

# THE FISCAL YEAR 2016 EPA BUDGET

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## JOINT HEARING

BEFORE THE  
SUBCOMMITTEE ON ENERGY AND POWER  
AND THE  
SUBCOMMITTEE ON ENVIRONMENT AND THE  
ECONOMY  
OF THE

COMMITTEE ON ENERGY AND  
COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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FEBRUARY 25, 2015  
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<sup>2</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF03/20150225/103014/HHRG-114-IF03-20150225-SD011.pdf>.

<sup>3</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF03/20150225/103014/HHRG-114-IF03-20150225-SD008.pdf>.



# THE FISCAL YEAR 2016 EPA BUDGET

WEDNESDAY, FEBRUARY 25, 2015

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ENERGY AND POWER  
JOINT WITH THE  
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC.*

The subcommittees met, pursuant to call, at 10:00 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the subcommittee on Energy and Power) presiding.

Members present: Representatives Whitfield, Shimkus, Olson, Harper, Barton, Pitts, Murphy, Latta, McKinley, Pompeo, Kinzinger, Griffith, Johnson, Bucshon, Flores, Mullin, Hudson, Cramer, Upton (ex officio), Rush, Green, DeGette, Castor, Sarbanes, Welch, Yarmuth, Loeb sack, Schrader, Cárdenas, and Pallone (ex officio).

Also present: Representative Scalise.

Staff present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Sean Bonyun, Communications Director; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy and Power; Jerry Couri, Senior Environmental Policy Advisor; Patrick Currier, Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; Charles Ingebretson, Chief Counsel, Oversight and Investigations; Ben Lieberman, Counsel, Energy and Power; David McCarthy, Chief Counsel, Environment and the Economy; Brandon Mooney, Professional Staff Member, Energy and Power; Mary Neumayr, Senior Energy Counsel; Chris Sarley, Policy Coordinator, Environment and the Economy; Peter Spencer, Professional Staff Member, Oversight; Michael Goo, Democratic Senior Counsel, Energy and Environment; Caitlin Haberman, Democratic Professional Staff Member; and Rick Kessler, Democratic Senior Advisor and Staff Director, Energy and Environment.

## **OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY**

Mr. WHITFIELD. I would like to call the hearing to order this morning. Today the Energy and Power and the Environment and the Economy Subcommittee will be examining the Environmental Protection Agency's fiscal year 2016 budget request. And before you start my time, I certainly want to welcome Administrator Gina McCarthy. Thank you very much for being with us today. You have

been before our committee many times, and we certainly enjoy working with you. You are an able Administrator. We have very significant differences of views on what you are doing up there, or down there, but we will all have an opportunity today to ask questions. And thank you, once again, for taking time to be with us. We appreciate it. And at this time I recognize myself for 3 minutes for an opening statement.

I would say, first of all, we all are very much aware that President Obama has made it very clear that he considers climate change to be one of the major issues facing mankind today. I was reading an article just a few days ago how this administration has spent 14 times more on green energy per year than embassy security around the world. As a matter of fact, over the last 5 years the administration has spent roughly \$39 billion a year financing grants, subsidizing tax credits, guaranteeing loans, bailing out solar energy boondoggles, and otherwise underwriting every renewable energy idea under the sun.

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

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

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

[The prepared statement of Mr. Whitfield follows:]

#### PREPARED STATEMENT OF HON. ED WHITFIELD

This morning, the Energy and Power and the Environment and the Economy Subcommittees will explore the Environmental Protection Agency's (EPA) FY 2016 budget proposal, and I welcome Administrator McCarthy to this hearing. The proposed budget is \$8.59 billion, a \$452 million increase over last year's appropriation.

This amount is more than enough to allow the Agency to perform its required duties under the Clean Air Act and all the other statutes that it administers. The problem is that the Obama EPA has strayed well beyond its legitimate functions



and has embarked on an expansive and expensive global warming regulatory agenda that is on shaky legal ground and is bad policy for the country.

Most problematic of all is the proposed Clean Power Plan and the Agency's attempted Federal takeover of State electricity systems. In that plan, the Agency is seeking to dictate to States how electricity will be generated, transmitted, and used. The Agency is regulating far outside its authority, and reveals as much in its Congressional justification for the FY 2016 budget. In this document, EPA refers to the Clean Power Plan as "unprecedented, "groundbreaking," and "unique," and admits that it "requires the Agency to tap into technical and policy expertise not traditionally needed in EPA regulatory development." EPA says these things in order to justify the considerable outlays needed to pursue this regulatory detour, but in my view it raises serious questions whether the Agency has the authority to do so in the first place.

Perhaps the most disturbing admission of all is that the Agency anticipates the need to hire many new lawyers to implement this highly complicated rule and defend it against litigation from States and other opponents. To me, the fact that EPA thinks it has to lawyer-up to fight State governments is a sure sign that the Clean Power Plan is not in the best interests of the American people. I would much prefer that the Agency work cooperatively with the States and listen to their concerns rather than try to beat them in court.

The Clean Power Plan for existing power plants is only part of the Agency's rule-making agenda targeting coal and increasing costs to ratepayers. There is also the proposed New Source Performance Standards that effectively outlaw new coal-fired generation. There is the very expensive "Utility MACT" rule that is already contributing to power plant shutdowns, as well as the Cross-State Air Pollution rule, the regional haze requirements, and others. We will also have a much more stringent ozone rule, which would adversely affect electricity generation as well as manufacturing. As a result, we are already seeing rising electric bills and reliability concerns due to this anti-coal agenda, and the worst is yet to come.

While the Agency has embarked on its global warming agenda and other regulatory overreaches, it has dropped the ball badly on many of its non-discretionary duties. Most notably, EPA has repeatedly missed the statutorily imposed deadlines for implementing the Renewable Fuel Standard. The 2014 rule was supposed to have been finalized by November 30, 2013, so that regulated companies would know ahead of time what will be required of them. Instead, the Agency has still not finalized its rule, and 2014 is already over. Some biofuel companies have literally gone out of business while EPA has failed to act. The same is true for many other non-discretionary duties that the Agency has delayed or ignored.

The Agency's atrocious record meeting its required deadlines stands in sharp contrast to the front-burner status given to its discretionary global warming agenda, and now the administration is requesting even larger sums to expand this agenda. I cannot help but think that the manpower and dollars going to global warming is partly responsible for the Agency's neglect elsewhere. The Obama administration may consider global warming to be its number one priority, but I certainly don't, and I am disturbed to see the extent the Agency is willing to shirk its actual responsibilities to focus on it. As it is, EPA's agenda is badly out of line with the law and with the public interest, and unfortunately this budget is a reflection of that.

Mr. WHITFIELD. And, with that, we are doing 3 minutes today, Mr. Rush, so I recognize the gentleman for a 3-minute opening statement.

**OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

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

While this is a budget hearing, we might as well address the elephant in the room, and discuss the topic that is on the minds of many of my colleagues, and that is the proposed Rule 111(d), the Clean Power Plan. Madam Administrator, on behalf of those of us, which includes most of the American people, who do not believe that the world's scientists and climatologists have all conspired together to perpetrate a hoax by saying that climate change is real, and humans have contributed to it, I would like to commend the leadership of President Obama, yourself, for working to address this serious issue that impacts all of America, all of our citizenry, and indeed everyone else around the globe.

The Clean Power Plan represents a significant opportunity to shift away from some of the dirtiest carbon emitting energy sources that have contributed greatly to polluting the atmosphere to cleaner, more sustainable forms of energy that will help pull us back from the brink of disaster, and set us on a more stable footing. Madam Administrator, I applaud EPA for striking a flexible, State-based approach that provides States, utilities, and grid operators with time and options for finding ways to reduce their CO<sub>2</sub> emissions, while also maintaining a form of reliable energy for consumers.

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

Mr. WHITFIELD. Thank you, Mr. Rush. At this time I would like to recognize the gentleman from Illinois, Mr. Shimkus, the chairman of the Environment and Economy Subcommittee.

**OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

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

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

As a legislator, I have many questions where I think more information is needed to evaluate how statutory mandates are being carried out. For example, I have questions about the statutory nexus with the following budget request and policies that are being implemented, like the Clean Power Plan, the Climate Ready Water Utilities Program, and regulations under the Clean Air Act implementing Executive Order 13-650, which I think is chemical safety.

Legal authority aside, we know these regulations can become complicated to implement, with unclear guidance adding unnecessary costs to the regulated industries, and ultimately to the consumer.



This chart, we think, shows how cumbersome your proposal on the Clean Power Plan could be just by itself. Maybe you have a better chart that makes it a little more simplistic. If this plan puts reliability at risk, and the base load energy from sources such as coal and nuclear power in danger, communities may pay higher costs, and potentially suffer brown-outs when most in need. We have to ask ourselves if this plan leads to the energy future Americans expect. I believe there is a better way, and that we can find solutions to these challenges without placing the burden on the backs of consumers, or by sacrificing power plants that provide good paying jobs to families across the country.

I will also have questions about funding and pace of activity on chemicals under the Toxic Substances Control Act, specifically on the Agency's transparency concerning prioritizing and setting policy choices. These areas will be particularly important as we look to work across the aisle on both sides of the cabal to update this law.

Again, I thank the Administrator for being here. I look forward to today's conversation, and the ones that will follow.

[The prepared statement of Mr. Shimkus follows:]

#### PREPARED STATEMENT OF HON. JOHN SHIMKUS

I thank Chairman Whitfield for recognizing me, and I, too, want to welcome the Administrator once again to our hearing here today.

I appreciate the Administrator's willingness to work productively with us in the past on issues such as creating a legal framework for electronic submission of hazardous waste manifests. We again look forward to collaborating with you as we work to enact coal ash legislation and a bill to reform the Toxic Substances Control Act.

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

As a legislator, I have many questions where I think more information is needed to evaluate how statutory mandates are being carried out.

For example, I have questions about the statutory nexus with the following budget requests and policies they are implementing:

1. The Clean Power Plan,
2. The Climate Ready Water Utilities program, and
3. Regulations under the Clean Air Act implementing Executive Order 13650.

Legal authority aside, we know these regulations can become complicated to implement with unclear guidance, adding unnecessary costs to the regulated industries and ultimately to the consumer. This chart shows just how cumbersome EPA's proposed clean power plan is just by itself. If this plan puts reliable base load energy from sources such as coal and nuclear in danger, communities may face higher costs and potentially suffer brown outs when most in need. We have to ask ourselves if this path leads to the energy future Americans expect. I believe there is a better way, and that we can find solutions to these challenges without placing the burden on the backs of consumers or by sacrificing power plants that provide good paying jobs to families across the country.

I also have questions about funding and pace of activity on chemicals under the Toxic Substances Control Act, specifically on the Agency's transparency concerning prioritizing and setting policy choices. These areas will be particularly important as we look to work across the aisle on both side of the Capitol to update this law.

Mr. SHIMKUS. I would like to yield the remainder of my time to Chairman Emeritus Barton, I think.

Mr. BARTON. I am here, all 27 seconds of me.

Mr. SHIMKUS. You are welcome.

Mr. BARTON. Madam Administrator, we are always glad to see you. You are very accessible, and you are very personable in public, and when we have private conversations. I am going to ask you about the China policy the President recently announced, and I am also going to talk to you about the renewable fuel standard, and the RINs situation, which, as you well know, under current law, is simply not workable. But we do appreciate your accessibility, and look forward to the interchange.

Mr. WHITFIELD. Gentleman's time has expired. At this time I recognize the gentleman from New York, Mr. Tonko, the ranking member of the Environment and Economy Subcommittee.

**OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

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

The EPA plays a vital role in the lives of our citizens, and in maintaining the resource base that sustains our society, and indeed our economy. As you state in the opening of your testimony, Administrator McCarthy, public health and a clean environment are inextricably linked. I agree. And the record of environmental achievement and economic growth over the years demonstrates that environmental protection is consistent with a strong and vital economy. In fact, if we are willing to make investments in vital environmental infrastructure, such as our drinking water treatment and delivery, source water protection, sewage treatment, and waste to energy systems, we can create thousands of jobs, and improve the condition of our rivers, our lakes, and our coastlines. We are not saving by avoiding these investments. At best, we are transferring these costs to State and local governments, to businesses and to individual citizens. But even worse, by delaying needed maintenance and repairs, we are raising the costs of the very systems upon which we depend.

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

I know there are many members who believe that cutting the EPA budget is a good thing for the economy, because a lower budget will block the Agency from issuing regulations and enforcing en-

vironmental laws. In fact, much of the EPA budget supports State and local governments, either through grants and loans, or with information and technical assistance that is so welcome. Cuts to the EPA budget translate into extra burden on our States, our local, and tribal governments. The administration and the Congress should be working together to ensure that we maintain and improve upon our record of environmental protection. EPA's budget is an important part of that effort, and I indeed look forward to your testimony, Administrator McCarthy, and to working with you to continue our progress as a Nation in environmental protection. And thank you again for joining us.

Mr. WHITFIELD. Gentleman's time has expired. At this time I would recognize the chairman of the full committee, Mr. Upton, for 3 minutes.

**OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. UPTON. Thank you, Mr. Chairman, and we do appreciate the Administrator of EPA for appearing before us today to discuss the budget requests and priorities. Yes, we have sharp areas of disagreement, but together, the two of us, we have never been disagreeable, and I look forward to the continued relationship.

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

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

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

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

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

[The prepared statement of Mr. Upton follows:]

#### PREPARED STATEMENT OF HON. FRED UPTON

Welcome Administrator McCarthy. We appreciate you appearing before us today to discuss EPA's budget request and priorities. We do have areas of sharp disagreement, but I am hopeful our time together will not be disagreeable.

I am sad to say the budget request looks like we can expect more of the same red tape and costly rules. And that concerns me because I think these regulations are going to cost American households and families. They are going to cost our businesses, particularly manufacturing. Manufacturers in Michigan and across the country finally have an edge. For the first time in years, major global manufacturers are eyeing Michigan and other States to set up or relocate operations. Momentum is on the side of American workers. But EPA's regulatory agenda threatens to raise costs and shift the advantage back to foreign manufacturers.

EPA seems intent on locking-in a long list of new regulations that will bind future administrations. Along with the Clean Power Plan, EPA has a proposed new ozone standard that may prove to be the most expensive rule ever. It may also propose new measures targeting methane emissions from oil and natural gas production. The shale revolution has been one of the few bright spots in the economy in recent years. We should be focusing on ways to leverage and multiply the benefits—for example, by creating jobs building energy infrastructure. The last thing we should do is jeopardize these benefits with rules that may make drilling in America too expensive.

I'd like to see EPA focus on its current responsibilities before taking on new ones. The Agency is working on a new ozone rule even though it is well behind schedule implementing the existing standard. And the Agency routinely misses its deadlines under the Renewable Fuel Standard, making this problematic program even more difficult.

While we do have our clear differences, your testimony today also presents an opportunity to explore areas of common ground. For example, we can embrace much of the EPA rule on coal ash, but go a step further and place permitting authority in the States. This should work for EPA making sure that the EPA's control standards are effectively enforced. It should also work much better for the States who will have explicit benchmarks to meet and the authority to manage the implementation. It will also work for the people responsible for handling the combustion residuals every day, including plant operators, recyclers, and other job creators who will be given the regulatory certainty they need.

Likewise, it was clear last year that your goals and ours for TSCA reform overlap. Let's sit down and work out good legislation to improve safety for the public and to ensure a robust interstate market for chemicals and products that contain them.

Mr. WHITFIELD. Gentleman yields back. At this time I recognize the ranking member, Mr. Pallone of New Jersey, for 3 minutes.

#### OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Chairmen Whitfield and Shimkus, and also our ranking members, Rush and Tonko. And thank you, Administrator McCarthy, for being here today.

A clean environment is not a luxury. It is essential to public health, and to a strong economy, and the EPA is on the front lines of the effort to make our air safer to breathe, and our water safer

to drink. The President's fiscal year 2016 budget funds the EPA at 8.6 billion, an increase of more than 450 million over the fiscal year 2014 enacted level, and that is the minimum amount, in my opinion, that EPA needs to begin to address the many environmental challenges we are facing today, which happen to include the greatest known environmental threat and challenge to our planet, and that is climate change.

Meanwhile, funds requested for EPA represent a small portion of the overall Federal budget, less than  $\frac{1}{4}$  of 1 percent, yet over 40 percent is shared with the States and tribes to help them implement Federal environmental laws and achieve national goals, and those funds support local economies and communities big and small. For example, the budget includes significant funding for Superfund and brownfields cleanup. In addition to protecting human health and the environment, these cleanup projects are also promoting substantial economic growth, and gains in community and property value.

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

Also important, I want to commend the President for prioritizing actions to reduce the impacts of climate change in this budget. The budget provides funding for EPA's Clean Power Plan, including money to help States develop their own strategies, and request a new Clean Power State Incentive Fund for State efforts to go above and beyond their carbon pollution reduction goals in the power sector. Some say the Clean Power Plan is problematic for an economy, but the reality is that over the past 40 years, clean air regulations have produced tremendous public health benefits, while also supporting America's economic growth.

