, they affect our citizens and our families, and so we have a responsibility to do everything that we can to encourage and work with other countries to have them take the kinds of steps that we ourselves are showing we have the leadership to take here at home.

Mr. Engel. Well, and also, as you mentioned, the United States is one of the world's top emitters of carbon pollution, and in order to be a credible negotiator, I think we need to be able to urge and

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approach other countries to do more. We need to take action ourselves, you know, walk the walk.

Ms. McCabe. That is correct. That is absolutely correct.

Mr. Engel. Not just talk the talk. So how will EPA's actions to cut carbon from power plants, in particular, strengthen the United States' ability to influence the direction of international negotiations on climate change?

Ms. McCabe. It already is having an impact when we meet with other countries in these discussions to see that a major world leading economy is putting its money where its mouth is, so to speak, and taking affirmative steps to address carbon. And so that shows that it can be done, it shows that a country has moved forward in that regard, and that puts pressure on other countries to do similar or explain why they can't.

Mr. Engel. Now, power plants are the largest single source of our emissions and the source of huge emissions worldwide, and so obviously, to be credible, we need to address power plants, and by doing so, we can help other countries understand that it can be done. I would assume you agree with that statement?

Ms. McCabe. I do agree, and by moving forward with our power company, we can be on the forefront of technologies and the types of methodologies that we can then help other countries with which will

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benefit our manufacturers and our innovators here at home.

Mr. Engel. So let me ask you, you have talked about it, but I want to give you again you know, a chance to enhance your statement. When those who oppose action say that this rule won't solve the problem so why should we bother, why should we bother?

Ms. McCabe. It is an extremely important step to help solve the global problem for the United States to move forward with real meaningful reductions in carbon.

Mr. Engel. So I would just like to say, and I assume you agree, and tell me if you do, no single action to reduce carbon pollution will ever stop climate change but we will never address this problem without many individual actions, so these actions do add up to a meaningful difference.

Ms. McCabe. That is absolutely correct.

Mr. Engel. Okay. Thank you.

Thank you, Mr. Chairman.

Mr. Griffith. The gentleman yields back. Thank you.

And now recognize the gentleman from Pennsylvania, Mr. Pitts for 5 minutes.

Mr. Pitts. Thank you, Mr. Chairman.

Madam Administrator, many coal fired power plants have spent millions of dollars to comply with the EPA's final Mercury and Air

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Toxics rule MATS. Despite the retrofits, many of these plants would operate significantly less or potentially retire under EPA's proposed rule which contemplates greater utilization of natural gas. My question is, how does the proposed rule prevent the problem of stranded assets?

In other words, for coal plants that have made millions of dollars of investments to be compliant with MATS, but may not be able to meet the requirements of this rule, there are plants in my State that have spent hundreds of millions or even billions of dollars to comply with the Mercury and Air Toxics rule. Do generators and their customers and their investors just have to eat these costs?

Ms. McCabe. It is a good question, Congressman, and hopefully I can give you a couple of answers to it. So, one way in which we anticipated avoiding this kind of situation is providing a very lengthy trajectory for compliance. So, going all the way out into 2030, that gives utilities the time to do two things. One is to plan carefully so that the plants in which they have made significant investments, they can get all the value out of those investments and also to plan to make sure that their fleet is being managed over time.

The other thing is that where the coal fired fleet in this country is aging, as I am sure you know right now half of the plants are in their 40s, I think, and 10 percent or so are 60 years old or older,

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so, so there is a transition going on in the industry already, quite apart from MATS and quite apart from this rule.

And the flexibility that this rule provides will allow states to focus on and utilities to focus on investing in the plants that have a long life ahead of them and make the most sense in order to continue to be key parts of the portfolio and perhaps not to invest in the oldest plants, the ones where it doesn't make as much sense economically to put investments into them. So that is how this rule helps avoid those kinds of situations, which we agree is a very important thing to do.

