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4 MARKUP ON H.R. 2401, THE ``TRANSPARENCY IN REGULATORY
5 ANALYSIS OF IMPACTS ON THE NATION ACT OF 2011''
6 FRIDAY, JULY 8, 2011
7 House of Representatives,
8 Subcommittee on Energy and Power
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The subcommittee met, pursuant to call, at 9:10 a.m., in
12 Room 2123 of the Rayburn House Office Building, Hon. Ed
13 Whitfield [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Whitfield, Sullivan,
15 Shimkus, Walden, Terry, Burgess, Bilbray, Scalise, McMorris
16 Rodgers, Olson, McKinley, Gardner, Pompeo, Griffith, Barton,
17 Upton (ex officio), Rush, Inslee, Castor, Green, Capps, and
18 Waxman (ex officio).

19 Staff present: Charlotte Baker, Press Secretary; Jim
20 Barnette, General Counsel; Michael Beckerman, Deputy Staff
21 Director; Mike Bloomquist, Deputy General Counsel; Anita
22 Bradley, Senior Policy Advisor to Chairman Emeritus; Maryam
23 Brown, Chief Counsel, Energy and Power; Allison Busbee,
24 Legislative Clerk; Mike Gruber, Senior Policy Advisor; Cory
25 Hicks, Policy Coordinator, Energy and Power; Peter Kielty,
26 Senior Legislative Analyst; Heidi King, Chief Economist; Ben
27 Lieberman, Counsel, Energy and Power; Alexa Marrero,
28 Communications Director; Dave McCarthy, Chief Counsel,
29 Environment and the Economy; Jeff Mortier, Professional Staff
30 Member; Katie Novaria, Legislative Clerk; Kristin Amerling,
31 Democratic Chief Counsel and Oversight Staff Director; Phil
32 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
33 Chief Clerk; Alison Cassady, Democratic Professional Staff
34 Member; Greg Dotson, Democratic Energy and Environment Staff
35 Director; Caitlin Haberman, Democratic Policy Analyst; and
36 Lindsay Vidal, Democratic Press Secretary.

|
37 H.R. 2401

38 9:10 a.m.

39 Mr. {Whitfield.} The chair will call the markup to
40 order. The chair recognizes himself for an opening
41 statement.

42 Today we are holding this markup to advance this
43 important bill, the Transparency in Regulatory Analysis of
44 Impacts on the Nation Act, called the TRAIN Act. Why are we
45 doing this? I knew that everyone would want to know why we
46 are doing this.

47 Recently, EPA has come out with greenhouse gas
48 permitting rules, boiler MACT rules, utility MACT rules,
49 Ozone National Ambient Air Quality Standards, which will be
50 coming out soon. Yesterday, what was the Clean Air Transport
51 Rule is now the Cross State Air Pollution Rule, the coal ash
52 rule, the sulfur dioxide, nitrogen dioxide, review of
53 secondary National Ambient Air Quality Standards for NOX and
54 SOX, particulate matter, greenhouse gas new source
55 performance standards, regional haze rules and others, and we
56 think at this time in our Nation's economy when we are
57 struggling to get the economy going again and create jobs,
58 that it is imperative that we have some idea of the
59 cumulative impact of regulations of this depth, this

60 comprehensiveness and its impact on our ability to create
61 jobs.

62 The TRAIN Act was introduced by Subcommittee Vice
63 Chairman Sullivan and Representative Matheson to require
64 analysis of the cumulative impact of rules and actions that
65 have a major impact on our energy prices, our economy and
66 jobs. EPA has already done analysis of the individual rules
67 in the TRAIN Act, and this legislation would require a
68 cumulative analysis of all of these actions. While we think
69 that the analysis required by the TRAIN Act should be
70 completed as part of a responsible regulatory program, using
71 existing resources that the agency uses for all of their
72 regulatory analyses, this reintroduced legislation accounts
73 for the complexities of CBO scoring.

74 So the reintroduced TRAIN Act, H.R. 2401, includes an
75 authorization of \$3.5 million. I would like to commend Vice
76 Chairman Sullivan and Representative Matheson for their work
77 to support for this important bill and for their work to
78 address cut-go requirements. I think this is a very
79 important piece of legislation to give us a better
80 understanding of what they are doing at EPA, and I look
81 forward to our successfully marking up this bill today, and I
82 yield back the balance of my time.

83 [The prepared statement of Mr. Whitfield follows:]

84 ***** COMMITTEE INSERT *****

|
85 Mr. {Whitfield.} At this time I would like to recognize
86 the gentleman from Illinois, Mr. Rush, for 3 minutes for his
87 opening statement.

88 Mr. {Rush.} Mr. Chairman, we know that since the
89 inception of the Clean Air Act, opponents of the law have
90 been exaggerating the costs of implementing the regulations
91 associated with the act while downplaying the benefits that
92 the new rules have been brought. I am afraid that today's
93 markup on the TRAIN Act may be yet another example of this
94 type of shoddy accounting and shady legislating.

95 This bill will highlight the costs of implementing
96 certain EPA rules but does not take into account all the
97 benefits of these regulations including enhanced public
98 health, increased job productivity or the lives saved. This
99 bill would also not take into account the positive impacts
100 that EPA regulations have had on our Nation's economy,
101 including spurring additional research and development of
102 clean energy technologies, instituting higher fuel efficiency
103 standards and helping make the country less dependent on
104 foreign oil. As written, this bill would not give an
105 accurate cost-benefit analysis of EPA's regulations.

106 The Office of Management and Budget examined 10 Clean
107 Air Act regulations finalized in 2008, 2009 and 2010 and

108 concluded that all 10 had benefits that far exceeded costs by
109 a ratio of seven to one on average. During debate over the
110 Clean Air Act, there were dire warnings that environmental
111 regulations would kill jobs and lead to outsourcing overseas.
112 However, when both direct employment and indirect employment
113 are taken into account, the environmental protection industry
114 is estimated to have created a range of 3.8 million to 5
115 million new jobs.