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

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

Mr. WHITFIELD. Thank you very much, Mr. Pallone. At this time that concludes the opening statements, so, at this time, Ms. McCarthy, you are recognized for your 5 minutes of testimony. Thank you.



**STATEMENT OF THE HONORABLE GINA MCCARTHY,  
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY**

Ms. MCCARTHY. Thank you, Chairmen Whitfield and Shimkus. Thank you, Ranking Members Rush and Tonko, and the members of the committee for giving me the opportunity today to appear before you to discuss the Environmental Protection Agency's proposed fiscal year 2016 budget. I am joined by the Agency's Acting Chief Financial Officer, David Bloom.

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

This budget supports essential work to address climate change, improve air quality, protect our water, safeguard the public from toxic chemicals, support communities' environmental health, maintain core enforcement strength, support needed research, and work towards a sustainable future for all Americans. Effective environmental protection is a joint effort of EPA, States, and our tribal partners. We are setting a high bar for continuing our partnership efforts, and looking for opportunities for closer collaboration and targeted joint planning and governance processes through efforts like e-Enterprise governance approach. That is why the largest part of our budget, \$3.6 billion, or 42 percent, is provided directly to State and tribal partners.

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

Climate change is not just an environmental challenge. It is a threat to public health, our domestic and global economy, and to national and international security. The request supports the President's Climate Action Plan, and in particular the Clean Power Plan, which establishes carbon pollution standards for power plants. In addition, the President's budget calls for a \$4 billion Clean Power State Incentive Fund to support State efforts to accelerate carbon pollution reductions in the power sector.

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

We are proposing a multifaceted effort to help our communities, including low-income neighborhoods, rural communities, and communities of color. This includes targeted funding, and on the ground community assistance through EPA regional coordinators, and a network of circuit riders. An investment of \$16.2 million will help local communities improve safety and security at chemical facilities to prevent and prepare for oil spills. These efforts represent a shared commitment among those with a stake in chemical facility safety and security, ranging from facility owners to first responders. The fiscal year 2016 budget request will let us continue to make a real and visible difference to communities every day. It will give us a foundation to improve infrastructure across the country, and it will sustain State, tribal, and Federal environmental efforts all across our programs.

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

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

[The prepared statement of Ms. McCarthy follows:]

**TESTIMONY OF  
GINA MCCARTHY**

**ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE**

**SUBCOMMITTEE ON ENERGY AND POWER AND THE SUBCOMMITTEE ON THE  
ENVIRONMENT AND THE ECONOMY OF THE  
HOUSE COMMITTEE ON ENERGY AND COMMERCE**

**WEDNESDAY, FEBRUARY 25, 2015**

Chairman Whitfield, Chairman Shimkus, Ranking Member Rush, Ranking Member Tonko, and members of the Subcommittees, thank you for the opportunity to appear before you to discuss the Environmental Protection Agency's proposed FY 2016 budget. I'm joined by the agency's Acting Chief Financial Officer, David Bloom.

The EPA's budget request of \$8.592 billion in discretionary funding for the 2016 fiscal year starting October 1, 2015 provides the resources vital to protecting human health and the environment while building a solid path for sustainable economic growth. Since the EPA was founded in 1970, we have seen over and over again that a safe environment and a strong economy go hand in hand. In the last 45 years, we have cut air pollution 70 percent and cleaned up half of our nation's polluted waterways. Meanwhile, the U.S. GDP has tripled, which shows that investments in public health and environmental protection are consistent with strong economic growth. Economic prosperity and quality of life depends on public health protection that ensures clean air; clean water; and safe, healthy land.

This budget will let us continue that trend. It funds essential work to address climate change, improve air quality, protect our water, safeguard the public from toxic chemicals, support communities' environmental health, maintain core enforcement strength and work toward a sustainable future for all Americans. Central to this work is supporting our state, local, and tribal partners, working with them to deliver on our environmental and health improvements as a shared responsibility. We are doing this while supporting a strong workforce at the EPA with the tools necessary to ensure effective use of the public funds provided to us.

**Making a Visible Difference in Communities Across the Country**

We are focused on continuing our work with partners to make a visible difference in communities and across the country—especially in areas overburdened by pollution—including low-income neighborhoods, rural communities, and communities of color.

This budget proposes a multifaceted effort to enable communities of all sizes, rural and urban, to find needed assistance and support for capacity building, planning, and implementation of environmental protection programs. In FY 2016, EPA will support this effort by providing targeted

funding and regional coordinators to help communities find the best programs to address local environmental priorities. This budget also provides for a network of “circuit riders” to provide on-the-ground assistance to communities to build and strengthen the adaptive capacity and resilience to climate change. EPA will also support community revitalization and economic redevelopment by investing \$110 million dollars, an increase of \$30 million from last year, to plan, assess, clean up and reuse brownfields.

This request also includes an additional investment of \$16.2 million over our current resources to help local communities improve safety and security at chemical facilities, and to prevent and prepare for oil spills. This investment will improve compliance outreach to industry, emergency planning assistance to local communities, updates to existing guidance and regulations, and enhancements to software used by emergency responders.

The EPA will also work to limit public exposure to uncontrolled releases of hazardous substances and make previously contaminated properties available for reuse by communities through a request of close to \$540 million in the Superfund Remedial program and another \$191 million in the Superfund Emergency Response and Removal program, which is an increase of \$48 million across the two programs.

#### **Addressing Climate Change and Improving Air Quality**

The fiscal year 2016 budget request for the agency’s work to address climate change and to improve air quality is \$1.1 billion. These resources will help protect those most vulnerable to climate impacts and the harmful health effects of air pollution through commonsense standards, guidelines, and partnership programs.

Climate change is one of the greatest challenges of our time. Climate change is not just an environmental challenge, it is a threat to public health, to our domestic and global economy, and to our national and international security. The U.S. has already and will continue to shift the international discussion on climate change from one that focuses on mitigation costs to one that embraces new investment opportunities. If done right, we can cut the carbon pollution that is fueling climate change and position the business community, its entrepreneurs, and its innovators to lead the world in a global effort while at the same time, expanding the economy. States and businesses across the country are already working to build renewable energy infrastructure, increase energy efficiency, and cut carbon pollution—creating sustainable, middle class jobs and displaying the kind of innovation that has enabled this country to overcome so many challenges.

This request supports the President’s Climate Action Plan and makes climate action a priority. In particular, the Clean Power Plan, which establishes carbon pollution standards for power plants, is a top priority for the EPA and will help spur innovation and economic growth while creating a clean energy economy. The Plan gives states the flexibility they need to design and implement plans that reduce their carbon pollution while meeting the needs of their residents and businesses. The budget request includes an increase of \$25 million in direct grant support to states to establish the programmatic infrastructure necessary for effective implementation as well as resources for EPA to provide critical support to the states through technical assistance, developing guidance, modeling, and other tools.

In addition, the President's Budget calls for a \$4 billion Clean Power State Incentive Fund to be administered through a mandatory spending account to support state efforts to accelerate carbon pollution reductions in the power sector. This funding will enable states to invest in a range of activities that complement and advance the Clean Power Plan, including but not limited to direct investments and financing for renewable energy and energy efficiency programs; funding for low-income communities to address disproportionate impacts from environmental pollution; and assistance and incentives for businesses to expand infrastructure for innovative projects that reduce carbon pollution.

The President's Climate Action Plan also calls for greenhouse gas reductions from the transportation sector by increasing fuel economy standards. With input from industry and stakeholders, the EPA, working with the National Highway Transportation Safety Administration, expects to finalize Phase II greenhouse gas and fuel efficiency standards for heavy-duty vehicles. These standards will deliver significant savings at the pump, reduce carbon pollution, and reduce fuel costs for businesses while improving the efficiency of moving goods across the United States.

### **Protecting the Nation's Waters**

Protecting the nation's waters remains a top priority for the EPA. We will continue to build upon decades of efforts to ensure our waterways are clean and our drinking water is safe. Water pollution endangers wildlife, compromises the safety and reliability of our drinking water sources and treatment plants, and threatens the waters where we swim and fish. In FY 2016, we will begin implementation of the Clean Water Rule, which will clarify types of waters covered under the Clean Water Act and foster more certain and efficient business decisions to protect the nation's waters.

Aging systems and the increasing impacts of climate change create opportunities for innovation and new approaches for drinking water and wastewater infrastructure. Building on the strong funding level of \$2.3 billion provided through the Clean Water and Drinking Water State Revolving Funds, \$50 million is included for technical assistance, training, and other efforts to enhance the capacity of communities and states to plan and finance drinking water and wastewater infrastructure improvements. The EPA will work with states and communities to promote innovative practices that advance water system and community resiliency and sustainability. Dedicated funding through the Clean Water SRF will advance green infrastructure design and practices such as incorporating permeable permanent natural structures, green roofs, and wetlands which can help cost-effectively meet Clean Water Act requirements and protect and restore the nation's water resources.

In January 2015, the agency launched a key component of this expanded effort, the Water Infrastructure and Resiliency Finance Center. We will work with our partners to help communities across the country by focusing on issues such as financial planning for future public infrastructure investments and expanded efforts with states to identify financing opportunities for resilient drinking water, wastewater and stormwater infrastructure. We will enhance our partnership and collaboration with the U.S. Department of Agriculture on training, technical assistance, and funding opportunities in rural areas. The Water Infrastructure and Resiliency Finance center is part of the Build America investment initiative, a government-wide effort to increase infrastructure investment

and promote economic growth by creating opportunities for state and local governments and the private sector to collaborate on infrastructure development.

Separately, EPA will continue efforts to protect and restore ecosystems through its geographic programs. EPA and its federal partners are making steady progress on reducing unexpended balances of Great Lakes Restoration Initiative funding, and will continue and strengthen efforts to further reduce these balances and examine potential ways to increase expenditure rates in future years.

#### **Protecting Our Land**

The EPA strives to protect and restore land to create a safer environment for all Americans by cleaning up hazardous and non-hazardous wastes that can migrate to air, groundwater and surface water, contaminating drinking water supplies, causing acute illnesses and chronic diseases, and threatening healthy ecosystems. We preserve, restore, and protect our land, for both current and future generations by cleaning up contaminated sites and returning them to communities for reuse. Our funds will assist communities in using existing infrastructure and planning for more efficient and livable communities, and encouraging the minimization of environmental impacts throughout the full life cycle of materials.

In FY 2016, we will increase the Superfund Remedial program by \$39 million to accelerate the pace of cleanups, supporting states, local communities, and tribes in their efforts to assess and cleanup sites and return them to productive reuse, and encourage renewable energy development on formerly hazardous sites when appropriate. We will expand the successful Brownfields program, providing grants, and supporting area-wide planning and technical assistance to maximize the benefits to the communities. In FY 2016, the EPA is investing \$110 million in funding for Brownfields Project grants to local communities, an additional \$30 million over the FY 2015 Enacted Budget, increasing the number of grants for assessment and cleanup of contaminated sites. This investment builds on the program's successful community-driven approach to revitalizing contaminated land and further supports the agency's efforts to make a visible difference in communities.

#### **Taking Steps to Improve Chemical Facility Safety**

In support of the White House Executive Order 13650 on Improving Chemical Facility Safety and Security, the EPA is requesting \$27.8 million for the State and Local Prevention and Preparedness program, an increase of \$12 million above the FY 2015 enacted level. This increase will allow the EPA to continue to improve the safety and security of chemical facilities and reduce the risks of hazardous chemicals to facility workers and operators, communities, and responders.

These efforts represent a shared commitment among those with a stake in chemical facility safety and security: facility owners and operators; federal, state, local, Tribal, and territorial governments; regional entities; nonprofit organizations; facility workers; first responders; environmental justice and local environmental organizations; and communities. In FY 2016, we are implementing actions to strengthen community planning and preparedness, enhance federal operational coordination, improve data management, modernize policies and regulation, and incorporate stakeholder

feedback and best practices.

#### **Continuing EPA's Commitment to Innovative Research & Development**

In building environmental policy, scientific research continues to be the foundation of EPA's work. Environmental issues in the 21st century are complex because of the interplay between air quality, climate change, water quality, healthy communities, and chemical safety. Today's complex issues require different thinking and different solutions than those used in the past. In FY 2016, we are requesting \$528 million for research and development to evaluate and predict potential environmental and human health impacts including impacts related to air pollution, water quality, climate change and biofuels. This will allow all decision makers at all levels of government to have the science needed to develop and implement environmental policies and strategies. This request will also support expanding the EPA's computational toxicology effort—which is letting us study chemical risks and exposure exponentially faster and more affordably than ever before. We are also providing support tools for community health, investigating the unique properties of emerging materials, such as nanomaterials, and research to support the nation's range of growing water-use and ecological requirements.

#### **Supporting State and Tribal Partners**

Effective environmental protection is a joint effort of EPA, states and our tribal partners, and we are setting a high bar for continuing our partnership efforts. That's why the largest part of our budget, \$3.6 billion dollars or 42 percent, is provided directly to our state and tribal partners. In FY 2016, we are requesting an increase of \$108 million in funding for State and Tribal Assistance categorical grants. The increase for State and Tribal assistance includes an additional \$31 million over the FY 2015 enacted level for the Tribal General Assistance Program, supporting Tribes in the development of sustainable and robust environmental regulatory programs for Indian country.

As one example of our efforts, we are also including opportunities for closer collaboration and targeted joint planning and governance processes. One example is the E-Enterprise approach, a transformative 21<sup>st</sup> century strategy to modernize the way in which government agencies deliver environmental protection. With our co-regulatory partners, we are working collaboratively to streamline, reform, and integrate our shared business processes and related systems. These changes, including a shift to electronic reporting, will improve environmental results, reduce burden, and enhance services to the regulated community and the public by making government more efficient and effective. State-EPA-Tribal joint governance serves to organize the E-Enterprise partnership to elevate its visibility, boost coordination capacity, and ensure the inclusiveness and effectiveness of shared processes, management improvements, and future coordinated projects. Projects following the E-Enterprise approach will yield the benefits of increased transparency, efficiency, and burden reduction for communities, businesses, and government agencies when implemented.

#### **Maintaining a Forward Looking and Adaptive EPA**

The EPA has strategically evaluated its workforce and facility needs and will continue the comprehensive effort to modernize its workforce. By implementing creative, flexible, cost-effective, and sustainable strategies to protect public health and safeguard the environment, the EPA

will target resources toward development of a workforce and infrastructure that can address current challenges and priorities.

We are requesting funding in this budget to help us fast-track efforts to save taxpayer dollars by optimizing and renovating critical agency space. That includes our laboratory buildings across the country, where we conduct critical scientific research on behalf of the American public. In the past three years, the EPA realized \$8.3 million in rent avoidance by releasing over 225 thousand square feet of space nationwide. We've taken a careful look at our workforce and facility needs so we can continue to optimize and update our physical footprint in FY 2016. We'll also target resources to prepare our outstanding agency workforce for the future, and continue our E-Enterprise effort with states to improve and modernize joint business processes—for instance, replacing outdated paper processes for regulated companies with electronic submissions.

The EPA continues to examine its programs to find those that have served their purpose and accomplished their mission. The FY 2016 President's Budget also eliminates some mature programs where state and local governments can provide greater capacity. Those grant programs are the Beaches Protection categorical grants, the State Indoor Air and Radon grants, the Targeted Airshed grants and the Water Quality Research and Support grants, totaling \$44.6 million.

The EPA's fiscal year 2016 budget request will let us continue to make a real and visible difference to communities every day. It will give us a foundation to revitalize the economy and improve infrastructure across the country. And it will sustain state, Tribal, and federal environmental efforts across all our programs.

I thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of the EPA's FY 2016 budget request, I look forward to answering your questions.



Mr. WHITFIELD. Well, thank you very much for your testimony, Ms. McCarthy, and I will recognize myself 5 minutes for questions.

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

Ms. MCCARTHY. I am sorry, could you repeat that question? Sorry.

Mr. WHITFIELD. How confident are you that you can successfully defend the use of 111(d) to implement the existing coal plant—

Ms. MCCARTHY. Thank you.

Mr. WHITFIELD (continuing). Rule?

Ms. MCCARTHY. I feel very confident. One of the reasons I say that is because of the extensive outreach that the Agency has done to each and every State, to all the stakeholders, including the environmental and energy stakeholders. I feel confident that we are seeing plans develop now that will be very sound, and that we can move this forward in a way that will both be beneficial—

Mr. WHITFIELD. So you think the outreach would pre-empt what the explicit language says? That is your position—

Ms. MCCARTHY. I think the outreach has helped inform the explicit language—

Mr. WHITFIELD. OK.

Ms. MCCARTHY (continuing). So that it is reasonable and fair, and it is going to allow states to move forward.