Mr. Pitts. In your calculations in developing the rule, did you take into account the loss of jobs as a result? Did you quantify these as to the impact by State?

Ms. McCabe. Well, again, as I said before, since the States will ultimately decide exactly what their plans are, all we could do was to do some illustrative examples, and in our regulatory impact assessment, we did look at the potential job losses and job gains associated with the rule. That is all laid out there.

Mr. Pitts. Now, under the proposed rule for existing power plants, EPA is requiring of each State develop a State implementation plan and to submit it to EPA for approval. What if a State chooses not to participate? Would EPA impose a federal implementation plan in that regard?

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Ms. McCabe. The Clean Air Act does provide that if a State doesn't submit a plan, that EPA would do one. I will tell you right now that we are not focused on that right now. We are focused on making sure that States understand the opportunity is here for them, and we are confident that States will want to be in the lead on this program.

Mr. Pitts. Well, we saw that many States didn't want to establish their own programs to implement Obamacare and trying to implement that at the State level. If EPA were to impose a federal implementation plan in their State, what does EPA envision that plans would look like?

Ms. McCabe. We really haven't thought that through, and any proposed federal plan, we would go through a public process to get people's views on that.

Mr. Pitts. Would you take over energy planning for the States and decision making like about their electricity mix, would you take over planning that electric rates for consumers?

Ms. McCabe. No, Congressman. Our job is to look at the emitting facilities, the coal fired power plants, and look at ways to reduce the emissions from those power plants, and any proposed plan would be squarely within our authority.

Mr. Pitts. All right. Combined heat and power facilities are already inherently efficient. What has EPA done to prevent those facilities from being swept into the 111(d) rule? Will you take



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measures to ensure that those facilities are not adversely impacted by this proposal?

Ms. McCabe. Actually, combining power is a very efficient way of generating electricity, so those kinds of facilities will be very helpful to States in putting their plans together.

Mr. Pitts. My time is expired. Thank you, Mr. Chairman.

Mr. Griffith. The gentleman's yielded back.

We now recognize the gentleman from Illinois, Mr. Kinzinger for 5 minutes.

Mr. Kinzinger. Thank you, Mr. Chairman, and thank you for being here on a long day, and thanks for your service.

The EPA has recognized in the past, and I believe they have tried to recognize in this current rule that retaining nuclear power generation is a cost effective means in reducing carbon, and I appreciate that. As we, unfortunately, witnessed in Wisconsin, 8 years of carbon emission reductions brought about by the construction of renewable energy were wiped out with the closure of a single small nuclear reactor.

I believe it is important to talk about this, given the fact that nuclear is the only bay base load power supply that runs around the clock without producing carbon. Understanding the current outlook on the nuclear industry, I have some concerns with the direction our

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regulatory agencies have been taking in regards to allowing them to operate and would like to ask you a few questions on the EPA's outlook for nuclear power going forward.

In past models of climate change compiled by your agency, major questions surrounding the degree to which nuclear power is technically, politically, and socially feasible have been raised. Does the EPA still consider the use to be a major area of uncertainty?

Ms. McCabe. I don't know that I can speak to that, Congressman. We do recognize that nuclear power is an important aspect of clean generation, and as I said before, we have tried to signal in a proposal and encouragement towards retaining existing, and we know that new is being planned and built, and that squarely will be advantageous to a plant, but we recognize that there are existing challenges beyond our control for the industry.

Mr. Kinzinger. And I understand the proposed rule relies on an EIA study that shows 6 percent of the nuclear fleet being at risk, but they are still expected to continue their operations going forward. In addition to this, economic modeling of climate legislation by EPA, EIA, and others has consistently shown that dramatic growth in nuclear energy is necessary to reduce carbon emissions and that constrained development of nuclear energy dramatically increases the cost of compliance.

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What will happen if the EPA's assumption that these plants currently at risk will continue to operate with that assumption is incorrect, what will happen?