116 So today, Mr. Chairman, I will offer an amendment to
117 help strengthen this bill by making sure that the panel
118 created to study EPA regulations is objective, is balanced
119 and that it does take into account both the benefits to the
120 environment and the public health as well as the cost to
121 industry. I urge all of my colleagues to support my
122 amendment.

123 With that, I yield back the balance of my time.

124 [The prepared statement of Mr. Rush follows:]

125 ***** COMMITTEE INSERT *****

|
126 Mr. {Whitfield.} The chair recognizes the full
127 committee chairman, Mr. Upton, for 3 minutes for his opening
128 statement.

129 The {Chairman.} Well, thank you, Mr. Chairman.

130 Today's markup does address a critical information gap
131 that is emerging as the Nation grapples with the
132 unprecedented wave of proposed and recently promulgated major
133 regulations from EPA--the cumulative impact of all these
134 measures. This bill, H.R. 2401, the TRAIN Act, establishes
135 an interagency committee that will provide a much-needed
136 analysis of this cumulative burden. The analysis will help
137 both the agency in implementing the rules as well as Congress
138 in its oversight role, and I want to particularly applaud the
139 efforts of Mr. Sullivan and Mr. Matheson on the bill.

140 The ultimate goal of the TRAIN Act is to preserve jobs
141 and American competitiveness by providing info necessary to
142 harmonize these regs. For example, we all want to avoid
143 situations where one regulation requires a costly upgrade of
144 a factory one year, but then a conflicting reg requires that
145 the upgrade be replaced with something else the next year.
146 And we don't want to implement multiple regs on electric
147 power plants that may individually be doable but cumulatively
148 place so many units offline for repairs that system

149 reliability and jobs are jeopardized.

150 Of course, manufacturers, energy producers, and other
151 job creators don't have the luxury of picking and choosing
152 which major regs to obey. They have to comply with all that
153 apply to them. And despite marked improvements in air
154 quality and other environmental measures since EPA was
155 created in 1970, the number and stringency of new regs is
156 completely without precedent. Unfortunately, EPA's analysis
157 looks at rules individually and thus misses the bigger
158 picture, both potential problems as well as opportunities to
159 avoid them.

160 Because the agencies involved in TRAIN are already
161 employing economic experts and performing analyses, these
162 agencies should be able to coordinate and improve their
163 efforts without significantly increasing their spending.
164 That is certainly our intent. However, this bill newly
165 reintroduced accounts for the complexities of the CBO's
166 scoring rule by including a \$3.5 million authorization and a
167 corresponding offset in the annual authorization for the
168 Diesel Emissions Reduction Act of 2010, a program that
169 received massive infusions from the stimulus package, that
170 otherwise has yet to be appropriated at authorized levels,
171 and was zeroed out in the President's fiscal year 2012 budget
172 request.

173 So this TRAIN Act represents a worthwhile attempt to
174 provide information that could help avoid substantial and
175 unnecessary regulatory costs in the years ahead, and I yield
176 back.

177 [The prepared statement of Mr. Upton follows:]

178 ***** COMMITTEE INSERT *****

|
179 Mr. {Whitfield.} Thank you.

180 At this time the chair recognizes the ranking member
181 from California, Mr. Waxman, for 3 minutes for his opening
182 statement.

183 Mr. {Waxman.} Thank you, Mr. Chairman.

184 Today, the subcommittee considers H.R. 2401, a revised
185 version of the TRAIN Act, which requires additional studies
186 of EPA regulations. This bill is called the TRAIN Act
187 because energy lobbyists have been complaining that
188 regulations to protect public health from power plant air
189 pollution will cause a ``train wreck'' for the reliability of
190 the Nation's electric system. This is another one of the
191 myths that have become so commonplace in this room, like the
192 myth that climate change is a hoax. Analysts have found that
193 EPA regulations won't cause a train wreck or even a fender
194 bender. Just last month, the Bipartisan Policy Center
195 released a new report that finds impacts on the reliability
196 of the electric system are manageable while delivering
197 significant public health and environmental benefits. CEOs
198 of leading electric utilities have said the same thing.

199 H.R. 2401 is seriously flawed. I support the effort to
200 have good information about the potential impacts of
201 regulations but I can't support proposals that are one-sided

202 or that will waste taxpayers' dollars with redundant or
203 infeasible analyses.

204 One problem is that the bill calls for an analysis of
205 only the costs of regulations, not their benefits. It asks
206 for an analysis of the impacts of EPA regulations on ``the
207 global economic competitiveness of the United States'' but
208 not on the benefits of mitigating global climate change. It
209 calls for an analysis of the impact of facility closures but
210 not of the facility openings that will be created by
211 investments in clean energy.

212 Another problem is the feasibility of the legislation.
213 The bill requires a new government committee to analyze
214 actions that may be taken by federal, State, and local
215 regulators over the next 20 years. This speculative effort
216 must be completed by next August, using state-of-the-art
217 economic modeling. There is a real question whether this is
218 even remotely feasible. Unlike the previous version of this
219 legislation, H.R. 2401 complies with the discretionary cut-go
220 rule. Unfortunately, it does so by slashing the
221 authorization for the effective and popular Diesel Emissions
222 Reduction Act, or DERA.

223 For months, the Republicans on this committee have been
224 saying that we need to cut the size of government to create
225 private sector jobs. This bill now does the exact opposite.

226 It cuts a program that has created thousands of good-paying
227 jobs in the private sector to fund the creation of a new
228 government bureaucracy. Our manufacturing sector is at last
229 showing signs of growth, and programs like DERA are one of
230 the reasons. The last thing we should be doing is savaging a
231 proven job-creating program like DERA to create an
232 unnecessary government committee. That is why I will be
233 opposing this bill today.

234 [The prepared statement of Mr. Waxman follows:]

235 ***** COMMITTEE INSERT *****

|
236 Mr. {Whitfield.} Thank you.