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

Ms. MCCARTHY. I think I am referring to the President's understanding that climate change is a significant issue that the administration has the authority and responsibility to address, and I am trying to make sure that we deliver our portion of that plan effectively.

Mr. WHITFIELD. Well, how did they decide on 17 percent below 2005 levels by 2020?

Ms. MCCARTHY. That was an international goal that the U.S. Government put forth in those—

Mr. WHITFIELD. So the U.S.—

Ms. MCCARTHY. I—

Mr. WHITFIELD (continuing). Government presented that? That was what the goal was?

Ms. MCCARTHY. Yes, as part of the—

Mr. WHITFIELD. And how was that determined by the U.S. Government? How did they reach that conclusion?

Ms. MCCARTHY. I think you would have to speak with the Department of State to know the ins and outs of that discussion.

Mr. WHITFIELD. Have you had any discussions with them about that—

Ms. MCCARTHY. Certainly. We have talked about the rules that the Agency had underway—

Mr. WHITFIELD. I mean—

Ms. MCCARTHY (continuing). At that time, and—

Mr. WHITFIELD. I mean, I could make the argument it is pretty arbitrary. Could I make that argument or not?

Ms. MCCARTHY. I think that what we are talking about now, and the plan that is before you, the budget plan, is very concrete. Authorities that the EPA has are responsibilities, and will be concrete steps moving forward that are measurable.

Mr. WHITFIELD. Yes, but one thing that bothers us, when you testified on the Senate in July of 2014, you had mentioned that this is not about pollution control. You said it in your statement, this is not about pollution control. So this must be about honoring the President's commitment.

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

Mr. WHITFIELD. So, in other words, this is about investment opportunities, from your perspective?

Ms. MCCARTHY. What I am suggesting is that States can look at this as an opportunity—

Mr. WHITFIELD. But it is not—

Ms. MCCARTHY (continuing). To invest in their—

Mr. WHITFIELD. But it is not about pollution control?

Ms. MCCARTHY. It is not about the installation of pollution control technology.

Mr. WHITFIELD. All right. Would the President's Clean Power Plan meet his international commitments without the adoption of these rules that you are proposing?

Ms. MCCARTHY. I think that the President has established some aggressive goals for this Nation that are commensurate with our interests in addressing climate domestically, and also meeting our commitment internationally to address this issue. But EPA is not focusing our legal efforts—

Mr. WHITFIELD. Um-hum.

Ms. MCCARTHY (continuing). On any particular international or domestic goal. They are just implementing the authorities under the Clean Air Act that are given to us.

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

Ms. MCCARTHY. Well, the Clean Power Plan is a direct application of the authority that Congress gave us to look at how to establish a best system of emission reductions for the power sector to address carbon pollution, which is a regulated pollutant under the Clean Air Act.

Mr. WHITFIELD. I want to ask more questions, but my time is out, so—

Ms. MCCARTHY. Thank you, sir.

Mr. WHITFIELD (continuing). At this time I recognize Mr. Rush for 5 minutes.

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

As you know, my home State of Illinois is home to the highest number of nuclear reactors, 11, that provide up to 48 percent of the State's electricity. These carbon-free nuclear generators run all above 90 percent capacity, which is extremely efficient in comparison to any other type of energy source. The goal of the Clean Power Plan is to reduce carbon emissions, while also ensuring that States can continue to provide reasonably priced safe, reliable electricity to its consumers, then nuclear power must play a central role in helping to achieve this objective.

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

My question to you, Madam Administrator, would you agree that nuclear power must play a vital role in the Clean Power Plan, in that it allows States to provide zero emissions-based low power generation that is affordable, safe, and reliable?

Ms. MCCARTHY. I think it is a part of every State's strategy moving forward, yes.

Mr. RUSH. Can you assure the subcommittee that EPA has taken into account the concerns of States like Illinois, who might be negatively impacted if nuclear power is not fully credited in a State's plan to meet its charted carbon reductions?

Ms. MCCARTHY. I certainly agree that nuclear power is zero carbon, and it is an important part of the base load for many of the States, and it should be considered by those States carefully in the development of their plans.

Mr. RUSH. I want to thank you. I also would like to continue to engage your office on this issue—

Ms. MCCARTHY. Yes.

Mr. RUSH (continuing). To make sure that nuclear power is appropriately valued, due to its carbon-neutral emissions, in any kind of rule that is proposed.

Moving along, Madam Administrator, another keen priority for me is the issue of environmental justice, and making sure that States are provided adequate direction in order to achieve the interests of low-income and minority communities. In cases where

States may not be sure how to conduct environmental justice analysis, then I believe that it would be very helpful if the EPA provided States with guidance, technical assistance, and resources to help protect their most vulnerable communities which we all know have the least amount of affluence, and influence, to help themselves.

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

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

Mr. RUSH. Thank you very much.

Mr. WHITFIELD. Gentleman's time has expired. At this time I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman. Thank you again, Madam Administrator. I could really have some fun with you today, but you are too nice a person.

Ms. MCCARTHY. For a short period of time, anyway.

Mr. BARTON. Yes. You have always been responsive professionally, and at least accommodating to take my phone calls, and to visit with me. So I am not going to grandstand, but I do have a question that is—there are several, but the first one, the President made this big announcement about China, and ballyhooed it as a major breakthrough, and a major agreement, but I am told there is actually no written agreement, there is no signed document. Is that true?

Ms. MCCARTHY. I am not aware that that is the case. I don't know. I have not verified that.

Mr. BARTON. OK. Well, I have it on good authority, from the professional staff to the majority of this committee, that, in reality, all it was was a press release. Now, if that is true, and I am going to say if, that we can't find any copy, nor can we obtain a copy of any document that was officially signed, can you check that out, and let us know? It is one thing to have a disagreement about policy. It is another thing to have a disagreement over what are in these documents when our President signs things.

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

Ms. MCCARTHY. Well, my understanding is that it was a commitment at the highest levels in both countries, and that the decision was made to ensure that the actions that are commensurate with those obligations—captured in already existing agreements that we have with the country, and that we will have an action plan moving forward developed through our formal negotiation process.

Mr. BARTON. Is that a long answer to say there is no signed agreement?

Ms. MCCARTHY. No, there is very much a commitment, and that was what was——

Mr. BARTON. A commitment?

Ms. MCCARTHY (continuing). Announced, and we have agreements to work towards that commitment to——

Mr. BARTON. OK.

Ms. MCCARTHY (continuing). Actually put the actions in. And the work we are already——

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

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

Ms. MCCARTHY. Well, I am sure that there was an agreement that was announced, and I have seen those documents.

Mr. BARTON. OK.

Ms. MCCARTHY. I think——

Mr. BARTON. You have seen——

Ms. MCCARTHY (continuing). At the highest level——

Mr. BARTON. You have seen documents that——

Ms. MCCARTHY (continuing). By those agents.

Mr. BARTON (continuing). Obama, and whoever the Chinese official is, you have actually seen a signed——

Ms. MCCARTHY. I——

Mr. BARTON (continuing). Document?

Ms. MCCARTHY. I have seen the documents expressing both of their commitments to this goal, and I am well aware that we have ongoing——

Mr. BARTON. All right. But you haven't seen the signed——

Ms. MCCARTHY (continuing). Action items can be documented——

Mr. BARTON. OK.

Ms. MCCARTHY (continuing). And tracked.

Mr. BARTON. I can take you over to the National Archives and show you the signed Declaration of Independence. I can show you lots of documents that have signatures on them. You and I can agree that I am not going to go out and rob a bank. And you can agree that you are not going to rob a bank, and we can both hold a press conference, we have agreed we are not going to rob a bank.

Ms. MCCARTHY. I don't think that this has been discussed as that type of a binding agreement. I think it has been discussed as a path forward that is very——

Mr. BARTON. I have got 30 seconds left, so I am going——

Ms. MCCARTHY. OK.

Mr. BARTON (continuing). To switch gears. Renewable fuel standards, we have a situational mandate that simply can't be met. You

have said publicly and privately that you want to fix it, and you have promised the chairman of the committee, and I think even in a hearing, that you would have a program to fix it. We have yet to see that. When can we expect to see something that gives some real relief to this RFS mandate that simply can't be met?

Ms. MCCARTHY. Well, I think, Congressman, you know that I have a real commitment to moving this issue forward. I wished it could have happened last year. The approach that EPA took received considerable comment, and so you will see something very soon, in the spring, that will address that issue and hopefully move us forward on a—

Mr. BARTON. Can you give us a date very soon this spring? I mean, by the end of March?

Ms. MCCARTHY. I don't have a particular timeline, Senator—I mean Congressman. I—

Mr. BARTON. Yes, don't profane me now.

Ms. MCCARTHY. I was giving you a little boost. I just want to make sure that we cross our T's and dot our I's. I know we were not successful last year as I would like us to be, and I really want to get this out in a strong way, and make sure that it looks forward.

Mr. BARTON. You are—

Ms. MCCARTHY. We both have real interest in this.

Mr. BARTON. All right. Well, keep us informed.

Mr. WHITFIELD. Senator's time has expired. At this time I recognize the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Chair. And, Administrator McCarthy, again, welcome, and thank you for your leadership, and for joining us this morning. I want to focus on drinking water programs.

I am pleased to this year's budget includes a modest increase over the current year's funding level for the Drinking Water State Revolving Loan Fund. It seems every week I hear about significant water main breaks across our country. A few weeks ago, or over the last few weeks, several have hit my district, including my hometown of Amsterdam.

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

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

Ms. MCCARTHY. For this year we are standing up the program itself, yes, but we are also looking at what other States and localities are doing so that we can share that information effectively,

and see if we can't duplicate some of those public/private partnerships that are happening already.

Mr. TONKO. OK. Well, that is leading us in the right direction. I have seen estimates of water leakage from drinking water systems that range anywhere from 30 to 50 percent. This is treated water that is leaking, so it represents both lost revenues, because that water is never delivered to a customer, and it is lost investment, because the utility paid to purify that water. So water and dollars are flowing out of these pipes.

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

Ms. MCCARTHY. Well, we are—actually a fairly comprehensive program. It begins with our Office of Research and Development, that conducts research on what types of technologies are available to identify where those leaks are happening. And then we try to provide technical assistance out of our programs to help identify opportunities for reducing those leaks, so we will be looking at this.

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

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

Ms. MCCARTHY. Yes. In a number of different directions. One of our biggest concerns is that we see a lot of spills near source waters and in source waters that are challenging us, from a drinking water perspective. We also see new pollutants coming in. So we are looking with States to ensure that they get the guidance they need, and that we do our job, in terms of setting national standards, so that the States who have the primacy, in terms of establishing their own water quality standards, and identifying and categorizing their own waters, have the information they need to protect themselves.

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

Mr. TONKO. Well, again, we appreciate the partnership that the Agency has with the States. When you ask for those dollars in the

budget, the budget increases somewhat. We know that a lot of those efforts go toward our States, so we appreciate that. And, again, thank you for your input here this morning. With that, I yield back, Mr. Chair.

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. Administrator, again, welcome. Do you agree that—there are 84,000 chemicals listed, approximately, in the TSCA inventories—

Ms. MCCARTHY. Yes.

Mr. SHIMKUS (continuing). Is that the number? How many do you think are currently in commerce? Of the 84 listed, how many are actually used in commerce?

Ms. MCCARTHY. I am sorry, I don't have the exact—

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

Ms. MCCARTHY. Yes.

Mr. SHIMKUS. So, in your budget plan, you have—originally—83 work plan chemical risk assessments that you want done by 2018. If you—I look at the budget report of—we have got, like—five are completed, five to 10 in '15, maybe 10 in '16, which gives us 25. Take that from 83, that is still 58 that, budget-wise, we don't seem to be able to get in in a timely manner.

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

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

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

But base load coal, there is no question that there are being investments made in that base load in order to make it cleaner from traditional pollutants, and we expect that base load to continue. And one of the biggest challenges is to make sure we don't do this in a way that sends different signals to the communities we all care about, the energy world that is bringing reliable and cost-effective energy. I want them, if they are investing in these facilities,



to know that they can continue, and that investment will not be stranded.

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

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

Ms. MCCARTHY. Mr. Chairman—

Mr. SHIMKUS (continuing). And I know you have had—

Ms. MCCARTHY. Yes. We have put out some ideas for this, and we have some great comments in that will allow us to address this issue pretty effectively.

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

But it brings me to this debate on biodiesel, and the EPA's authorization of importation of Argentine biodiesel without really having the CARBIOs established. Is this a point of one hand not knowing what the other hand is doing, and then how do we put that supply in as part of the calculation for when you do '14, '15, and '16?

Ms. MCCARTHY. Well, RFS is going to be looking at the range of availability of fuel supplies of the biodiesel fuel supplies that are available both domestically and internationally, which is what the rule requires.

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

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

Mr. WHITFIELD. Gentleman's time has expired. At this time I recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman, and Ranking Member for holding the hearing. Administrator McCarthy, thank you for being here today, and it is always good to see you before our subcommittee. To say that EPA has a lot on its plate is an understatement. The rules and regulations promulgated by the Agency seem

to affect every sector of our Nation, and I am happy to ask some questions about the balance we are trying to strike between protecting the environment, but helping our business and industrial sector capitalize on what is required to be done.

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

Ms. MCCARTHY. My understanding is—and I am sorry, Congressman, I may be counting wrong, but I think that is right for the full implementation we did recognize in that rule that there was equipment that needed to be manufactured and installed, and we worked with the industry to make sure we weren't being overly aggressive about the ability to have the technologies available for full implementation.

Mr. GREEN. OK. Has the EPA actually quantified how much of the VOC reduction the NSPS has actually yielded to this point?

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

Mr. GREEN. I understand it is already about 190 to 290,000 tons—

Ms. MCCARTHY. That is right.

Mr. GREEN (continuing). Is the estimate. Has the EPA quantified methane reductions as a co-benefit?

Ms. MCCARTHY. We have, and I can provide those numbers. I don't have them at the tip of—

Mr. GREEN. OK. Well, I—

Ms. MCCARTHY (continuing). My tongue—

Mr. GREEN (continuing). Think I have them. It is about 73 percent decrease—

Ms. MCCARTHY. Excellent.

Mr. GREEN (continuing). Of that, so—in January of this year, the White House and EPA released a strategy for reducing methane and ozone pollution from the oil and gas industries. The release stated potential sources that would be regulated are hydraulic fractured oil wells, pneumatic pumps, leaks as well from well sites and compression stations. Anyone who has been on a rig knows you put a hole in the ground and find oil, you are also most likely to find natural gas—

Ms. MCCARTHY. Yes.

Mr. GREEN (continuing). And the Energy Information Agency states that more than half of all completed wells produce both oil and gas. Does the EPA believe that there is an overlap between these two rules?

Ms. MCCARTHY. We believe that there are synergies between the two rules, and we are going to make sure that we do not duplicate

efforts, but we actually provide a good signal for those that are both producing oil and natural gas as to what their regulatory obligations are.

Mr. GREEN. OK. In 2014 the EPA estimates indicated almost \$200 million in additional gas could be captured and sold—

Ms. MCCARTHY. Yes.

Mr. GREEN (continuing). From the natural gas sector. Recently, producers in West Texas have started using modular equipment to capture the methane, separate the gas into the various components, and either sell as a product, or power back to the producer. This approach has effected an economically efficient way to encourage change. Methane is a product that we need to use. Aside from using it on-site, additional capture is going to require additional pipelines.

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

Ms. MCCARTHY. EPA is working with DOE on the Quadrennial Energy Review to take a look at what pipelines need to be constructed in order to make sure that we can still continue to enjoy the inexpensive natural gas and the oil that is making us solid domestically.

Mr. GREEN. Recently the White House Council on Environmental Quality released a revised draft guide, covering how Federal departments and agents should consider the effects of the greenhouse gas emissions and climate change in their NEPA studies. What are your views on how this guideline will affect what EPA is already doing to measure climate impacts from major Federal actions under NEPA? Specifically, how will EPA measure climate impacts under NEPA stemming from the construction of new natural gas pipelines?

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

Mr. GREEN. Thank you. Mr. Chairman, I have one more question. I will submit it, on the Superfund budgets for this year. We have some Superfund sites in my area, and the budget cuts may impact us being able to clean those up. But I thank you for your time.

Mr. WHITFIELD. Thank you. At this time recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. OLSON. I thank the Chair and welcome Administrator McCarthy. Pardon me, a little frog in my throat.

Ms. MCCARTHY. It is good to see you, Congressman.

Mr. OLSON. You as well. Ma'am, as you know, your EPA is taking comments on mass new standards for ozone—

Ms. MCCARTHY. Yes.

Mr. OLSON (continuing). Otherwise known as smog.