Ms. McCabe. Well, it depends on what a State would choose to do to replace the nuclear generation, so we hope and expect that there would be opportunities for states to go with lower or other zero emitting generation renewables and also rely significantly --

Mr. Kinzinger. Make a ton of windmills or something, right?

Ms. McCabe. There is a lot of wind power being built in the country, significantly a growth area, and energy sufficient --

Mr. Kinzinger. Takes a lot of wind, though, to replace a nuclear power plant.

Ms. McCabe. It does.

Mr. Kinzinger. Does the EPA have the legal authority to compel those plants to continue their operations?

Ms. McCabe. Not that I am aware of.

Mr. Kinzinger. Do you know, does any agency currently have that authority?

Ms. McCabe. I couldn't speak to that, Congressman.

Mr. Kinzinger. Okay. And so a recent modeling done by EPA determined that 44 new reactors would be necessary to satisfy performance standards based on the Lieberman and Warner bill from 2008,

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and another showed that an additional 96 gigawatts of new nuclear power capacity would be needed by 2030 to meet standards set out in another proposed piece of legislation from 2009.

Does the EPA believe we can make meaningful reductions in carbon dioxide emissions from baseload power generation while still ensuring reliable and affordable power without substantial growth in nuclear power generation?

Ms. McCabe. Well, I do, and I will note that the -- that our proposal here is not legislation like you have described. It takes a very different approach, which is what is reasonable to expect the existing fossil plant to do and for States to do to reduce the carbon intensity, and it takes every State where it is. So if we see nuclear coming on the ground, we consider it. We are not counting in. We are not assuming other nuclear construction that does not already contemplated.

Mr. Kinzinger. Do you know how many new -- under the proposed rule, do you know how many new nuclear reactors would be needed to meet those standards?

Ms. McCabe. Well, I think we are aware of maybe 5 that are under construction now, and so we took account of those, and we didn't take account of others that aren't yet built.

Mr. Kinzinger. Okay. And currently there is eight licenses

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under review by the NRCC right now. I just want to reiterate that 100 percent of nuclear power generation is carbon free, and not only will every plant be necessary to ensure compliance with any future mandates but many more will need to be brought on to ensure affordable and reliable energy is available throughout the country. And I think that the key is we want to talk about affordable and reliability, we need a lot of nuclear power plants to come online.

I thank you for your time and your patience today, and I yield back.

Mr. Griffith. All right. In closing, let me note that the committee has outstanding document requests relating to our investigation of EPA's adherence to the Energy Policy Act of 2005 and its rulemaking for new plants. It has been 4 months since we initiated these requests, but the EPA has been decidedly slow in its document production. Can you tell me who at the EPA ultimately is accountable to the committee for responding to its requests?

Ms. McCabe. The agency will respond, and we are working on them. We have responded to various requests, and responses are under way.

Mr. Griffith. All right. And will you commit on behalf of the administrator that the EPA will produce outstanding documents and fully comply with our requests?

Ms. McCabe. I won't make a commitment on behalf of the

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administrator, but we will certainly do what we need to do to be responsive.

Mr. Griffith. Will you commit to have your staff work with -- your staff work with our staff to ensure the committee has what it determines is necessary to fulfill its oversight obligations?

Ms. McCabe. Our staffs work very well together, and again, we will do what we need to do in order to be responsive.

Mr. Griffith. Thank you. We will have questions for the record forthcoming. I would ask that you provide your response in a timely fashion, particularly given this rule appears to be on a very fast track with the Administration. Will you commit to providing us responses to these questions within 60 days?

Ms. McCabe. Right now I can't commit to a timeframe because I don't know how many questions there will be or what will be involved, but we will do our best to be as expeditious as possible.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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Mr. Griffith. All right. With that, I want to thank you for being here today and for the testimony that you have given us and the members for their devotion to this hearing, and that will conclude our hearing.

[Whereupon at 12:25 p.m., the subcommittee was adjourned.]