237 At this time the chair recognizes the gentleman from
238 Oklahoma, Mr. Sullivan, who is one of the primary sponsors of
239 this legislation, for his opening statement.

240 Mr. {Sullivan.} Thank you, Chairman Whitfield. Thank
241 you for holding this subcommittee markup today.

242 This important bill we are considering today, H.R. 2401,
243 the Transparency in Regulatory Analysis of Impacts on the
244 Nation Act of 2011, TRAIN Act, which I reintroduced last
245 month with my good friend and colleague, Jim Matheson, to
246 address the cumulative costs of 12 economically significant
247 EPA regulations and actions. We reintroduced the bill to
248 include certain changes, primarily to ensure the
249 Congressional Budget Office accounting of any possible costs
250 of the legislation accurately reflects the bill's intent and
251 structure.

252 The bill as currently drafted includes an authorization
253 of spending to anticipate a ceiling for what this regulatory
254 analysis could cost along with corresponding offsets.
255 However, I continue to believe the agencies can and should
256 conduct this type of rigorous economic analysis with existing
257 resources, particularly in light of record debt and deficits.

258 At the end of the day, however, the TRAIN Act is

259 designed to ultimately protect taxpayers and our economy by
260 more clearly identifying the cost of burdensome regulations.
261 The agency should be able to conduct these analyses without
262 asking the taxpayer for more of their hard-earned dollars.
263 Each of these regulations handed down from Washington and
264 imposed upon American manufacturers and energy suppliers has
265 an impact on American jobs and consumers but the real
266 question for which we have no answer is how all of these
267 rules taken together layered on top of each other and
268 confusingly intertwined affect national job creation, the
269 reliability and cost of our energy supply, and the ability of
270 American companies to compete on the global stage. In fact,
271 eight of EPA's proposed regulations cost a minimum of \$1
272 billion on the U.S. economy. The time to address the full
273 economic burden of these regulations is now.

274 What will all these regulations cost? EPA doesn't know,
275 and it has failed to conduct a study of the overall
276 cumulative cost of many of their regulations together, which
277 is why this legislation is so important. We desperately need
278 an honest accounting of EPA's economically significant
279 regulations, which this bipartisan legislation will
280 accomplish. I encourage my colleagues from both sides of the
281 aisle to support this commonsense measure.

282 Also, I would like to mention the fact that Congressman

283 Waxman mentioned that we don't do any benefit, EPA doesn't do
284 any benefit. That is all the EPA does is evaluate the
285 benefits. That is all they do. And some of these costs of
286 these regulations just on greenhouse gas permitting, they
287 don't even know what that is going to cost. It could be
288 billions. Boiler MACT rules, the cost is \$2.2 billion
289 annually. Who is going to pay that? The consumer.
290 Unemployment rates are high. Jobs are down. Utility MACT,
291 10.9 billion, ozone, \$19 billion to \$90 billion annually.

292 Mr. {Waxman.} Will the gentleman yield?

293 Mr. {Whitfield.} The gentleman's time is expired.

294 Mr. {Sullivan.} Thank you, Mr. Chairman.

295 [The prepared statement of Mr. Sullivan follows:]

296 ***** COMMITTEE INSERT *****

|
297 Mr. {Waxman.} Will the gentleman yield?

298 Mr. {Whitfield.} For what purpose does the gentleman
299 seek recognition?

300 Mr. {Waxman.} Well, I just wanted to point out that EPA
301 is required to do a cost-benefit analysis. OMB does a cost-
302 benefit analysis. I think it is inaccurate to say that all
303 EPA does is look at the benefits and not the costs. That is
304 an absolutely inaccurate statement.

305 Mr. {Whitfield.} I would agree with the gentleman, they
306 do look at costs and benefits, but some of the comments that
307 have been made would indicate that we are not interested in
308 benefits, and we already know the supposed benefits because
309 it is in EPA's analysis.

310 Mr. {Waxman.} We also know about the costs because it's
311 in EPA's analysis.

312 Mr. {Whitfield.} Not cumulative costs.

313 Mr. {Sullivan.} Exactly. They don't do the cumulative
314 costs.

315 Mr. {Whitfield.} And that is our only interest from our
316 perspective.

317 Mr. {Rush.} What about cumulative benefits?

318 Mr. {Whitfield.} We have added up all those cumulative
319 benefits, and we think costs exceed that.

320 Anyway, does anyone else seek recognition for an opening
321 statement this morning?

322 The gentleman from West Virginia is recognized for 1
323 minute for an opening statement.

324 Mr. {McKinley.} Thank you, Mr. Chairman.

325 The EPA must be held accountable and reined in.
326 Everything from their science to their economic analysis is
327 blatantly and ideologically biased. As a result, America's
328 economy continues to suffer.

329 In April, a study by the Phoenix Center analyzing 49
330 years of data showed that a 5 percent reduction in the
331 Federal Government's regulatory budget would increase our
332 Nation's GDP by \$75 billion annually and would create nearly
333 1.2 million jobs annually. According to Susan Dudley of
334 George Washington University, among all the regulations the
335 Obama Administration has produced, 132 have each exceeded
336 \$100 million in costs. This is a clear message signaling
337 that we need to rein in this rogue agency.

338 I look forward to passing H.R. 2401, a step finally in
339 the right direction. Thank you, Mr. Chairman.

340 [The prepared statement of Mr. McKinley follows:]

341 ***** COMMITTEE INSERT *****

|
342 Mr. {Whitfield.} Thank you, Mr. McKinley.