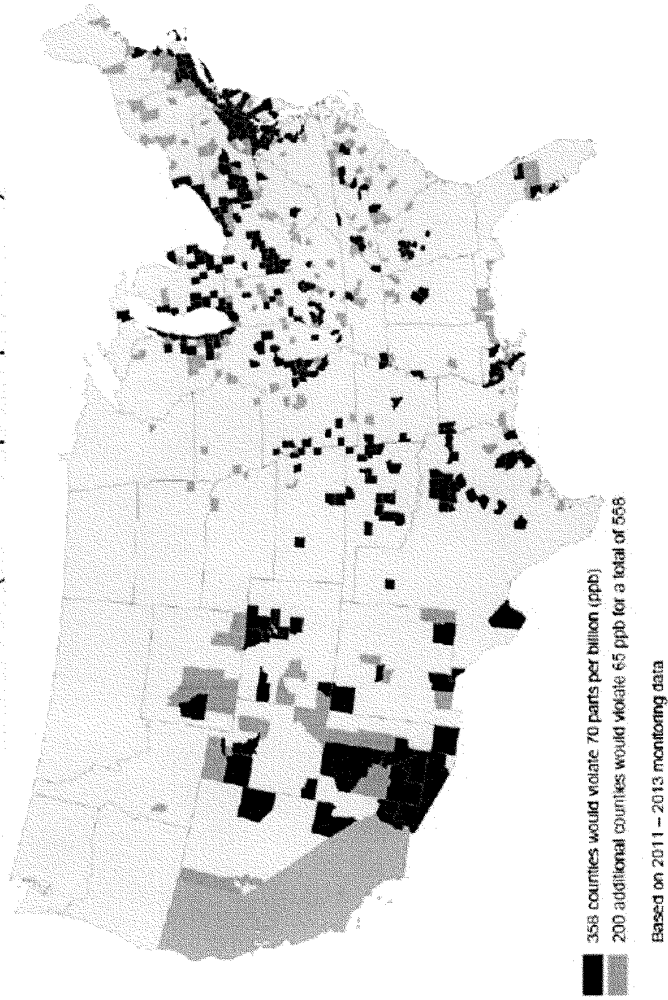
Ms. MCCARTHY. Um-hum.

Mr. OLSON. In Houston, we have been fighting this issue for decades. We have made huge strides in cleaning up our air. But the proposal the EPA has released will land like a ton of bricks, ton

of foreign smog, on most of the country. Could I have a slide, please, first slide? If you don't have any of these slides, I can give you a copy, hard copy, if you can't read the slides when they come up here.

[Slide follows:]

**Counties Where Measured Ozone is Above Proposed Range of Standards (65 – 70 parts per billion)**



Mr. OLSON This first slide is your estimate of counties that will violate the proposals you have out there. Any shade of blue is bad. Blue counties would have a hard time getting permits for new factories or energy exploration, even highway construction. I ask unanimous consent to enter into the record a report from the Texas Department of Transportation, predicting an infrastructure mess in your proposal. Without objection, sir, I would like to enter that for the record.

Mr. WHITFIELD. Without objection.<sup>1</sup>

Mr. OLSON. Thank you. I would like to tackle this ozone issue with some Chairman Dingell-inspired questions that require yes or no answers. Next slide, please.

[Slide follows:]

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<sup>1</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF03/20150225/103014/HHRG-114-IF03-20150225-SD011.pdf>.

**Table 4-10. Summary of Known and Unknown Emissions Reductions by Alternative Standard Levels in 2025, Except California (1,000 tons/year)<sup>a</sup>**

Geographic Area	Emissions Reductions	Alternative Standard		
		70 ppb	65 ppb	60 ppb
East	NOx Known	490	1,000	1,000
	NOx Unknown	150	750	1,900
	<b>% NOx Unknown</b>	<b>23%</b>	<b>43%</b>	<b>66%</b>
	VOC Known	55	99	100
	VOC Unknown	0	0	41
	<b>% VOC Unknown</b>	<b>0%</b>	<b>0%</b>	<b>29%</b>
West	NOx Known	0	110	150
	NOx Unknown	0	0	350
	<b>% NOx Unknown</b>	<b>N/A</b>	<b>0%</b>	<b>70%</b>
	VOC Known	0	7	7
	VOC Unknown	0	0	0
	<b>% VOC Unknown</b>	<b>N/A</b>	<b>0%</b>	<b>0%</b>

<sup>a</sup> Estimates are rounded to two significant figures.

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

Ms. MCCARTHY. I am having a little bit of a hard time reading it. And I can't say I recognize it specifically on that exact page.

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

Ms. MCCARTHY. I am sorry, I don't understand the question.

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

Ms. MCCARTHY. Actually, the slide—it doesn't indicate that—the numbers that we look at on ozone are based on 2014 to 2016. That is how this rule would work. And, in fact, it shows that—

Mr. OLSON. I am sorry, ma'am, the question is yes or no. If you disagree, say no.

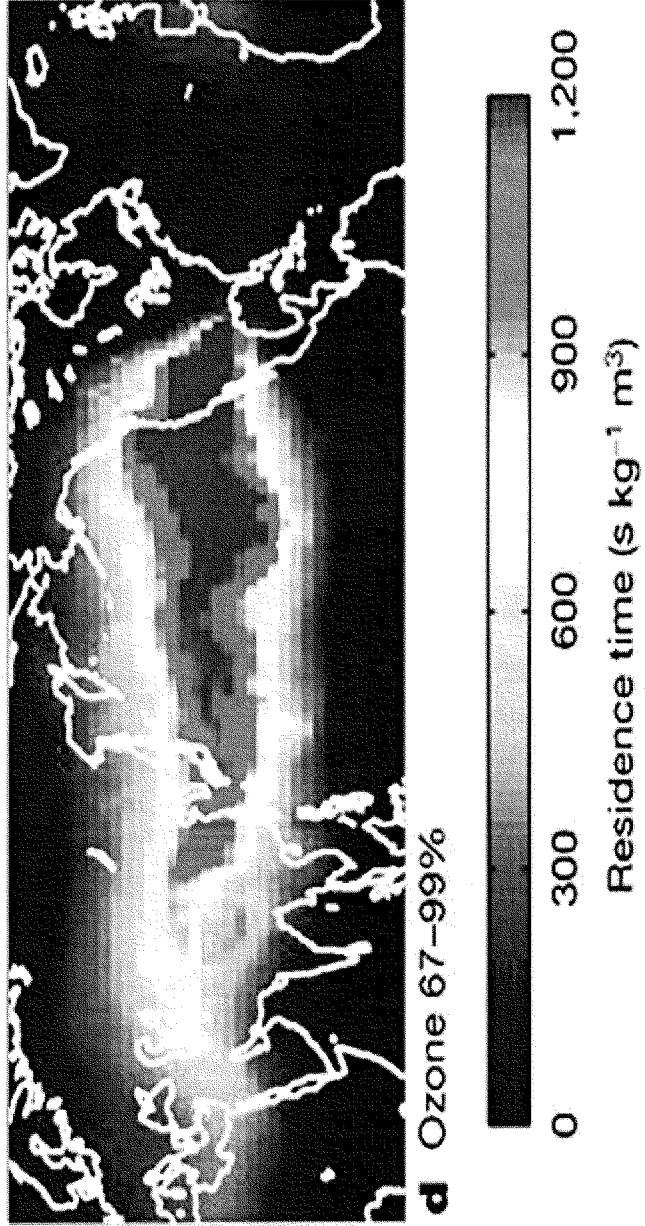
Ms. MCCARTHY. I can't answer it the way you phrased it, sir. But I do know that with the national rules we are doing, and the reductions we are achieving in Nox and VOCs, that almost all counties will achieve an ozone standard at 70, with the exception of about nine in the State of California will continue to be challenged, but—

Mr. OLSON. OK. I am sorry, ma'am, I have to move on here. Next—

Ms. MCCARTHY. OK.

Mr. OLSON (continuing). Slide, please.

[Slide follows:]





Mr. OLSON Another big issue is background ozone.

Ms. MCCARTHY. Yes.

Mr. OLSON. Smog occurrences can be natural, like forest fires, but they can be foreign, too, like from Mexican crop burning annually. The last time I showed you the slide of Chinese smog pouring into our country. I want to focus on another slide. Next slide, please.

[Slide follows:]

RATIO OF U.S. BACKGROUND TO TOTAL SEASONAL MEAN O3



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

Ms. MCCARTHY. I don't know the answer to that question, sir.

Mr. OLSON. OK. Yes or no, am I correct that Chinese emissions have increased in recent years, gone up?

Ms. MCCARTHY. That is true.

Mr. OLSON. That is yes?

Ms. MCCARTHY. That I am aware of.

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

Ms. MCCARTHY. Actually, no States are being asked to reduce emissions that are background levels coming from another country, so we will be working——

Mr. OLSON. You don't know how your budget addresses foreign sources of ozone? Can I get that from you sometime in the near future—14 seconds left here, I want to talk about the exceptional impacts rule.

Ms. MCCARTHY. Yes.

Mr. OLSON. It allows the EPA to remove some natural resources of ozone from its calculations. And, yes or no, you rely on the exception rule to make these rules achievable? Is that a weapon you have to make your new standards viable? Exception of resources? Can that make these new standards viable? Because——

Ms. MCCARTHY. I think you are——

Mr. OLSON (continuing). Right now, they are not viable.

Ms. MCCARTHY. I think you are referring to exceptional events——

Mr. OLSON. Yes, ma'am.

Ms. MCCARTHY (continuing). Which has been part of our program since day one, and we are trying to make sure that States can easily access our ability to have exceptional events documented so that they can make sure that they don't interfere with the State plans for implementing the rule.

Mr. OLSON. And one question I will submit for the record, one final thing, Mr. Chairman, I ask unanimous consent to introduce a document from the Texas Commission on Environmental Quality that goes into great detail about the exceptional events process in my home State, the fact that we are 0 for 10 the past 5 years. Only three have been answered. Seven have not been answered. So, again, that is not viable to control ozone. In our——

Ms. MCCARTHY. Well, Congressman, I am——

Mr. OLSON (continuing). Real experience in——

Ms. MCCARTHY (continuing). Happy to work on——

Mr. OLSON (continuing). Texas we are 0 for 10.

Ms. MCCARTHY. OK.

Mr. WHITFIELD. Without objection.

[The information follows:]

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
 Toby Baker, *Commissioner*  
 Zak Covar, *Commissioner*  
 Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 16, 2015

The Honorable Pete Olson  
 United States House of Representatives  
 2133 Rayburn House Office Building  
 Washington, DC 20515

Dear Congressman Olson:

Per your office's request, the Texas Commission on Environmental Quality (TCEQ) is providing information regarding potential issues that may arise from the United States Environmental Protection Agency's (EPA) reliance on its authority under Federal Clean Air Act, §319 to exclude the use of air quality monitoring data influenced by exceptional events in addressing criticisms of its proposal to revise the ozone National Ambient Air Quality Standard (NAAQS) on December 17, 2014. The EPA is proposing to revise the ozone NAAQS to as low as 60 parts per billion, approaching or at background levels for many areas of the country. Under its proposal, the EPA appears to rely on the fact that excluding air quality monitoring data influenced by exceptional events would provide a mechanism to prevent areas from being designated nonattainment based on certain air quality issues beyond an area's control. The unprecedented promulgation of a standard in such proximity to background levels increases the importance of excluding measured concentrations that are influenced by exceptional events without providing an adequate mechanism for approval of these events in a timely manner.

Historical problems with exceptional event demonstrations will be amplified without further specific guidance and rules that provide for clear review and approval criteria. The TCEQ has already struggled with providing the overwhelming evidence of exceptional event impacts required by the EPA for its approval of exceptional event demonstrations. This is particularly true for extreme naturally occurring events that EPA's Interim Exceptional Events Guidance suggests would require a lesser degree of supporting information. For example, the TCEQ initially submitted a 210-page package to demonstrate that particulate matter from the Chihuahuan Desert of Mexico impacted the El Paso ambient air monitoring stations and caused an exceedance of the NAAQS on specific days from 2010 through 2012. In addition, the TCEQ submitted a 59-page addendum to provide additional detail in order to address subsequent EPA questions. As of January 15, 2015, the decision is still pending EPA action. This exceptional event package provided detailed evidence using well-established historical trends and clear satellite images of dust storms in the Chihuahuan Desert. To our knowledge, such detailed evidence does not exist for ozone formation in rural areas like Brewster and Randall Counties in Texas. The research required to understand the potential contributing natural and anthropogenic sources and historical fluctuations, much less to establish the clear, causal relationship between the air quality measurement and the event to the detailed degree required by the EPA presents a significant challenge for Texas and other states. Without specific review and approval criteria from the EPA, states have little idea what level of detail is sufficient for EPA's approval of an exceptional event demonstration.


Congressman Olson  
Page 2  
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This challenge is further magnified when considering the expedited timing mechanisms for exceptional event demonstrations under a revised air quality standard. The proposed ozone rule gives states 12 months from the time of promulgation to provide any exceptional event demonstration documents to the EPA for events occurring in 2013, 2014, and 2015 if the data are to be excluded for purposes of designations. This exceptional event submission deadline also coincides with the deadline for states to make designation recommendations to the EPA (another labor-intensive exercise). The EPA's Administrator would then have 12 months to make final designations while concurrently reviewing exceptional event packages. The proposed deadlines, should the EPA intend to meet its statutory deadlines for designations, do not give adequate time for the development and approval of state demonstrations requesting the exclusion of data from the first round of designations under the new standard. For comparison purposes, the TCEQ submitted four particulate matter of 2.5 microns or less (PM<sub>2.5</sub>) exceptional event packages in 2013; one was approved eight months after the submission, and the other three are still pending as of January 15, 2015.

EPA's reliance on its exceptional event authority to mitigate the potential for areas to be designated nonattainment of the revised ozone standard assumes that states are able to provide the required documentation of the event within the expedited timeline provided in the proposed rule. As shown, the lack of clear guidance, the exhaustive evidence required for approval, the lack of available information for rural areas in particular, and the expedited timeline may prevent states from accomplishing this task. The unfortunate consequence, then, is that an area may be designated nonattainment years before enough is understood about ozone formation in an area to develop a meaningful exceptional event demonstration. However, there is no authority for the EPA to redesignate an area based on changes to past air quality data. Redesignations must be made in compliance with the requirements of FCAA, §107(d)(3), which requires that an area demonstrate that it is currently attaining the NAAQS, in addition to meeting other specific requirements, such as having an approved SIP, and demonstrating that the improvement in air quality is due to permanent and enforceable emission reductions resulting from the implementation of the SIP and applicable federal requirements. Furthermore, the exceptional event rules do not provide timing requirements for EPA review or a mechanism for states to appeal EPA disapprovals. Should states be unable to meet the expedited timelines under a revised standard or overcome the uncertainty surrounding EPA's required level of detail, EPA's ozone attainment/nonattainment designation would be final.

If you would like to discuss the TCEQ's concerns in more detail, please feel free to contact Mr. David Brymer at (512) 239-1725 or Mr. Richard Chism at (512) 239-0538.

Sincerely,



Steve Hagle, P.E., Deputy Director  
Office of Air  
Texas Commission on Environmental Quality

Mr. WHITFIELD. At this time I recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

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

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

Ms. MCCARTHY. Yes. I think there are significant resources in this budget to help communities that have been underserved, or have been left behind in some of our national efforts to reduce pollution. This will help us get at potentially another 25 sites, moving forward to cleanups that are going to be ready for the cleanup stage in the coming year. So it is an increase in our Superfund budget that is going to be significant.

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

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

Another source of risk for people in these communities, and all communities, are unsafe and untested chemicals in our products and our environment, and that is why I believe that TSCA should be a priority, or strengthening TSCA should be a priority. This budget includes significant funding for chemical risk assessment and management, and for computational toxicology. Can you briefly describe how funding for computation toxicology and chemical risk assessment will protect human health and the environment?

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

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

Mr. PALLONE. Well, thank you. And, again, I would suggest to the chairman and the committee that there be a hearing on com-

putational toxicology to better understand these techniques, and their potential to change the debate on TSCA reform.

Last, I just wanted to touch on one of the greatest, if not the greatest, environmental challenge of our time. The EPA has provided tremendous leadership to understand, address, and mitigate the effects of climate change, and Congress has not been a partner in those efforts. Instead, Congressional Republicans have taken every opportunity to undermine them.

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

I just want to put you on the spot here and ask you if you are fully committed to developing a workable plan with States and industry that ensures reliability of the grid, and will you work with Members on that, and would you be willing to testify before the committee about your plan?

Ms. MCCARTHY. Yes, I am, Mr. Chairman.

Mr. PALLONE. All right, I appreciate that. Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Pennsylvania, Mr. Pitts, for 5 minutes.

Mr. PITTS. Thank you, Mr. Chairman.

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

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

Ms. MCCARTHY. Well, I do know that that is a comment that we received on the 2014 proposal we put out last year. It is my interest to make sure that we move forward with the 2014 rule as quickly as we can. I think it is important for the stability of the renewable fuel industry. But I am sure we will be looking at those comments closely as we move forward.