343 Does anyone else seek recognition for an opening
344 statement?

345 Mr. {Bilbray.} Mr. Chairman?

346 Mr. {Whitfield.} The gentleman from California is
347 recognized for 1 minute.

348 Mr. {Bilbray.} Thank you very much, Mr. Chairman.

349 Mr. Chairman, as you know, I happen to be one of those
350 on this side of the aisle that is not a real fan of a lot of
351 what I see as East Coast energy generators for a lot of
352 reasons, but I will tell you something, it frustrates me ever
353 since I got here in 1995 that there is a concept, the cost-
354 effectiveness that economic impact is somehow an enemy of an
355 Stewartsville strategy. I think it is not only the right
356 thing to do, it is imperative to do if you want to talk about
357 a sustained effort at improving the environmental situation
358 across the board. You have got to look at cost-
359 effectiveness. And in California where, let us face it, we
360 have not exactly been backsliding on environmental issues, it
361 is not only encouraged, it is mandated by our State laws that
362 the economic impact of a proposal has to be a consideration
363 and you have to look at alternatives to try to reduce the
364 economic impact of any environmental strategy. I think this

365 is just fitting what we have done.

366 Now, sadly, I have to say, even with that mandate,
367 California is now sitting at 12 percent unemployment. I just
368 think that we ought to work to make sure that we don't do for
369 America what we have done to California where jobs and
370 opportunity are being driven--

371 Mr. {Whitfield.} The gentleman's time is expired.

372 Mr. {Bilbray.} I yield back.

373 [The prepared statement of Mr. Bilbray follows:]

374 ***** COMMITTEE INSERT *****

|
375 Mr. {Whitfield.} Does anyone seek recognition for an
376 opening statement?

377 The gentlelady from Florida is recognized for 1 minute
378 for an opening statement.

379 Ms. {Castor.} Thank you, Mr. Chairman, and I am so
380 happy to join the subcommittee, and I think I come at a very
381 interesting time because I wasn't involved in the development
382 of this act but it is clear just at first impression, this is
383 very poor public policy.

384 To say that the EPA does not take into consideration the
385 economic considerations or economic costs of regulations
386 simply is not the case, and if you go into the record, the
387 EPA has completed regulatory impact analyses for all the
388 final rules that you mentioned under this TRAIN Act in
389 accordance with very detailed requirements set out by the OMB
390 and these documents are thousands of pages in length and
391 provide a remarkable level of detail and analysis, and I
392 think what is happening is, folks just don't like the result
393 that when you protect the public health and when you protect
394 the environment, oftentimes that results in great cost
395 savings for families and businesses all across the country.

396 I am also struck by the fact that this bill adds
397 unnecessary bureaucratic red tape. It adds unnecessary cost

398 to regulatory processes, and I thought that was something you
399 were trying to combat. So very poor public policy, this
400 review committee is flawed, and we shouldn't be adding
401 unnecessary bureaucratic red tape and cost to the regulatory
402 process.

403 Thank you very much. I yield back.

404 [The prepared statement of Ms. Castor follows:]

405 ***** COMMITTEE INSERT *****

|
406 Mr. {Whitfield.} Thank you.

407 Does anyone else seek recognition? The gentleman from
408 Illinois is recognized for 1 minute.

409 Mr. {Shimkus.} Thank you, Mr. Chairman.

410 Well, this is great public policy. It is in compliance
411 with the President's Executive Order of January. If the EPA
412 was doing such a great job, why would the President have to
413 issue an Executive Order in January for his agencies to
414 comply with the job and economic analysis? The reason why he
415 did that is because they weren't, and the reason why we are
416 doing this is because they still don't.

417 Job reports came out today. We are back up to 9.2
418 percent unemployment. Only 19,000 jobs were created. It is
419 135,000 below expectations. The fossil fuel industry is one
420 of the best productive job creators in this country. We are
421 just defending the right for our workers to have good-paying
422 jobs with good wages and low-cost energy so every American
423 benefits. So that is why they have to do this. That is why
424 this law is important.

425 [The prepared statement of Mr. Shimkus follows:]

426 ***** COMMITTEE INSERT *****

|
427 Mr. {Whitfield.} Thank you, Mr. Shimkus.

428 Does anyone else seek recognition for an opening
429 statement? The gentleman from Louisiana is recognized for 1
430 minute.

431 Mr. {Scalise.} Thank you, Mr. Chairman. I appreciate
432 you bringing this bill today, and you know, we are trying in
433 this legislation to rein in some of the radical regulations
434 by the EPA but, you know, you look at the job numbers that
435 just came out today and the unemployment numbers. We saw
436 another uptick in unemployment, and when you talk to job
437 creators around the country, the first thing they tell you,
438 the thing that holds them back from creating new jobs in
439 America are these regulations by these different agencies,
440 radical policies that are coming out that have a real impact
441 on jobs. There was just a study done by the Small Business
442 Administration that said the cost of regulations to each
443 American family is \$15,000 per family. Talk about kicking
444 somebody when they are down.

445 And so we are bringing these bills to try to roll back
446 some of these radical regulations to say let us have sanity
447 in our fiscal policy so people can get back to work, but when
448 you talk to the job creators, as we look at an increase in
449 unemployment that we just saw today, the job creators are

450 saying it is these regulations that are stopping them from
451 creating jobs and getting people back to work.

452 So I applaud you, Mr. Chairman, for bringing this bill.
453 Hopefully we can get it through and get the Senate to start
454 taking some action on these bills to create jobs. I yield
455 back.

456 [The prepared statement of Mr. Scalise follows:]

457 ***** COMMITTEE INSERT *****

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458 Mr. {Whitfield.} Thank you, Mr. Scalise.

459 The chair will now call up H.R. 2401 and ask the clerk
460 to report.

461 The {Clerk.} H.R. 2401, to require analyses of the
462 cumulative and incremental impacts of certain rules--

463 [H.R. 1705 follows:]

464 ***** INSERT 1 *****

|
465 Mr. {Whitfield.} Without objection, the first reading
466 of the bill is dispensed with and the bill will be open for
467 amendment at any point. So ordered.

468 In keeping with the chairman's policy, are there any
469 bipartisan amendments? If there are no bipartisan
470 amendments, are there any amendments to the bill?

471 Mr. {Rush.} Mr. Chairman, I have an amendment that I
472 hope will be a bipartisan amendment, but I am not convinced
473 about it right now, but I have an amendment at the desk.

474 Mr. {Whitfield.} The clerk will report the amendment of
475 Mr. Rush.

476 The {Clerk.} An amendment offered by Mr. Rush of
477 Illinois.

478 [The amendment follows:]

479 ***** INSERT 2 *****

|
480 Mr. {Whitfield.} Without objection then, the reading of
481 the amendment is dispensed with, and the gentleman is
482 recognized for 5 minutes in support of his amendment.

483 Mr. {Rush.} Thank you, Mr. Chairman.

484 Mr. Chairman, in almost every single bill introduced in
485 this subcommittee under the banner of the so-called
486 ``American Energy Initiative'', the majority has attempted to
487 reduce the red tape and streamline the process to make it
488 easier for oil companies to drill without delay, even if it
489 meant sidestepping the input of States and local communities.
490 A case in point is the Shell bill that passed out of this
491 subcommittee in May, which would have made it easier for
492 Shell to acquire the permits they need to begin drilling in
493 the Outer Continental Shelf and Alaska in an expeditious
494 manner by cutting out State and community input.

495 Another example is the TransCanada bill, which the
496 majority also passed out of this subcommittee in June, which
497 would force the Administration to come to a decision on the
498 Keystone XL pipeline by an arbitrary November 1st deadline
499 regardless of whether or not the appropriate agencies have
500 the time to conduct their due diligence.

501 Yet, Mr. Chairman, in this piece of legislation, the
502 TRAIN Act, we have the majority, the same majority,

503 attempting to do just the opposite: add an extra layer of
504 red tape and create yet another committee to study the
505 impacts of proposed EPA regulations to delay implementation
506 even though by law the agency is already required to do so.

507 Unfortunately, my friends on the other side of the aisle
508 conveniently left off the health effects of the proposed
509 regulations as one of ``cumulative impacts'' that this bill
510 would analyze. I understand that for some of my colleagues,
511 if a regulation cannot be monetized, then it has no benefit,
512 but for many communities that do not have the money and
513 connections of the oil and gas industries, there is no more
514 important benefit than protecting their health and their
515 livelihoods.

516 So the amendment that I am offering here today will do
517 precisely that. It would amend this bill to include
518 important environmental protection and health agencies that
519 were omitted from the original draft. My amendment would add
520 the Chair of the Council on Environmental Quality, the
521 Secretary of Health and Human Services as well as the
522 Director of the Centers for Disease Control and Prevention,
523 among others, to the interagency council that this bill would
524 create.

525 Additionally, my amendment would direct the committee to
526 look at the important health impacts that would be affected

527 by EPA's proposed rules including asthma rates, birth
528 defects, premature mortality, and the effect of promoting
529 clean energy jobs and technologies. If the majority was
530 worried that existing studies focus too heavily on health and
531 environmental impacts of proposed EPA rules and did not
532 sufficiently take into account the jobs and economic
533 analysis, then let us not make the very same mistake in this
534 bill. Let us make sure that this new committee has a
535 balanced and unbiased approach if the majority feels that
536 previous studies were indeed slanted. By including health
537 and environmental impacts of proposed rules, we can ensure
538 that this bill enjoys the support of a much larger coalition,
539 even bipartisanship, maybe, as it moves through the
540 legislative process.

541 So, Mr. Chairman, with that said, I urge all of my
542 colleagues to support this amendment. It is a commonsense
543 amendment. And with that, I yield back the balance of my
544 time.

545 Mr. {Whitfield.} Does anyone seek recognition to speak
546 in opposition to the amendment?

547 Mr. Griffith from Virginia is recognized to speak in
548 opposition.

549 Mr. {Griffith.} Mr. Chairman, we had a similar
550 amendment I believe when we were doing this once before, and

551 I raised this point then, and I know that my colleague means
552 well and that he and I will probably never agree, but my
553 problem with the amendment is that if we are really going to
554 do this in the right way, we shouldn't just talk about the
555 reductions in each one of these things where it talks about
556 reduction in asthma, reduction in this, the effect of
557 promoting clean energy jobs. We ought to be looking at the
558 loss of other jobs, the reduction in the occurrence of other
559 health effects. We should also be looking at the increase in
560 asthma and asthma attacks and increase in other adverse
561 health effects if we are going to do this properly, because
562 from my viewpoint, what we are doing is, we are now at a
563 point where we are creating so many new regulations--

564 Mr. {Rush.} Will the gentleman yield?

565 Mr. {Griffith.} Not at this moment, but I will be happy
566 to in a minute.

567 But what we are doing is, we are actually, I believe we
568 are actually increasing a lot of these health concerns that I
569 think the gentleman legitimately holds because what we are
570 doing is, the cost of electricity goes up, as it will, and
571 the costs of other fuels go up, as it will, when you are
572 looking at a district like mine that has a median household
573 income of roughly \$35,000 per year, what you are looking at
574 is, that people won't use their air conditioner when it gets

575 hot because they can't afford it. They will lower the
576 temperature. They will probably not put it down at freezing,
577 of course, but they will lower the temperature if they can
578 afford it, and that creates health problems.

579 And then we have the testimony that we have had in this
580 committee where, you know, if we move a lot of these
581 regulations forward, we will be moving jobs to Mexico and
582 China and other places where they don't have the regulations
583 that we currently have, and we put those pollutants into the
584 air, and as long as it is in the northern hemisphere, we are
585 sharing it, and I believe we are greatly increasing the
586 pollution long term in the United States by moving our
587 manufacturing jobs to other countries where they don't have
588 the regulations and they are still putting the pollutants
589 into the air, and so I think this amendment is flawed because
590 it doesn't deal with the overall effects when you look at
591 your page 2, lines 3 through at least 11, we are not looking
592 at anything but the reductions and we are not looking at it
593 from a worldwide viewpoint, and I believe that we actually
594 should be looking at increases in all those things happening
595 as a result of the regulations because they may be well
596 intentioned, I think they are actually going to end up doing-
597 -long term they are going to end up doing exactly the
598 opposite of what the regulation is intended to do and what

599 its stated purposes are.