Mr. PITTS. One of the problems with this program is that it requires the EPA to make predictions each year on two highly uncertain things, first, how much transportation and fuel will be consumed in the following year, and second, how much renewable fuel will be used. When EPA gets these predictions wrong, as it did in 2013, the result is exorbitant prices for—economic hardships for merchant refiners, and windfall profits for blenders. CBO has told

us escalating RFS mandates will lead to higher gas prices at the pump.

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

Ms. MCCARTHY. Actually, sir, I am not able to answer that question because we are not yet through an interAgency review, and able to release it finally. But we will be addressing that question clearly.

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

Mr. PITTS. Will EPA combine the 2014, 2015, 2016 mandate? If so, do you believe EPA has the statutory authority to do so? If you do, I would like to have you cite the authority.

Ms. MCCARTHY. Yes, we do know that the statute requires us to put out annual levels, but there is a great interest in making sure that we send signals to the market in a way that allows all of the participants to be prepared for the numbers that might come forward.

Mr. PITTS. Earlier this year EPA tied the 2013 compliance deadline to the issuance of the final 2014 rule, and this allowed obligated parties to make informed decisions about using 2013—for 2013—or 2014 compliance. And the rationale for delaying the 2013 compliance deadline is equally applicable to 2014, and each year following. Will EPA tie the 2014 compliance deadline to the issuance of a final 2015 rule? And what about subsequent compliance deadlines?

Ms. MCCARTHY. As you indicate, Congressman, we know that this is an issue that is important. We have addressed it before. We are going to continue to address that issue moving forward in our proposed rules.

Mr. PITTS. Well, how will the compliance deadline be impacted if EPA combines the 2014, 2015 rules?

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

Mr. PITTS. Thank you. My time has expired.

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

Mrs. CAPPs. Thank you for recognizing me. And before I begin, it is always a pleasure to have former colleagues join us. Pleased to have you in the audience today. Administrator McCarthy, thank

you for your testimony, and for being here today, and I want to address several topics, mostly around climate change, the effects of which are far reaching, interconnected impacts on our environment, human health, and the economy, and I am pleased that you have made this at EPA such an important priority. I want to address the fact that there are both large scale and smaller scale efforts in the community level, which are important in addressing climate change.

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

Ms. MCCARTHY. I will. This is an effort to try to work with communities and States, frankly, at the community level to look at climate resilience. We are learning a lot as we go across the country and talk about these issues, and we have identified having circuit riders, which are trained individuals in this particular field, and have them more nimble and available to go out to communities moving forward who are considering issues that would have the wealth of tools at their fingertips that EPA and others have provided.

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

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

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

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

Mrs. CAPPS. Um-hum.

Ms. MCCARTHY (continuing). And it also is clearly an economic challenge—

Mrs. CAPPS. Um-hum.

Ms. MCCARTHY (continuing). Particularly for those families that are struggling with their kids that have asthma.

Mrs. CAPPS. Right.

Ms. MCCARTHY. We have significant responsibility to protect those children, and give them a future that we can be proud of.



Mrs. CAPPS. Agreed. And now to address the concerns that many of my colleagues have raised regarding the costs of implementation, and the costs of energy that they believe will affect lower and—

Ms. MCCARTHY. Yes.

Mrs. CAPPS (continuing). Middle-class families—income families. We, of course, want to keep energy affordable, so could you give us a comparison of the costs and benefits of the Clean Power Plan?

Ms. MCCARTHY. In 2030, the benefits of the Clean Power Plan will range anywhere from \$55 to \$93 billion in benefits, compared to costs of \$7.3 to \$8.3 billion. It is a significant benefit. And the one thing I want to make clear of, again, is that I consider these to be investments in the future. I consider these to be investments in clean economy and job growth.

Mrs. CAPPS. Once the investments are made, they keep giving—

Ms. MCCARTHY. They certainly—

Mrs. CAPPS (continuing). And they keep benefitting. Just one final question. These are important priorities, but also important is clean drinking water. And, in a way, it relates, but there are so many challenges today to the availability of safe drinking water. And I think of the lack of it in California, where—

Ms. MCCARTHY. Yes.

Mrs. CAPPS (continuing). Drought is such a problem. How does this budget provide for the enhanced resiliency that our water infrastructure needs in—for various needs across this Nation, again, highlighting the local communities?

Ms. MCCARTHY. Yes. Again, we are working with local communities to help coordinate their response to climate change, and we are also significantly boosting our contribution to drinking water SRF funds. Because we know that it is not just about thinking of these things, it is about actually supporting it, bringing dollars to the table.

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

Mrs. CAPPS. So you—

Mr. WHITFIELD. Gentlelady's time—

Mrs. CAPPS. Yes.

Mr. WHITFIELD (continuing). Has expired.

Mrs. CAPPS. Sorry. Thank you.

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

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

Mr. MURPHY. Thank you, Mr. Chairman. Welcome here, ma'am.

Ms. MCCARTHY. Thank you.

Mr. MURPHY. When the EPA came out with their rule on new source performance standards, you cited a number of examples to show the EPA's standards are feasible. I want to run over some of these examples, and let you just respond with a yes or no if you

are aware of them. For example, yes or no, are you aware that the partially funded Kemper Project is \$3 billion over budget?

Ms. MCCARTHY. I am aware that it is over budget, yes.

Mr. MURPHY. OK. And you are aware that the Future Gen project in Illinois was discontinued?

Ms. MCCARTHY. I am aware of that.

Mr. MURPHY. OK. And you are aware that the Texas Clean Energy Project hasn't broken ground yet?

Ms. MCCARTHY. I am not exactly up to speed on that one, sorry.

Mr. MURPHY. OK. But something that was cited in the report. You are aware that the Hydrogen Energy California Project doesn't use coal, but actually uses petroleum coke? Are you aware of that?

Ms. MCCARTHY. No, sir.

Mr. MURPHY. OK. Are you aware that the final project the EPA cited for providing techno-feasibility for new coal fired power plants was a 110 megawatt Boundary Dam facility in Saskatchewan, Canada? It is not actually a new plant at all, but is, in fact, a retrofit. Are you aware of that?

Ms. MCCARTHY. I am aware that it is a good example of one that is up and operating pretty effectively, and better than they thought.

Mr. MURPHY. But it is a retrofit, and it is not the United States. And the Canadian Center for Policy Alternatives, which supports the CCS mandates, issued a report this month stating that the Boundary Dam project was twice as expensive as alternate generating methods, which will make it significant more expensive for families, and may jeopardize the owner's financial viability to even complete it. Are you aware of that?

Ms. MCCARTHY. I haven't seen that, sir.

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

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

Ms. MCCARTHY. Yes.

Mr. MURPHY (continuing). But I am not sure that the EPA is actually following the law on this. So I want to know, are you reviewing anything to withdraw the rule and start over, so you can really adhere to projects which are viable, and can work us towards this goal?

Ms. MCCARTHY. I think the projects you identified are a number of projects that have been moving forward, and we can talk about each one that I am familiar with, which are most. But the record that EPA produced in our proposed rule went well beyond data from those facilities. We feel very confident that this technology is available. We feel very confident that the use of CCS technology, at the levels that we are proposing it, will be a viable option for

coal to continue to be part of the future of this and other countries, and that we are supporting investment in CCS through our Department of Energy—

Mr. MURPHY. Well, and then this is where you go back—and, Mr. Griffith, could you slide a little bit? This is where you refer to this investment opportunity issue. I am not sure, what does investment opportunity translate to?

Ms. MCCARTHY. It means that—

Mr. MURPHY. States putting money in—

Ms. MCCARTHY. Generally pollutants are captured by end-of-pipe pollution controls, which are often direct costs for facilities. We have designed our Clean Power Plan in a way that allows you to invest in renewable energy, invest in energy efficiency, make decisions at the State level that are consistent with—

Mr. MURPHY. Well, the key—

Ms. MCCARTHY (continuing). Your energy economy—

Mr. MURPHY (continuing). Operative word here is you invest, but we want to make sure that things are—these viable, that people can actually do them.

Ms. MCCARTHY. That is—

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

Ms. MCCARTHY (continuing). In new coal, other than investing in this—

Mr. MURPHY. But you have to make investments—things that can really work. We can make up Alice in Wonderland here, but I want to make sure it works.

Are you aware that in September 2013 the National Energy Technology Labs alerted the EPA in writing that your estimates are outdated? NETL comments, "We believe current cost of CCS is not accurately represented." They even included update data for inclusion in the rule. They found that CCS would cost an average of \$170 per megawatt, and at the high end, \$213 per megawatt. That is about 30 to 60 percent higher than the cost estimate EPA put out there. So I am wondering why you are ignoring what this other Federal Agency is saying. It would be facts out there that you should be paying attention to.

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

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

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

Ms. MCCARTHY. I understand.

Mr. MURPHY. I will submit more questions for the record.

Mr. MURPHY. Gentleman's time—

Ms. MCCARTHY. Thank you, sir.

Mr. MURPHY (continuing). Has expired. At this time we will recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. CASTOR. Thank you, Mr. Chairman. Administrator McCarthy, thank you for joining us today, and thank you for your important work in protecting America's public health, and our natural environment.

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

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

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

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

So we know that people are already going further on a dollar driving their vehicles, and we know that by the end of 2025 we will have doubled the ability to actually make that dollar go far, to provide essential services to our families, so—

Ms. CASTOR. Because the goal for 2025 is 54.5—

Ms. MCCARTHY. That is right.

Ms. CASTOR (continuing). And I know the administration has set the first ever fuel economy standards for medium and heavy trucks. Just last week—

Ms. MCCARTHY. Yes.

Ms. CASTOR (continuing). The President called on EPA to develop and finalize the next phase of these standards, building on the success of the initial fuel economy standards for heavy duty vehicles. What are the expected benefits of the new standards? What cost savings will consumers see?

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

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

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

And I wanted to ask you particularly about water infrastructure and waste water infrastructure, because—think of all the coastal areas and local governments in Florida. They are looking at having to do very significant retrofits. I am not sure that your new incentive fund would allow us to go to that pot of money for those kind of water infrastructure, waste water infrastructure, updates and retrofits. Are we—is that a possibility, or do we need to look at the more traditional revolving loan program?

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

Ms. CASTOR. Would that include things like smart meters? Like, my State has been very slow going in trying to empower the consumers to control their thermostat, and things like that.

Ms. MCCARTHY. We haven't yet defined fully because we want to make sure we work with States about what the best way to do it is. But what you have to articulate is that that is an opportunity to reduce demand—

Ms. CASTOR. Um-hum.

Ms. MCCARTHY (continuing). For electricity, or, in other words, get more efficient, which that clearly would. Or else you—but there is lots of flexibility to use it for direct infrastructure improvements as well. So it all just has to be tied back to that carbon pollution standard.

Mr. WHITFIELD. Gentlelady's time has expired. At this time recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. LATA. Well, thank you, Mr. Chairman, really appreciate it. And, Madam Administrator, thanks for being with us today. I am going to kind of go back to Chairman Emeritus Dingell, if I could

ask you a series of questions real quick. And I think you have been here when he has asked you the—a yes and no question.

Ms. MCCARTHY. I have tried.

Mr. LATTA. OK. But under the proposed Clean Power Plan, if a State does not file a SIP, does EPA claim authority to regulate the following under a FIP? And the first question is, does the EPA claim authority to mandate that coal fired generators run less, and that existing gas fired generators run more? And that is assumed under the Building Block 2.

Ms. MCCARTHY. I am sorry, I certainly can answer those after I give them some thought, but it is hard to do a yes or no answer to that question.

Mr. LATTA. OK. Number two, does the EPA claim authority to mandate that fossil fuel generators run less, and that renewable generators run more? And that is assumed under Building Block 3.

Ms. MCCARTHY. EPA certainly has the authority, in a Federal Implementation Plan, to establish standards for carbon pollution for those individual sources. How they choose to address those reductions of—

Mr. LATTA. Would that be—would you be saying that would be a yes, then, to the question?

Ms. MCCARTHY. We have the authority to set a standard. The facility itself decides how to meet that standard.

Mr. LATTA. OK. Let me ask this finally, then. Does the EPA claim authority to make the general public use less electricity? And that is assumed under Building Block #4.

Ms. MCCARTHY. We certainly do not regulate the behavior of the public sector in this rule.

Mr. LATTA. Well, I think, as you have mentioned, especially going back to the first one, Mr. Chairman, if we could get those in writing for more of an explanation—

Ms. MCCARTHY. I am happy to—

Mr. LATTA (continuing). I would appreciate it. In 2013 coal fueled approximately 70 percent of electricity generation in my home State of Ohio. Under the Clean Power Plan, will EPA grant a waiver of exception if there is a grid reliability risk or a high cost to the rate payer issue that would happen?

Ms. MCCARTHY. Yes. EPA does not see the rule, as it has currently been proposed, to have an impact on reliability. But as we have done in the past, we will ensure that the tools are available to us, should anything arise.

Mr. LATTA. So that would be a yes, that there would be waivers or exceptions granted?

Ms. MCCARTHY. We would be able to work through the issues. Whether it is a waiver or another process, the tools are available to us, and we would—

Mr. LATTA. And, again, if we could—if—especially with those tools, because it is really important, especially in my State, because of the high usage of coal, that there would be the waivers necessary. So if you would get back to us on that?

The existing ozone standards were issued in 2008, but are just now being implemented by States, as guidance was just released last week. I have major concerns that you are going to forward pro-

posing stricter standards before the current rule is even implemented. And then, again, am I correct that States have not fully complied with those standards from the 2008?

Ms. MCCARTHY. That is correct. There are—there is quite a long horizon for States to be able to work on these issues.

Mr. LATTA. And what percentage, or how many States would have complied by now with the 2008—

Ms. MCCARTHY. I am sorry, sir, I don't have that at my fingertips, but—

Mr. LATTA. OK.

Ms. MCCARTHY. You know, States go through a designation process, which we have done. There is an implementation rule that has been put out as well, so we will be working on that. And it does not conflict to continue to keep looking, as the statute requires, at the standard itself and whether it is sufficiently protective.

Mr. LATTA. OK. Well, if you could also get back to the committee, especially what States have not complied, and which ones have, that would be very useful to the committee.

EPA has also stated that they do not know the cost to reach the current standards, and will not know until the State Clean Air Plans are submitted in 2016. And the question is how can we have any confidence in the Agency in—estimates of the cost to implement the new proposed standards?

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

Mr. LATTA. OK. And finally I would like to just ask this—back to the Clean Power Plan, Assistant Administrator McCabe has stated that transmission and distribution efficiency, or other opportunities to reduce CO<sub>2</sub> emissions beyond the building blocks. Does the EPA claim authority to require owners of transmission and distribution facilities to increase their operating efficiency, and if so, by what authority?

Ms. MCCARTHY. No. I think that Assistant Administrator McCabe was mentioning the fact that we have provided flexibility in that Clean Power Plan so that even if it is not the building blocks that are achieving the reductions in—and which—those are setting the standard, there are many ways in which States can achieve those standards outside the boundaries of those building blocks, and we are encouraging that flexibility to be considered.

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

Mr. LATTA. Thank you. And, Mr. Chairman, my time has expired, and I yield back.

Mr. WHITFIELD. Gentleman's time has expired. At this time recognize the gentleman from Kentucky, Mr. Yarmuth, for 5 minutes.

Mr. YARMUTH. Thank you very much, Mr. Chairman. Welcome, Administrator—

Ms. MCCARTHY. Thank you.

Mr. YARMUTH (continuing). McCarthy. I want to start by asking you about mountaintop removal mining, which is a process that poses very serious risk to the health and welfare of Appalachian communities. I was pleased to note that in your EPA budget justification you mentioned two recent court victories concerning mountaintop removal mining, but there is still a lot to be done. What resources will be available under this budget to help communities endangered by mountaintop removal mining?

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

Mr. YARMUTH. Yes, I appreciate that very much. Earlier today the—Chairman Whitfield mentioned the cap and trade bill, Waxman-Markey, which he characterized as having been rejected by the Congress, which is one way to characterize it. In fact, it did receive a majority of votes in both the House and the Senate. It was only killed because of Republicans in the Senate who filibustered that bill. Is it fair to say that if Waxman-Markey had been enacted into law, and not been stopped by Senate Republicans, that we would not be involved with clean power rules right now?

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

Mr. YARMUTH. Well, I want to talk a little bit more about the Clean Power Plan, and Kentucky, my home State, and the home State of the chairman. I was really pleased to see yesterday Len Peters, who is the Secretary of Energy and the Environment in Kentucky, praising your work, the Agency's work, in reaching out with—to the States on the Clean Power Plan. He said, I am from Kentucky, and I am not a climate science denier, but what EPA has done with outreach in leading up the proposed regulation, the outreach they have done, I think is incredible. He talked about your open door policy. He said, you could call them, talk to them, meet with them, and we did take advantage.