600 I will now yield to the gentleman.

601 Mr. {Rush.} I thank the gentleman. You make a fine
602 point. If the gentleman wants to add increases to my
603 amendment to deal with increases in asthma and other health
604 benefits, I have no objection. If the gentleman would offer
605 an amendment to include increases, then I have no objections
606 to that. He makes my point.

607 Mr. {Shimkus.} Will the gentleman yield, the gentleman
608 from Virginia?

609 Mr. {Griffith.} I yield.

610 Mr. {Shimkus.} I think the point is that our position
611 is the EPA doesn't take cost-benefit analysis, doesn't
612 address the economic impacts. An example that I can quote is
613 of an industry that to comply with greenhouse gases, they
614 have to heat their boilers up to a higher level but then they
615 fall into noncompliance on the NOX. So that is a perfect
616 example of rules and regulations that can't be complied with.

617 So the EPA is already going to all this self-analysis.
618 That is not why this bill is moving. Our point is, they are
619 not doing a cumulative aspect on jobs and the economy, and we
620 say that that should be part of the analysis. They are
621 already going to try to get us to zero emissions on every
622 little particle, even naturally found in the environment.

623 They will try to get us below naturally found elements.

624 Our point is, there is an economic price to be paid by
625 doing that. That is the benefit of this TRAIN Act
626 legislation. That is why I would reject my good friend and
627 colleague from Chicago, Illinois's, amendment. I yield back
628 to the gentleman from Virginia.

629 Mr. {Whitfield.} The gentleman yields back.

630 Does anyone seek--the gentleman from California is
631 recognized to speak in favor of the amendment.

632 Mr. {Whitfield.} Mr. Chairman and my colleagues, it
633 appears to me that what the other side of the aisle is saying
634 is, they don't like regulations so they want to strangle
635 them, paralysis by analysis. Well, I support the Rush
636 amendment. The idea behind this legislation was supposed to
637 be that we needed further evaluation of the pluses and the
638 minuses, but what I really hear is that the other side thinks
639 we can't trust the EPA. We need to have a broad group of
640 government agencies engaged in order to understand the
641 effects of regulation.

642 Well, I fundamentally disagree with this premise. If
643 anything, EPA has historically overestimated the cost of
644 compliance with its rules and the public health and
645 environmental benefits we have enjoyed have been tremendous.
646 If the majority really wants a second opinion from an

647 interagency committee, they should ensure the committee is
648 balanced. The Rush amendment brings balance to the TRAIN
649 Act. Without such balance, the analysis will not be credible
650 or useful. Even with adoption of this amendment, I would
651 remain concerned that the required analysis may simply not be
652 possible to conduct but the balance provided by this
653 amendment is essential if not sufficient to ensuring a high-
654 quality and credible product.

655 At the hearing on this bill, several witnesses expressed
656 concern that the analysis required by this bill would focus
657 only on costs, not benefits. I appreciate that the sponsors
658 made changes to respond in part to those concerns but in
659 several significant ways the analysis remains unbalanced. As
660 currently drafted, important economic impacts like reduction
661 in the number of work and school days missed, reduction in
662 the occurrence of adverse health effects and savings due to
663 decrease use of emergency medical services would not be
664 specifically included. The analysis would consider impacts
665 on small businesses and agriculture but not vulnerable
666 subpopulations and developing infants and children.

667 The Rush amendment would correct that imbalance. It
668 would also ensure that the makeup of the committee is
669 balanced by including departments and offices with expertise
670 in health, disease and environmental quality. This balance

671 is essential to ensuring a high quality and credible product.
672 I urge my colleagues to support this amendment to bring the
673 balance to this committee and this analysis. If the members
674 on the other side of the aisle think we need an analysis, let
675 it be balanced and not just a one-sided analysis that will
676 cost an enormous amount of taxpayers' dollars and create even
677 more bureaucracy to conduct the evaluations.

678 I would be happy to yield to anybody who wants me to
679 yield. Otherwise I will yield my time back.

680 Mr. {Rush.} Will the gentleman yield?

681 Mr. {Waxman.} I yield to Mr. Rush.

682 Mr. {Rush.} Mr. Chairman, I would just ask unanimous
683 consent that I might be able to withdraw my amendment and
684 replace it with another amendment that I will like to
685 replace. It is basically the same amendment. It is just
686 making some language changes on page 2. So I ask unanimous
687 consent that I might be able to withdraw the original
688 amendment and to replace it with an amended amendment with
689 some simple language changes.

690 Mr. {Whitfield.} Let me make sure I understand. You
691 are asking unanimous consent to withdraw this amendment and
692 replace it with another amendment with some minor language
693 changes?

694 Mr. {Rush.} Yes, taking into account the debate that we

695 have had so far.

696 Mr. {Whitfield.} Without objection.

697 Dr. {Burgess.} Mr. Chairman, just reserving the right
698 to object. Would it not be more proper for the gentleman to
699 withdraw his amendment. Now, the gentleman is free to offer
700 another amendment. Will that conform with the time
701 requirements that we have for that amendment to be at the
702 desk and for the other side to see the verbiage of the
703 amendment?

704 Mr. {Whitfield.} We do have a 2-hour requirement that
705 an amendment be before it can be considered.

706 Mr. {Rush.} Mr. Chairman.

707 Mr. {Waxman.} Point of parliamentary procedure.

708 Mr. {Whitfield.} What is the gentleman's parliamentary
709 procedure?

710 Mr. {Waxman.} I know of no rule that requires an
711 amendment sit at the desk for 2 hours. That rule was
712 instituted for the purposes of the chair recognizing members
713 to offer an amendment so that members would have an
714 opportunity to see it.

715 Now, Mr. Burgess is correct, he can go through
716 withdrawing the amendment and then offering another one. He
717 is asking to shortcut that through a unanimous consent that
718 would perfect his amendment. Whatever you all want to do,

719 but why make something simple so hard?