He went on to say, well, we have already started the process of determining what a compliance plan would look like. I truly appreciate the outreach that the EPA has made to Kentucky and other States, and, obviously, States face very different challenges in cutting carbon pollution. We in Kentucky are increasing our use of cleaner and less expensive fuels, such as natural gas, but we still generate most of our power from coal. I know that EPA recognizes that this is not a one-size-fits-all solution. Can you discuss how the funding in your 2016 budget request will be used to assist States with implementing the Clean Power Plan?

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



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

Mr. YARMUTH. Um-hum. So you obviously think that States like Kentucky, which are coal dominated, can benefit from the funds that would be appropriated—

Ms. MCCARTHY. They—

Mr. YARMUTH (continuing). Under this budget?

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

Mr. YARMUTH. OK. Well, I appreciate the flexibility that EPA has shown, and, again, the cooperation that you have exhibited with Kentucky and other States. I appreciate that very much. I yield back.

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman, and thank you again, Administrator, for appearing before us. Let me start with a question, perhaps, directly at—has the EPA ever made a mistake?

Ms. MCCARTHY. I am quite sure.

Mr. MCKINLEY. Do you think any of those mistakes have led to a job loss?

Ms. MCCARTHY. I can't answer that question. We certainly do our best not to make mistakes in the first place, and the data—

Mr. MCKINLEY. OK, but—

Ms. MCCARTHY (continuing). That we see—

Mr. MCKINLEY (continuing). It is just that—

Ms. MCCARTHY (continuing). Shows that job loss is not a consequence of environmental rules.

Mr. MCKINLEY. I want to make sure that you understand, and the public—I don't think there is a will in Congress to do away with the EPA.

Ms. MCCARTHY. That is good—

Mr. MCKINLEY. You hear that a lot. I, you know, some of the—

Ms. MCCARTHY. Thank you.

Mr. MCKINLEY. I don't think there is the will to do that. I think that many of us here recognize that the EPA has helped lead the way for clean air and clean water. But there is reaching a point someplace in this balance that we want the EPA to be more responsible, and to be more receptive to the impact your decisions are having on families. And I think you are missing the point. Just two examples with that is—that I could is that—the timing of your ad-

ditional regulations, and the second, the use improper or flawed models that you are using.

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

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

I think all of us know a Mildred Schmidt. She probably lives right next door to you. She lives next door to me in Wheeling, and someplace—Mildred Schmidt sits at her kitchen table, she wants clean air and clean water, but her first and foremost request, I want a job for my son. I can't find a job because either the coal mines are pulled back, or the steel companies, the chemical—something is shut down as a result of over-regulation. And I am struggling with that. I have struggled with the second issue, about your poor modeling that I have heard you—the talk about.

The poor modeling is with the heavy trucks. Back in 2010 you said there was going to be about \$3,400, but we are seeing three times that cost, is what it is going to affect with it. We see the mercury and air toxic standard, that your prediction said that there will only be 10 gigawatts of power shut down, but the Department of Energy and others say it could be six or 10 times that amount is going to be shut down. But yet you continue to issue more regulations, even though the model is saying it doesn't work with it. You have had a model that talked about how CO<sub>2</sub> impacts the temperatures around the globe. We know from the standard, that doesn't work.

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

We didn't come here to Congress to be bullied by radical environmentalist policies. You know, we came here, I think, to serve our

Nation, but we want to preserve our economy, and the regulatory environment that we are facing here is very destructive. I hope you will take that into consideration.

Mr. WHITFIELD. Gentleman's time has expired. At this time recognize the gentleman from Iowa, Mr. Loeb sack, for 5 minutes.

Mr. LOEBSACK. Thank you, Mr. Chair. Great to see you, as always, Madam Administrator. I do want to take this opportunity to invite you back to the Iowa State Fair this summer, if you can make it.

Ms. MCCARTHY. Terrific.

Mr. LOEBSACK. It would be wonderful for you to be there. I know there are a lot of folks, not just in the ag sector, but others who would love to see you there. I have been going back and forth between this and another subcommittee, and so the RFS, I know, probably did come up already, and I hope I am not repeating what was already asked, and asking you to repeat what you have already said. But, as you know, that is a really big issue in my State. We have talked about this in meetings until both of us were blue in our face, probably, especially just trying to figure out, you know, what we are going to be doing going forward.

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

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

Ms. MCCARTHY. Well, we are doing our best to take a look at how we can move forward with 2015. And you are right, we also are looking at how we can best send a longer term market signal. Because the biggest problem we had with not putting out the rule in 2014 was that we didn't have an opportunity to send that research signal. And I think that investments, continued investments in the sector are going to be essential.

Mr. LOEBSACK. All right.

Ms. MCCARTHY. So we will get this rule done. We are also looking at what we can do in the following years. We are already late in proposing 2015.

Mr. LOEBSACK. Right.

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

Mr. LOEBSACK. Um-hum.

Ms. MCCARTHY. And we will work with you. And I know how important it is to your State. I sat down with Governor Branstad on Friday, who reminded me—

Mr. LOEBSACK. All right.

Ms. MCCARTHY (continuing). Again, and so—

Mr. LOEBSACK. I am sure he did.

Ms. MCCARTHY (continuing). We will work through these issues, because I know that there are challenges there that are difficult for all of us.

Mr. LOEBSACK. Yes, and it is just—really, as you know, it is the uncertainty attached to all this. And we are not just talking about ethanol, obviously. That is the big one that—

Ms. MCCARTHY. Yes.

Mr. LOEBSACK (continuing). You know, folks talk about all the time, and it is not just that. It is biodiesel, it is second-generation ethanol, cellulostics. It is a lot of different things that we are talking about here. And it does get complicated, there are no question, but it is just so important, you know, for folks to have some kind of certainty down the road so they know what it is going to be, so they can plan, you know, for their investments. And we have got a lot of folks, a lot of great people in Iowa and beyond who are involved in this industry who are planning in spite of the uncertainty, and they are doing the best they can—

Ms. MCCARTHY. They are.

Mr. LOEBSACK (continuing). Biodiesel folks. That is a tough issue for them, as you might imagine too. And there we get into the credit, as well as the RFS. But those are just really tough issues, and I am just here to advocate, obviously, and push you as hard as I can to get this rule done, and make sure that we have some kind of certainty for those folks.

Ms. MCCARTHY. Thank—

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

The question is, is EPA willing to work with individual States? Are you willing to take into account, as we go forward, what individual States have done? And how is that going to play out, if that is the case?

Ms. MCCARTHY. Yes. We will work with both individual States, in terms of the analysis we have done, on a State-by-State basis. We have also been challenged to look at the framework, and whether or not we got it quite right. And we are looking at both of those issues, as you can—you probably know we received a lot of comments on this—

Mr. LOEBSACK. Right.

Ms. MCCARTHY (continuing). But we are going to take our responsibilities seriously, both to look at the individual State numbers and the framework itself.

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

Ms. MCCARTHY. I am amazed at the wind generation in Iowa. It is quite a success story.

Mr. LOEBSACK. Thank you, Madam Administrator. Thank you, Mr. Chair, and I yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Illinois, Mr. Kinzinger, for 5 minutes.

Mr. KINZINGER. Thank you, Mr. Chairman, and thank you for saying my last name correctly. Hey, everybody. Thank you for being out here. Thanks for your service. Thanks for taking the time with us today.

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

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

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

Mr. KINZINGER. OK.

Ms. MCCARTHY. And I do know how important it is for your State.

Mr. KINZINGER. OK. So do you have any idea why only six percent was included initially?

Ms. MCCARTHY. Actually, the six percent was an attempt to recognize that there are a number of vulnerable base loads—

Mr. KINZINGER. Right.

Ms. MCCARTHY (continuing). That have not yet committed to permit renewal. That will ensure that they remain a significant part of the base load capacity. And that was an attempt to try to capture that, to indicate that we are building those into the standard setting process because we believe that they may be at risk, but they should be staying in, all things being equal, because we are providing an incentive for a low carbon future with this rule.

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

Mr. KINZINGER. Yes, that is right—

Ms. MCCARTHY (continuing). Reliable and affordable.

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

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

Mr. KINZINGER. So under the Unfunded Mandates Reform Act, you are required to estimate the burden on States to develop that plan? Do you have an estimate of how much it will cost States to develop these plans? Can you supply those estimates?

Ms. MCCARTHY. We actually have asked in this budget proposal for \$25 million to support that activity to States, which is hopefully going to send a signal that if we want to get this done, we need to work together, and we also need to support the efforts of the States in moving this forward. But States are pretty familiar with this type of a planning process, and I am just hoping that Congress will support that extra 25 million. But we certainly give support to the States for these types of air efforts—

Mr. KINZINGER. So the—

Ms. MCCARTHY (continuing). And we are hoping to expand that.

Mr. KINZINGER. So the 25 million, will that go directly to States—

Ms. MCCARTHY. Yes, it would—

Mr. KINZINGER (continuing). Help them with these plans?

Ms. MCCARTHY (continuing). In our State grants—

Mr. KINZINGER. And so is your estimate, then, that it is \$25 million to develop State plans, or is that just a piece of what you hopefully will determine is the overall cost of—

Ms. MCCARTHY. Well, we think that will provide them an opportunity to do this without weakening their ability to continue to do work in other air challenges.

Mr. KINZINGER. OK. And if you get estimates—you may be highlighting some there, but if you get estimates, if you could just communicate that with our office, that would be great.

Ms. MCCARTHY. Yes. I would also point out that the budget includes \$10 million for us to support tools that the States would

readily be able to use in their plan development. So we are doing the best we can to make sure they have both the flexibility and the resources to get this done.

Mr. KINZINGER. And you will—with all the comments you are getting on this, you know, put that in—especially if you made changes, put that into updating the estimates and whatnot, I would—

Ms. MCCARTHY. Yes.

Mr. KINZINGER (continuing). Assume? OK.

Ms. MCCARTHY. Thank you.

Mr. KINZINGER. Mr. Chairman, thank you so much, and I yield back.

Mr. WHITFIELD. Thank you. At this time recognize the gentleman from Oregon, Mr. Schrader, for 5 minutes.

Mr. SCHRADER. Thank you, Mr. Chairman. Thank you for being here, Madam Administrator. Appreciate—

Ms. MCCARTHY. Great to be here.

Mr. SCHRADER (continuing). It very much.

Ms. MCCARTHY. Thank you.

Mr. SCHRADER. Like to talk a little bit about Superfund site administration and funding. As you may or may not know, Portland Harbor is designated a Superfund site as of 2000. It is a little bit unusual, in that both the business community people that may have contributed to some of the problems there, as well as others in the community have stepped up—collaborative effort to try and deal with this.

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

But even beyond that, it would appear that the current regional administration has, you know, their own mindset about what is going to be done regardless of what is being talked about by the collaborative partners in our region. And we are having trouble getting this decision in—I think it was middle of 2013 there was a promise of additional help from the folks here in DC to maybe move things along at an accelerated pace. And again in January there was a discussion with our own Department of Environmental quality, working with folks in DC to help augment Region 10's ability to get the job done.

Ms. MCCARTHY. Yes.

Mr. SCHRADER. So I guess, basic questions here. You know, the decision was supposed to be coming here in 2016. We have heard it is going to be put off to 2017. We have been hearing this for a lot of years, Madam Administrator, and the uncertainty creates a big problem for economic development in our region. If we are trying to get people back to work, for trying to do the right thing for

the environment, the sooner we get this decision done, the sooner we can decide whether or not it is economically feasible to work along the Portland Harbor.

I would like to think that both of them are not mutually exclusive, but, again, what we are hearing from Region 10 would seem to indicate it is mutually exclusive, going to the highest cost alternative, in terms of remediation, rather than some of the other remedial efforts that are actually out there. So basically, what we want to know, is 2017 the best case scenario, and can we hold, with all due respect, the Agency's feet to the fire, and get a record decision by—

Ms. MCCARTHY. Yes.

Mr. SCHRADER (continuing). 2016?

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

Mr. SCHRADER. Good.

Ms. MCCARTHY. I know that we are not only looking at making sure that we get the cleanup correct—did I say McDonough? Sorry. Dennis McDonough—

Mr. SCHRADER. That is—

Ms. MCCARTHY (continuing). Is the Chief of Staff of the—

Mr. SCHRADER (continuing). Chief of Staff—

Ms. MCCARTHY (continuing). President.

Mr. SCHRADER (continuing). For the President of the United States.

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

Mr. SCHRADER. Well, with all due respect, we have lost a lot—

Ms. MCCARTHY. Right.

Mr. SCHRADER (continuing). Of time, and I am not convinced the current Region 10 administrator shares your enthusiasm for getting this thing done in a timely manner. And the biggest concern I have, here you have got a collaborative partnership willing to step up, and yet they are getting, what I would perceive, beaten up on a regular basis, with unrealistic requirements and expectation. Here is a group that could be a shining example of how the process could actually work, then. Your continued attention I appreciate.

Ms. MCCARTHY. You will have it. Thank you.

Mr. SCHRADER. Another issue in my State, of course, is wood products.



Ms. MCCARTHY. Yes.

Mr. SCHRADER. We are a big—well, we would like to be a big wood producing State. That doesn't seem to be possible anymore. That is another topic for discussion. But for the wood that does come out, there is a wood composite industry that is pretty viable. I would like it to be more viable, and they have been waiting for the formaldehyde standards for composite—

Ms. MCCARTHY. Yes.

Mr. SCHRADER (continuing). Wood products. The rule was supposed to be done in 2013. It is now 2 years later. Again, economic uncertainty is the enemy of business. Most businesses can adapt, as long as they know what the rules of engagement are. Can you tell me what the status of the regulation is, when it is going to be finished, and is the President aware of the final sign-off yet?

Ms. MCCARTHY. I certainly am aware of the challenge that we have been facing in getting this rule finalized, particularly as it has to do with laminates—

Mr. SCHRADER. Yes.

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

Mr. SCHRADER. All right.

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

Mr. SCHRADER. Well, thank you very—I work with the industry. I think they are on your team, in terms of wanting to get this done, so—

Ms. MCCARTHY. They sure are.

Mr. SCHRADER (continuing). Thank you very much, and I yield back.

Ms. MCCARTHY. Thanks.

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Virginia, Mr. Griffith, for five—

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

Ms. MCCARTHY. No.

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

Ms. MCCARTHY. No, sir.

Mr. GRIFFITH. So then, in the case of Murray Energy vs. EPA and Regina McCarthy, when your lawyers said that the EPA may not adopt the proposal related to final action—propose Section 111(d) related to the Clean Power Plan, your lawyers did not tell the truth, the whole truth, and nothing but the truth to the court, isn't that accurate, yes or no?

Ms. MCCARTHY. Sir, the proposal as proposed may not be what we move forward with, but there has never been an indication to me, in comments that were—

Mr. GRIFFITH. OK.

Ms. MCCARTHY (continuing). Received—

Mr. GRIFFITH. But they said they may not—

Ms. MCCARTHY (continuing). That would indicate we can't do that.

Mr. GRIFFITH (continuing). That they may not move forward, that wouldn't be a complete statement of accuracy, since June 2014 and today you are very confident you are moving forward? You are moving forward. That was the whole argument in the case.

Ms. MCCARTHY. No, many—

Mr. GRIFFITH. Let me move on.

Ms. MCCARTHY. Many things can happen.

Mr. GRIFFITH. Let me move on.

Ms. MCCARTHY. You asked about my confidence level, and I am—

Mr. GRIFFITH. All right.

Ms. MCCARTHY (continuing). Confident that we can get this done.

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

Ms. MCCARTHY. I don't agree—

Mr. GRIFFITH. And let me read you—

Ms. MCCARTHY (continuing). With that—

Mr. GRIFFITH (continuing). The language—

Ms. MCCARTHY (continuing). Interpretation, sir.

Mr. GRIFFITH. And let me read you the language of the actual code. 111(d)(1), "The Administrator shall prescribe regulations which shall establish a procedure similar to that provided by Sections 110, under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for an existing source for any air pollutant (1) for which air quality criteria have not been issued, or which is not included on a list published under Section 108(a), or"—relevant section—"emitted from a source category which is regulated under Section 112."

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

Your budget requests tens of millions of dollars to implement the Clean Power Plan because you all have indicated you need some expertise. I assume, however, that you do work well with the Secretary of the Department of Energy. Is that—yes or no?

Ms. MCCARTHY. Yes, I do.

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

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

Ms. MCCARTHY. I do not agree that there isn’t a need for—

Mr. GRIFFITH. OK.

Ms. MCCARTHY (continuing). Expertise at EPA at all.

Mr. GRIFFITH. All right. I think you all can share, but we disagree on that. And, lastly, you agree that health in the—and—of people and unemployment are connected with each other, that people who are employed generally have a better health standard than the unemployed sometimes don’t enjoy? You would agree with that, I would think. And I would have to say to you that one of the concerns I have with—you have heard about the wave after wave of regulation from Mr.—

Ms. MCCARTHY. Um-hum.