720 Mr. {Whitfield.} Without objection--

721 Dr. {Burgess.} Mr. Chairman, if I may, I am only asking
722 us to adhere to the Waxman rule from the last Congress where
723 the amendments had to be at the table, and the reason that
724 the then-chairman asked for that was to allow both sides the
725 opportunity to fully read and digest and understand the
726 amendment. It is my understanding now that Mr. Rush will be
727 giving us a substitute amendment which we have actually not
728 had a chance to see or discuss.

729 Mr. {Whitfield.} Well, my understanding is that your
730 amendment is the same except you are changing five words.

731 Mr. {Rush.} I am changing four or five words. As a
732 matter of fact, I am changing actually it is 10 words.

733 Mr. {Shimkus.} Reserving the right to object just to--

734 Mr. {Rush.} Mr. Chairman--

735 Mr. {Whitfield.} Let us hold it one minute here. Now,
736 Mr. Burgess, are you reserving a point of order?

737 Dr. {Burgess.} I will withdraw my reservation.

738 Mr. {Shimkus.} Reserving the right the object. I am
739 not going to object but I am just going to make a point, that
740 we went through this in the attempted markup in the full
741 committee of the coal ash bill. We asked for assistance by
742 the minority to remove language under unanimous consent.

743 Obviously that was disapproved. So, you know, what is good
744 for the goose is good for the gander. If you want us to play
745 nice, then you ought to play nice too, and that we could have
746 moved that bill markup quickly--

747 Mr. {Waxman.} What are you talking about?

748 Mr. {Shimkus.} I am talking about the provision on
749 language that we asked for you to unanimously consent remove
750 that one section so the full markup of the bill could--you
751 decided not to. We postponed the markup.

752 Mr. {Waxman.} That wasn't a perfecting amendment. That
753 was to clear up a defect--

754 Mr. {Shimkus.} Reclaiming my time. I would just make
755 the point that we asked in good faith based upon language
756 that was flawed for unanimous consent to change the language
757 and you disagreed with it.

758 Mr. {Waxman.} Go ahead and punish us then.

759 Mr. {Shimkus.} Well, I am just--

760 Mr. {Waxman.} If that is an adult way to proceed, go
761 ahead and punish us.

762 Mr. {Shimkus.} I would just say, you know, it is funny
763 how there is a double standard every time you want to raise a
764 ruckus, and when some people raise an issue in good
765 conscience, which is something that you all did just 2 weeks
766 ago, I just think it is curious.

767 Mr. {Waxman.} Mr. Chairman, I object to the unanimous
768 consent request. Let us get the amendment re-offered. We
769 are wasting our time here.

770 Mr. {Shimkus.} We have learned a lot.

771 Mr. {Waxman.} No, if you--

772 Mr. {Shimkus.} Reclaiming my time. It is my time. The
773 chairman emeritus is really out of order speaking over my
774 time, which he is very good at doing.

775 Mr. {Waxman.} I am not out of order.

776 Mr. {Whitfield.} Mr. Shimkus has the time.

777 Mr. {Shimkus.} Yield back my time.

778 Mr. {Waxman.} Point of order, Mr. Chairman.

779 Mr. {Whitfield.} The gentleman yields back. Do you
780 object?

781 Mr. {Waxman.} I object. You want us to go through and
782 offer an amendment to correct a few little words? If that is
783 what the Republicans want and waste our time, then I will
784 offer the objection. I just want to point out how juvenile
785 this is. You have the majority. You are going to vote down
786 whatever you don't want. Can't you allow the gentleman from
787 Illinois to add a few words? And I want to point out that
788 when I was chairman, there was no objection to unanimous
789 consents to perfect amendments. So if you want to carry on,
790 then let us get the thing in order and not waste our time.

791 Mr. {Whitfield.} Are you objecting, Mr. Waxman?

792 Mr. {Waxman.} Yes.

793 Mr. {Whitfield.} You are going to object to the--

794 Mr. {Waxman.} Well, is anyone else objecting?

795 Mr. {Whitfield.} No one is objecting on our side. I

796 think they are just discussing some of their frustrations.

797 Mr. {Waxman.} Oh, so frustrating to be in the majority.

798 Mr. {Whitfield.} Without objection, the gentleman's

799 amendment is amended.

800 Now, I would ask the gentleman to take a few minutes

801 just to explain to us what changes he has made.

802 Mr. {Rush.} Mr. Chairman, in all honesty, I started out

803 by saying I hope that this is a bipartisan amendment, and

804 this is an amendment for both the goose and the gander. This

805 is a bipartisan amendment.

806 The gentleman from Virginia made some remarks that had

807 some meaning, so I want to amend my amendment on page 2, line

808 3, line 6, line 8 and line 10, and after ``reduction'', I

809 want to insert ``or increase'' in each one of these lines,

810 line 3, line 5, line 7--no, line 8 and line 10.

811 Mr. {Whitfield.} So your language now says ``reduction

812 or increase''?

813 Mr. {Rush.} Or increase.

814 Mr. {Whitfield.} Well, the gentleman has explained the

815 amendment, and I don't think this changes the meaning of the
816 amendment in any way, so at this time I would ask, is there
817 any further discussion of the gentleman's amendment?

818 Mr. {Griffith.} Mr. Chairman, parliamentary inquiry,
819 and I apologize, this is just ignorance.

820 Mr. {Whitfield.} The gentleman is recognized for a
821 parliamentary inquiry.

822 Mr. {Griffith.} Thank you, Mr. Chairman.

823 I have some additional amendments. Is it proper to
824 offer those now or to wait until after these amendments are
825 worked on and then bring up the additional amendments?