Mr. GRIFFITH (continuing). McKinley, and how that is hurting employment. I picked up the unemployment statistics in some of my coal counties, and going in alphabetical order, and just hitting the first two, Buchanan County, at the height of the recession, had an 8.9 annual unemployment rate in ’09, 8.9. In ’13, at the end of ’13, it is 9.8, because of regulations that are putting hundreds of thousands of coal miners and related industries, their jobs are gone. This is not even counting the folks who have just gone ahead and decided to retire, or shut down their businesses, and are no longer looking for employment.

That was Buchanan County. Dickinson County, height of the recession, 2009 annual number, 9.0. Today—or 2013, 10.0. Our economy is getting worse because of policies coming from your Agency. And I apologize, I can’t let you answer that because I have to yield back. Thank you, Mr. Chair.

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Maryland, Mr. Sarbanes, for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you, Administrator McCarthy, for being here. Just on the last exchange, I fear that the legal justification for the Department's regulations was impugned. I have high confidence, I want you to know, that there is a strong legal basis for the regulations and the position that you are taking. And I want to thank you generally. I want to thank the EPA, and I want to thank the Obama administration for picking up the slack on the issue of climate change, and addressing the ravages of climate change.

Unfortunately, despite the efforts of many of us here to try to move forward with a statutory response to this issue, it hasn't happened. Congress has not done the job that it should do. The EPA, again, I think, with sound legal authority, has really taken a leadership role. And I also want to salute your Agency, and the administration generally, for the Climate Action Plan, which addresses climate change, for the Clean Power Plan, for these historic international agreements which are being undertaken, which finally gets us in a position of momentum, in terms of addressing the issue of climate change.

In doing that, you are reflecting where the public is increasingly. There is polling that indicates 70 percent of Americans favor stronger limits on the amount of carbon that is emitted by power plants because they understand the health consequences of that, and they understand the impact on climate change. Over 80 percent of Americans think that the United States should take action to address climate disruption, based on a poll in 2013. This is becoming an emerging consensus on the part of public. I think they are appreciative of the efforts that you, and your Agency, and the administration are taking to address this important concern. Now, I understand the solutions are not simple. Carbon emission reductions have to be rooted in science. Aggressive goals must be set to avoid the harshest impacts of climate change, and reasonable, intelligent folks can differ on how to deliver those results. We will continue to have the discussion in this committee.

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

Can you speak to what the Clean Power Act plan, the Clean Power Plan that you have put forward, and the Agency has put forward, what you see in terms of the potential positive economic im-

pact and job creation effect that that can have? Because it is an important part of the dialogue.

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

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

Mr. SARBANES. Thank you very much. Thanks for your outstanding testimony, and your work.

Ms. MCCARTHY. Thank you.

Mr. SARBANES. I yield back.

Mr. WHITFIELD. At this time recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

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

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

Ms. MCCARTHY. Well, as far as I know, sir, those hearings were strategically placed around the country to ensure that people could have access to attend those. They were very heavily—

Mr. JOHNSON. Yes, it is interesting that they were strategically placed in places where coal mining and coal operations don't exist.

Ms. MCCARTHY. That is not correct, sir.

Mr. JOHNSON. I have the list—

Ms. MCCARTHY. Pittsburgh—

Mr. JOHNSON. I have the list—

Ms. MCCARTHY (continuing). Pennsylvania's fifth—

Mr. JOHNSON. How many coal mines are in Pittsburgh? I can tell you how many coal mines are in eastern and southeastern Ohio, and there are a number of them. But, you know, we can fix this.

Ms. MCCARTHY. No, all I—

Mr. JOHNSON. I heard my colleague from Iowa say that he invites you back to the Iowa State Fair. I would like to invite you to come to Ohio—

Ms. MCCARTHY. Well—

Mr. JOHNSON (continuing). Sit down and talk directly to the Ohioans who work in those coal mines, and in those power plants, who are likely to lose their jobs as a result of EPA's actions, your actions, Administrator McCarthy. You know, they pay your salary, they pay my salary. So let me ask you, will you meet with them? I will arrange my schedule so that I can be there to be there with you, and we can have a dialogue with the people whose lives are being affected by the regulations coming out of your Agency.

Ms. MCCARTHY. We have been reaching out all across the country—

Mr. JOHNSON. No, I am asking you, will you come with me? Because I will help set it up.

Ms. MCCARTHY. Every State is asking me to go to their State.

Mr. JOHNSON. I am asking you today. That is a simple question.

Ms. MCCARTHY. I really—

Mr. JOHNSON. Yes or no? Can I get with your—

Ms. MCCARTHY. I will not make—

Mr. JOHNSON (continuing). Team?

Ms. MCCARTHY (continuing). A commitment to go to your State on specific—

Mr. JOHNSON. OK. I am going to have my team—

Ms. MCCARTHY (continuing). Unless you believe—

Mr. JOHNSON (continuing). Reach out to your office to try to set up that meeting, then, because I am going to take that as a yes. Is that what you just said? That you are willing to meet?

Ms. MCCARTHY. No, I am always willing to talk to you, sir, but—

Mr. JOHNSON. No, I am asking you will you come to Ohio and meet with the men and women—

Ms. MCCARTHY (continuing). From—

Mr. JOHNSON (continuing). Reclaiming my time, Administrator McCarthy, it is a simple question. Will you arrange your schedule to come and meet with the people that are being affected in Ohio by the actions of your administration?

Ms. MCCARTHY. I am happy to continue to talk to you, sir. If there is a stakeholder that we have excluded from the process, I will—

Mr. JOHNSON. Will you come?

Ms. MCCARTHY (continuing). In.

Mr. JOHNSON. You are not going to answer the question, so I will—on.

Ms. MCCARTHY. OK.

Mr. JOHNSON. It is clear why you left those folks out, but I will set up the meeting, and we will reach out to your team, and see if we can work that out.

You know, nuclear power is our only high capacity base load generation source that emits no carbon dioxide. We have talked about that a little bit, but we are in danger of losing some units in our existing fleet for multiple of reasons. If any of them close, overall carbon dioxide emissions increase. That is a fact, because even if

intermittent renewable energy, wind and solar, were to displace the power, it must be backed up by natural gas generation. So, therefore, I am concerned about how the rules treats our existing nuclear fleet. For example, plants that choose to go through the rigorous re-licensing process will not be considered the same as new nuclear units for compliance, and it seems to me that they should be.

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

Ms. MCCARTHY. I do not know the success of the NRC process, in terms of re-licensing. I do know that we attempted to address nuclear energy, and point out its value in current base load, and its value in a low carbon strategy in this rulemaking, and we received a lot of comments on—

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

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Indiana, Dr. Buchson, for 5 minutes.

Mr. BUCHSON. Thank you, Mr. Chairman. Excuse me. Thank you for being here, we appreciate it.

Ms. MCCARTHY. Thank you.

Mr. BUCHSON. Climate is changing. It has always been changing, for centuries. We know that. I think reasonable people can continue to have a debate about the human impact on that. That said, I think we all can agree that we should always be working towards improving our emissions as we generate power. But my position is that we should be doing this through innovation and technology development, and not through overreaching Federal regulation.

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

Ms. MCCARTHY. Well, we certainly know that, when we rely on a technology as part of our standard setting process, that we have to do our due diligence on that technology.

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

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

Ms. MCCARTHY. Well, the EPA certainly is looking to be able, not just EPA but across the administration, to provide opportunities for continued advancement of the technology, and to ensure that coal gets cleaner over time so it is part of a clean energy future.

Mr. BUCHSON. And because these countries are building state-of-the-art new power plants without CCS, shouldn't we allow them to be built in the United States?

Ms. MCCARTHY. They have different energy strategies, sir. I know they are heavily investing in a variety of things, so I am not—

Mr. BUCHSON. Actually, they are investing in coal, and getting out of other energy sources because the other energy sources, they can't afford them anymore. They are so subsidized by the Government, the citizens can't afford to pay for the power, so they are going back to lower cost energy. That is the truth.

I want to switch gears, though. I want to talk about another subject. I was a medical doctor before I was in Congress, and—about medical incinerators. And this has to do not with just Ebola, but other things, and—

Ms. MCCARTHY. Um-hum.

Mr. BUCHSON (continuing). One of the methods recommended by the CDC for treating infectious medical waste, such as Ebola, is—and over the past 2 decades, really, the EPA has regulated hundreds of medical waste incinerators out of existence, thereby limiting options for hospitals to properly dispose of extremely dangerous material.

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

Ms. MCCARTHY. Sir, I think EPA standards have ensured that our medical waste facilities can actually properly manage waste. I think, if you have been in the industry a long time, you will know that there are a lot of facilities out there that weren't properly managing normal medical waste, never mind the challenge of Ebola contaminated—

Mr. BUCHSON. Fair enough.

Ms. MCCARTHY (continuing). Waste. And we are working very closely across the administration, and with the CDC and others, to ensure that there is a pathway forward to handle Ebola waste. And waste incinerators today are capable of handling that waste very effectively.

Mr. BUCHSON. And, you know, how many are there in the U.S., you know, that can handle that? Do you have any ballpark idea?

Ms. MCCARTHY. I don't—

Mr. BUCHSON. I don't off the top of my head, either.

Ms. MCCARTHY. I certainly will follow up, if you—



Mr. BUCHSON. Well, this is something, I think, that, you know, from the medical community standpoint, when you, you know, that is an issue, and it sounds like the EPA's, you know, takes that seriously, and wants to—

Ms. MCCARTHY. And we have brought them—

Mr. BUCHSON (continuing). Make sure that we—

Ms. MCCARTHY (continuing). All together to talk about this—

Mr. BUCHSON (continuing). Can deal with it.

Ms. MCCARTHY (continuing). Issue during the crisis, and we will continue to work with—

Mr. BUCHSON. Yes.

Ms. MCCARTHY (continuing). Them on it.

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

Ms. MCCARTHY. We will do that.

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

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

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

Mr. WHITFIELD. Gentleman yields back. At this time recognize the gentleman from Oklahoma, Mr. Mullin, for 5 minutes.

Mr. MULLIN. Thank you, Mr. Chairman. Ma'am, can you just quickly sum up what the EPA's mission statement is for me?

Ms. MCCARTHY. Yes. It is to protect public health and the environment.

Mr. MULLIN. But not to raise revenue, or to write fines, or anything like that? It is just to—

Ms. MCCARTHY. Not to raise revenue?

Mr. MULLIN (continuing). Protect the public health, right?

Ms. MCCARTHY. Yes.

Mr. MULLIN. OK. Can you tell me the total amount of fines that the EPA assessed—now, this is off your Web site, I got this directly from you guys—in FY '14?

Ms. MCCARTHY. I do not have that—

Mr. MULLIN. Let me go through this. Administrative penalty assessed, this is according to your Web site. Fiscal year 2014, \$44 million. Judicial penalties assessed, \$56 million. State and local judicial penalties assessed from joint Federal, State, local enforcement actions, \$7 million. Supplemented penalties, \$11 million. Fiscal year 2012, according to your Web site, administrative penalties assessed, 52,022,612. Judicial penalties assessed, \$155,539,269.

State and local judicial penalties assessed, \$49,000,231. Supplemented penalties, \$4,658,000.

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

Ms. MCCARTHY. Sir, it might help to know that those funds actually go to the Treasury, not to EPA.

Mr. MULLIN. Well, then, if that is the case, they why was Webco Industry fined \$387,369 for not filing a TRA report—

Ms. MCCARTHY. A TRA—

Mr. MULLIN (continuing). Which is a one-page paper? Now, they had never been in problems, or had any issues with the Administrator. They have had this facility for many, many years, but they failed to file it one time. Yet on their other facilities, they had filed it, but this one was an oversight, and you guys came in and fined them \$387,000, which is astounding to me for a piece of paper, but yet you said if they paid it in 10 days, you would knock it down to \$193,679. And when they asked if that could be paid—if they—that money could be used for an environmental project, which is historically what you guys allow to do when it is a reporting issue, they were told by your agent, the EPA's agent, no, you all needed the funding.

Ms. MCCARTHY. I don't know how that could be accurate, sir, when we don't get the funding.

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

Ms. MCCARTHY. That is my understanding, and I know of no—

Mr. MULLIN. Do you know that for a fact?

Ms. MCCARTHY. I—

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

Ms. MCCARTHY. It is going—

Mr. MULLIN. And what did it do—

Ms. MCCARTHY (continuing). Treasury, sir.

Mr. MULLIN (continuing). When we are talking about—

Ms. MCCARTHY. The only thing—

Mr. MULLIN (continuing). Protecting the health—ma'am, hold on. What are we doing when we are talking about protecting the health of individuals? How does a \$387,000 fine protect the health of somebody when it was a piece of paper? There was nothing else.

Ms. MCCARTHY. We are talking about enforcement that allows us to level the playing field for businesses that are doing what they are supposed to do, not—

Mr. MULLIN. Level the playing field?

Ms. MCCARTHY (continuing). And that—actually make sure that we are providing the health benefits that our rules are anticipating.

Mr. MULLIN. How is this leveling the playing field? Who is it leveling it for, other than punishing a company?

Ms. MCCARTHY. The only thing I can think of, sir, to go back to your original question about the law, is that there may be an exception that you are citing that is for Superfund money from responsible parties that EPA gets to collect, and then disperse to pay for the cleanup. That is the only instance in which I know of that a fine would ever directly benefit our—

Mr. MULLIN. And why would you guys give them—

Ms. MCCARTHY (continuing). Other than—

Mr. MULLIN (continuing). 10 days and drop it by \$200,000 if they paid it in 10 days?

Ms. MCCARTHY. You know, this is—

Mr. MULLIN. And that—and, ma'am, this has happened to me personally too—

Ms. MCCARTHY. Sir, I am—

Mr. MULLIN (continuing). In my company.

Ms. MCCARTHY (continuing). Happy to sit down and—so you have a company that has been fined?

Mr. MULLIN. Yes. Yes, we have.

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

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

Ms. MCCARTHY. Sir, I will not apologize for this Agency strongly enforcing the rules that the American public—

Mr. MULLIN. No, you are making your own rules up as you go.

Ms. MCCARTHY. No, sir.

Mr. WHITFIELD. Gentleman's time has expired. At this time I would recognize the gentleman from North Dakota, Mr. Cramer, for 5 minutes.

Mr. CRAMER. Thank you, Mr. Chairman, and thank you, Madam Administrator. Nice to see you again. It is always nice—

Ms. MCCARTHY. You too.

Mr. CRAMER (continuing). To see you.

Ms. MCCARTHY. You too.

Mr. CRAMER. I am having a hard time knowing where to begin, because I have so many issues, but I think I will start with the Waters of the U.S. rule—

Ms. MCCARTHY. OK.

Mr. CRAMER (continuing). Because I think it is especially relevant to the budgets, considering the appropriations.

Ms. MCCARTHY. Sure.

Mr. CRAMER. We have provided some guidance, I think, in the most recent one. Do you regret not utilizing a small business advo-

cacy review panel? And realizing you share this with the Corps of Engineers, but——

Ms. MCCARTHY. Yes.

Mr. CRAMER (continuing). Was that a mistake, to not do a RFA?

Ms. MCCARTHY. No, I don't think so, because we actually have done a tremendous amount of outreach to small businesses looking at this rule, and I think we have the comments we need to have a successful final rule.

Mr. CRAMER. But the law requires an RFA, does it not? Which you did not——

Ms. MCCARTHY. Say that again?

Mr. CRAMER. But the law requires you to have done an RFA, which you——

Ms. MCCARTHY. Actually——

Mr. CRAMER (continuing). Did not do.

Ms. MCCARTHY (continuing). We went through the process of looking at whether or not we needed to stand up what we call a SBREFA panel. We consulted with OMB. That is the final decision-maker on this, and they both agreed that we had done the necessary outreach.

Mr. CRAMER. So have you responded, then, to the SBA's Office of Advocacy when they, of course, disagreed with your certification that it had an insignificant enough impact on small entities——

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

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

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

Ms. MCCARTHY. Yes. Actually, the area that lacks clarity right now is not the issue of navigable waters. The Supreme Court actually spoke very definitively that navigable waters need to be looked at in a way that isn't the traditional definition. We haven't been looking at navigable waters the same way. It is a recognition that navigable waters, and their ability to provide the functions that we look for, are really severely impacted by the waters that flow into them.

So the challenge we tried to face in the Clean Water Rule was to take a look at how do we identify those rivers, streams, tribu-

taries, wetlands that feed into those navigable waters that we need to understand and protect so that they won't degrade those waters that are so—

Mr. CRAMER. Well, you have just used some new terms, new, at least, in this rule that—

Ms. MCCARTHY. Yes.

Mr. CRAMER (continuing). Weren't part of the previous one, and I would add neighboring—

Ms. MCCARTHY. That is correct.

Mr. CRAMER (continuing). Flood plain—

Ms. MCCARTHY. Yes.

Mr. CRAMER (continuing). In addition to—that is adding, not restricting, jurisdiction, in my view. It looks to me like you are reaching for more power, as opposed to further defining. And I just—

Ms. MCCARTHY. Yes.

Mr. CRAMER (continuing). Am concerned that that is not the role of the EPA but, rather, the role of Congress.

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

Mr. CRAMER. Um-hum.

Ms. MCCARTHY. So we are trying to provide more clarity, but we also know there are a lot of questions, in terms of how people are reading the rule, whether we were clear in our intent—

Mr. CRAMER. Sure.

Ms. MCCARTHY (continuing). And clear in the language. And we will work through those issues moving forward so the final rule addresses some of those uncertainties.

Mr. CRAMER. Well, given the little time I have left, I am just going to make a couple of comments. One about—I hope that the FERC technical conferences are going well, and that you are paying close attention those as—

Ms. MCCARTHY. Yes, we are. Actually, Janet McCabe, my Assistant Administrator in the air program, has attended those, and we think they are excellent opportunities for us to understand what the energy world is—

Mr. CRAMER. I think that type of consultation earlier in the process would have been better, but I am glad to see it is happening now.

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

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

Ms. MCCARTHY. Thank you.

Mr. CRAMER (continuing). Referring to the—that we have to now consider the lower price of oil. But I would just want to remind people that the price of oil was roughly what it is today when TransCanada applied for the Keystone XL pipeline. And I am over time. Thank you again.

Ms. MCCARTHY. Thank you.

Mr. WHITFIELD. Thank you.

Ms. MCCARTHY. Thank you.

Mr. WHITFIELD. At this time recognize the gentleman from Mississippi, Mr. Harper, for 5 minutes.

Mr. HARPER. Thank you, Mr. Chairman, and thank you, Ms. McCarthy, for being here. And I think we are near the end, so that is a good thing, so—

Ms. MCCARTHY. That is a thank you too.

Mr. HARPER. Yes. If I could talk to you specifically, you know, we have a number of industries, a number of groups in my home State of Mississippi that, you know, are greatly impacted by rules that are promulgated and enforced. And one that I would like to just touch on for a minute would be our wood and pellet heating unit manufacturers, and their problems with the new source performance standards for wood heaters that the EPA just finalized. You know, it is something that really impacts us. These are usually small businesses that don't have a lot of room in their budgets for R and D costs, in addition to testing lab fees, and those things.

You know, I think with the first stage of this rule that most companies are going to be OK. They can probably get there, but the second stage, which I believe is scheduled to be implemented in 2020, that is going to be extremely costly. It sets very low emissions targets that I think are going to be almost impossible to achieve with the current technology that we have, and the resources. So my question is what budgetary support does the Agency plan to provide to manufacturers as part of your goal to deal with the air quality issues that brought forth this?

Ms. MCCARTHY. Well, Congressman, I want to first say that I believe your businesses were engaged in this, but we worked really hard with the small business constituencies on this, and the Small Business Administrator's Office for Advocacy. And we did make substantial changes in the final rule that actually sought to accommodate their interests, and making sure that there was fewer impacts, in terms of existing stoves that are generated and out there for sale, so that they could have additional time to get those sales out—

Mr. HARPER. Um-hum.

Ms. MCCARTHY (continuing). But also to extend the timeline for compliance on these phases. So I apologize, I don't know the specific—

Mr. HARPER. Sure.

Ms. MCCARTHY (continuing). Dates, so I can't confirm, but we did make a lot of changes. And I would be interested in hearing from you and working with you to see if they actually addressed the issues of concern.

Mr. HARPER. Well, we will make sure that we communicate further on that, because I believe it is something that would neces-

sitate some additional discussion and movement and fairness. But what do I go back and tell those companies that are now looking at a large—either lab testing fees, or R and D costs that they don't really have in their budget to be profitable? What do I go back and tell them?

Ms. MCCARTHY. Well, yes, I think we did a good job trying to make sure that the testing components of these were moderate enough that they didn't impose a significant cost to the manufacturers. But the other thing to recognize, and this is something maybe we can work on together, is in the past EPA and States and regions have had funds that actually support the distribution of these cleaner stoves. And I know that there are States that will be looking at these stoves as being opportunities for them to meet some of the air quality standards that they are facing, particularly in the particulate matter. If I can provide any opportunity for that dialogue to happen on how we could work together, it would be a pleasure for me to do that.

Mr. HARPER. OK. All right. Thank you for that offer, and I believe we will follow up on that—

Ms. MCCARTHY. OK. That would be great.

Mr. HARPER (continuing). With you. If I could take just—I believe the clock hit. I thought I had a little bit of time left. Maybe a minute and a half?

Mr. WHITFIELD. Go ahead.

Mr. HARPER. We are—feel like the shot clock ran out, so—but what I would like to do to follow up is—on the issue of how much implementing the proposed Clean Power Plan will cost taxpayers. And this is—again, is specific to my home State of Mississippi. And I checked with our Mississippi Development Authority, and they indicated that the minimum incremental capital cost to Mississippi to comply with the proposed rule will be \$14.2 billion—

Ms. MCCARTHY. Wow.

Mr. HARPER (continuing). Which will primarily consist of constructing generating facilities not likely to be built, unless compelled by Federal mandate, and the rule will almost certainly cause the premature closure of existing coal plants in Mississippi, which would, of course, place upward pressure on electricity prices. If the cost to Mississippi to implement the Clean Power Plan would be \$14.2 billion, would you agree that this is too much to ask of Mississippi consumers? Would the EPA revise the State's targets?

Ms. MCCARTHY. Well, we certainly—our economic analysis certainly didn't indicate that that was an amount that would be necessary for Mississippi to spend. In fact, I think it may even be lower than what we estimated at our lower range for the entire United States. So we should be sitting down and talking through what the options are that we think provided tremendous flexibility for every State to design a very cost effective strategy.

Mr. HARPER. Do you have a figure for Mississippi?

Ms. MCCARTHY. I do not. I do not believe we broke it down by individual State, but we certainly could have those conversations with the State—

Mr. HARPER. OK.

Ms. MCCARTHY (continuing). About what their underpinnings were that came up with that number. Because clearly it seems like it is order of magnitudes larger than one would expect.

Mr. HARPER. Thank you, and I think my time expired twice. Thank you.

Mr. WHITFIELD. At this time we welcome back Mr. Scalise, our Majority Whip, and recognize him for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman, I appreciate. And, Administrator McCarthy, it is great to see you back here.

Ms. MCCARTHY. You too.

Mr. SCALISE. Thanks for coming to—

Ms. MCCARTHY. You too.

Mr. SCALISE (continuing). Testify about your budget. And, of course, this is part of our oversight role, to go through and, obviously, look at some of the proposals that are going to be—

Ms. MCCARTHY. Yes.

Mr. SCALISE (continuing). Made by the Department throughout the year. I want to talk to you about some of the proposals that not only are being proposed, and some of the impacts that we are seeing, and how they might have some devastating impacts in our local economies, but also ask about some of the others in the past. Because, as you make proposals, you also attach to them what types of impacts it might have in certain ways. And I want to take, for example, the Mercury and Air Toxics Rule.

Some other Federal agencies, like FERC, when they were looking at this, said that plant closures would be much higher than the EPA estimates were going to be. It seemed to me, when EPA got this information, you all kind of scoffed at it. But, in retrospect, now that we can look back and see, the administration's own data concedes that the MATS rule will actually shutter 10 times more the amount of electricity generation than you all originally anticipated. How do you respond to something like that, when even other agencies within the Obama administration were saying what you were proposing was going to be devastating to electricity—

Ms. MCCARTHY. Well, we—

Mr. SCALISE (continuing). Generation, and even more than what you all were anticipating, and it turned out you were way off? I mean, 10 times off on your estimates.

Ms. MCCARTHY. Actually, sir, I am not necessarily agreeing that the mercury and air toxic standard was the precipitator for all of the closures that we are seeing—

Mr. SCALISE. But FERC made that warning too. I mean, are you disputing what FERC—

Ms. MCCARTHY. There were—

Mr. SCALISE (continuing). Claimed?

Ms. MCCARTHY. No. There were concerns raised about closures. There were concerns raised about reliability and cost, which is why we worked with DOE and FERC to address those issues together. And, frankly, none of those concerns have proven to be a reality.

Mr. SCALISE. So you are—

Ms. MCCARTHY. April—

Mr. SCALISE (continuing). Disputing that they—

Ms. MCCARTHY. April is when—



Mr. SCALISE (continuing). Had those shutterings of electricity generation, the 10 times increase in the shuttering of electricity generation that has occurred since the MATS rule?

Ms. MCCARTHY. No, I did not—

Mr. SCALISE. Are you disputing that?

Ms. MCCARTHY (continuing). Say that. I said that there were a number of closures. Whether they were attributable to the MATS rule, or the simple fact that the energy world is transitioning, is the question that I am—

Mr. SCALISE. People need more electricity, and then you come out with a rule that other agencies said were going to have devastating impacts, much worse than you anticipated, and those things happen, and then you say, well, yes, it happened, but maybe it wasn't our fault.

Ms. MCCARTHY. We factored those issues in when—

Mr. SCALISE. Why would they shutter—

Ms. MCCARTHY (continuing). We did our modeling.

Mr. SCALISE (continuing). Those plants?

Ms. MCCARTHY. The shuttering of those plants was a market decision that the market made—

Mr. SCALISE. A market decision based on unachievable standards that are coming out of the—

Ms. MCCARTHY. No, actually—

Mr. SCALISE. We are seeing this time and time again.

Ms. MCCARTHY. The compliance timeline is this April, and we have not received any request, legitimate request, to extend that timeline beyond what is already affordable and factored in.

Mr. SCALISE. Well, then maybe you are not factoring enough things, because you factored in that the MATS rule would only have a minor impact on electricity bills, and yet Midwest future electricity capacity prices have already skyrocketed over 340 percent, largely due to MATS. So that—you said it is not going to have an increase in rates, and they have had a 340 percent increase in rates in the Midwest. You need to go back and look at some of the stuff, because—I know the President loves talking about global warming, and, you know, they are canceling flights all across the country due to snow blizzards, and people are trying to heat their homes, and these rules are having dramatic impacts.

I want you to answer some questions about a study that just came out by the Beacon Hill Institute at Suffolk University in Boston. I am not sure if you are familiar—

Ms. MCCARTHY. I am.

Mr. SCALISE (continuing). With the study that just came out.

Ms. MCCARTHY. No, I am not—

Mr. SCALISE. You—definitely with—

Ms. MCCARTHY (continuing). Familiar with—

Mr. SCALISE (continuing). Suffolk University.

Ms. MCCARTHY. Yes.

Mr. SCALISE. They just came out with an economic impact study on the effects of the new EPA rules on the United States. I would ask unanimous consent if we can submit this report into the—

Mr. WHITFIELD. Without objection.<sup>1</sup>

Mr. SCALISE. In this report, they go through and they break down not only national impacts, which are devastating, but they go State by State. So in my State of Louisiana, the Pelican Institute for Public Policy, which looks at a lot of this information, and looks at economic data, they went and broke this down, and looked at the report, and, according to what they have seen, you would have an impact, in my State of Louisiana alone, of an increase in utility rates by 22 percent. Electricity prices would go up 22 percent by 2030. The State of Louisiana alone would lose over 16,000 jobs, based on these rules.

And you just have to ask—I will read a quote from Kevin Kane, who is the President of the Pelican Institute, “Along with these significant costs, it is worth noting that the increases in electricity prices would disproportionately affect lower income Louisianans, who spend approximately 70 percent”—7-0—“70 percent of their after-tax income on energy. These costs need to be taken into consideration by State and Federal policymakers.” Are you all taking into consideration devastating impacts like this on rules that you are proposing, where you would increase people’s electricity rates? Lower income people that would be harmed heavily by this, by 22 percent, and over 16,000 jobs lost in one State alone. And, of course, this is national in the impact this would have.

Ms. MCCARTHY. I don’t know what study you are talking about, what rules they are looking at—

Mr. SCALISE. I will—yes, this is—

Ms. MCCARTHY (continuing). But I do know that—

Mr. SCALISE. This is the Suffolk University study that looks at the impact of—

Ms. MCCARTHY. I am happy to take—

Mr. SCALISE (continuing). The new EPA rules.

Ms. MCCARTHY. I am happy to take a look at it, but I know that Congress has actually charged us to do exactly that, to take a look at the costs and benefits, and all the economic—

Mr. SCALISE. So I would urge you to look at this study—

Ms. MCCARTHY. And when we have done that—

Mr. SCALISE (continuing). And taking them, and if you would have heard—

Ms. MCCARTHY. When we have done that, we have not seen the damage that you are indicating. We have seen that we are actually—

Mr. SCALISE. Well, we have seen that. I just—340—

Ms. MCCARTHY (continuing). Part and parcel of a growing—

Mr. SCALISE (continuing). Percent increase—

Ms. MCCARTHY (continuing). Economy.

Mr. SCALISE (continuing). In electricity prices in the Midwest alone. It has happened. This isn’t a study. That happened in the Midwest. Anyway, if you can look at this study—

Ms. MCCARTHY. I would be more than—

Mr. SCALISE (continuing). In relation to these proposed—

Ms. MCCARTHY. Yes.

<sup>1</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF03/20150225/103014/HHRG-114-IF03-20150225-SD008.pdf>.

Mr. SCALISE (continuing). Rules, please—

Ms. MCCARTHY. Let me do that.

Mr. SCALISE (continuing). These jobs.

Ms. MCCARTHY. OK. That would be great.

Mr. SCALISE. Yield back the balance of my time.

Mr. WHITFIELD. Gentleman's time has expired, and that concludes the—

Mr. TONKO. Mr. Chair?

Mr. WHITFIELD. Yes?

Mr. TONKO. If I might, I would just like to thank the Administrator for her presentation today and her dialogue with the committee. But I think there were a number of instances where members had asked the witness questions, and then didn't give her the opportunity to respond to that, so I think we should extend the opportunity, if she so chooses, to respond to any of those situations today, and would also make the plea to the committee that we interact with these witnesses in a much more courteous and substantive style so that we can achieve what we are all hoping to achieve. And I would yield back.

Mr. WHITFIELD. Well, I think most people were pretty courteous today, and I do know that there are questions that were submitted that you said you would be getting back to the committee with answers. And if there is some response that you feel like you were not given an opportunity to make, I will be happy to give you that opportunity now to respond.

Ms. MCCARTHY. Well, Mr. Chairman, first of all, you are always a gentleman, and I appreciate that very much, and the only issue that I didn't get a chance to talk about a little bit more specifically that I wish I would have is the issue that Mr. Griffith pointed out, on this 111, 112 issue.

And the only thing I would have pointed out is that he was quoting from our defense of the Clean Air Mercury Rule. And the reason why we were defending that way is because the conflict occurred in CAMR that does not occur in 111(d) in our Clean Power Plan because that was about the same source category, the same pollutant, being regulated under two different sections. We do not have that conflict here, so we do not believe that that issue is really going to impact the legal viability of the Clean Power Plan. But I thank you very much for raising this, and for allowing me the honor to testify before you today.

Mr. WHITFIELD. Well, I think one thing that is certain is that courts are unpredictable, and we never know precisely how they are going to decide, so—

Ms. MCCARTHY. That is for sure. We can all agree on that.

Mr. WHITFIELD. But we do thank you for being with us today, and taking the time to discuss the fiscal year 2016 budget, and look forward to working with you as we move forward. That will conclude today's hearing. The record will remain open for 10 days, and we do look forward to getting the responses that you committed to giving back—

Ms. MCCARTHY. Thank you, sir.

Mr. WHITFIELD (continuing). To the committee.

Ms. MCCARTHY. Thank you.

Mr. WHITFIELD. Thank you. Meeting is adjourned.

[Whereupon, at 12:52 p.m., the subcommittees were adjourned.]  
[Material submitted for inclusion in the record follows:]

FRED UPTON, MICHIGAN  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
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March 30, 2015

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

Dear Administrator McCarthy:

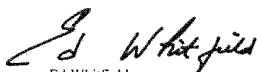
Thank you for appearing before the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy on Wednesday, February 25, 2015, to testify at the hearing entitled "The Fiscal Year 2016 EPA Budget."


Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Monday, April 13, 2015. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to [Nick.Abraham@mail.house.gov](mailto:Nick.Abraham@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

  
Ed Whitfield  
Chairman  
Subcommittee on Energy and Power

Sincerely,  
  
John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power  
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachments

[Ms. McCarthy's answers to submitted questions have been retained in committee files and also are available at <http://docs.house.gov/meetings/IF/IF03/20150225/103014/HHRG-114-IF03-Wstate-McCarthyG-20150225-SD003.pdf>.