826 Mr. {Whitfield.} In other words, you would like to
827 amend some of his amendments?

828 Mr. {Griffith.} Well--

829 Mr. {Whitfield.} Secondary amendments to his amendment?

830 Mr. {Griffith.} No, actually I have additional
831 amendments, yes, to his amendment. That is correct.

832 Mr. {Whitfield.} Well, you know--

833 Mr. {Griffith.} Not these amendments but the amendment
834 that he has offered to the committee.

835 Mr. {Whitfield.} We are going to be voting in just a
836 minute on his amendment. What I would suggest to the
837 gentleman if he would not object is on Tuesday, we are going
838 to be marking this bill up in full committee, and that would

839 be an opportunity to amend at that time.

840 Mr. {Griffith.} I appreciate that, and I will do that
841 at that time, Mr. Chairman. Thank you.

842 Mr. {Whitfield.} Thank you.

843 Is there further debate on the gentleman's amendment?

844 Since there is no further discussion, the vote now occurs--

845 Mr. {Waxman.} Mr. Chairman.

846 Mr. {Whitfield.} For what purpose does the gentleman
847 from California seek recognition?

848 Mr. {Waxman.} I seek recognition, I want to yield to
849 Mr. Rush.

850 Mr. {Rush.} Mr. Chairman, I really want--before we take
851 a vote on this amendment, I really want the other side to
852 understand the sincerity with which I offer these amendments.
853 The gentleman from Virginia indicated that my original
854 amendment did not include increases to asthma attacks or
855 occurrence of birth and developmental effects and other kinds
856 of health issues, and so what I am sincerely trying to do was
857 to open my amendment up, accept the gentleman's objections
858 and add the words ``or increase,' ' and I think that that
859 really will make my amendment, should make my amendment
860 palatable to the other side, and I think that this amendment
861 is an amendment that in my opinion makes bad legislation a
862 little bit better. So with that, I yield back to the

863 gentleman.

864 Mr. {Waxman.} Mr. Chairman, reclaiming my time. I want
865 to just say to my colleagues on the Republican side of the
866 aisle, the facts do matter. The 2-hour notice that we used
867 last Congress was to make sure that the members had a chance
868 to see amendments before they were offered. That is not in
869 our rules. I announced that as a point of recognition of the
870 chairman, and if members wanted to change their amendments
871 even though it hadn't been two hours, that didn't make any
872 difference. We still recognized members. You still can get
873 recognized without any amendment sitting out there, but we
874 did want to give preference to those who had filed their
875 amendments, especially when we had a lot of amendments. I
876 think we have two amendments on this bill.

877 But the rules were not changed. It was simply the
878 recognition of the chair. So I want that misunderstanding
879 cleared up because Mr. Burgess should not believe that this
880 was a rule. It was a reasonable recognition by the chair to
881 make sure that members had a full opportunity to see the
882 amendments.

883 I would urge, maybe it is self-serving because we are
884 often trying to change things, let us try to be as
885 accommodating as possible on the small stuff, especially when
886 we disagree on the big stuff, and I would hope members would

887 keep that in mind. It is not unusual to allow a member to
888 change his amendment, especially when you are going to vote
889 it against it anyway, or that change may make you make for
890 it. So I just want to point that out as a way of dealing
891 with each other in a way that I think respects each other.

892 Now, there was a time that we did object to unanimous
893 consent request and I thought it was appropriate to do that.
894 That was when we had a bill that didn't meet the cut-go
895 standard. That was going to be brought up and we were going
896 to make an objection to it so the Republicans wanted to
897 change that. Well, we weren't for helping you along on it so
898 we objected, but this is not the same level of concern. Each
899 member has the right to object to any unanimous consent
900 request because it is a request for unanimity, and we have to
901 answer if people object to our using the rules, but I think
902 using the rules at one time doesn't preclude someone else
903 from using the rules at another time, and unless we get to
904 the level of you did it to us, we are going to do it to you,
905 I don't think that is productive and I don't think it is a
906 good use of our time. So I yield back my time.

907 Mr. {Whitfield.} The gentleman yields back his time.

908 The question is now on the gentleman's amendment from
909 Illinois. Those in favor, say aye.

910 Mr. {Rush.} Mr. Chairman, I ask for a roll call vote.

911 Mr. {Whitfield.} The gentleman asks for a roll call
912 vote. The clerk will call the roll.
913 The {Clerk.} Mr. Sullivan?
914 Mr. {Sullivan.} No.
915 The {Clerk.} Mr. Sullivan, nay.
916 Mr. Shimkus?
917 Mr. {Shimkus.} No.
918 The {Clerk.} Mr. Shimkus, nay.
919 Mr. Walden?
920 [No response.]
921 The {Clerk.} Mr. Terry?
922 [No response.]
923 The {Clerk.} Mr. Burgess?
924 Dr. {Burgess.} No.
925 The {Clerk.} Mr. Burgess, nay.
926 Mr. Bilbray?
927 Mr. {Bilbray.} No.
928 The {Clerk.} Mr. Bilbray, nay.
929 Mr. Scalise?
930 Mr. {Scalise.} No.
931 The {Clerk.} Mr. Scalise, nay.
932 Mrs. McMorris Rodgers?
933 Mrs. {McMorris Rodgers.} No.
934 The {Clerk.} Mrs. McMorris Rodgers, nay.

- 935 Mr. Olson?
- 936 Mr. {Olson.} No.
- 937 The {Clerk.} Mr. Olson, nay.
- 938 Mr. McKinley?
- 939 Mr. {Whitfield.} Mr. McKinley?
- 940 Mr. {McKinley.} No.
- 941 The {Clerk.} Mr. McKinley, nay.
- 942 Mr. Gardner?
- 943 Mr. {Gardner.} No.
- 944 The {Clerk.} Mr. Gardner, nay.
- 945 Mr. Pompeo?
- 946 Mr. {Pompeo.} No.
- 947 The {Clerk.} Mr. Pompeo, nay.
- 948 Mr. Griffith?
- 949 Mr. {Griffith.} No.
- 950 The {Clerk.} Mr. Griffith, nay.
- 951 Mr. Barton?
- 952 Mr. {Barton.} No.
- 953 The {Clerk.} Mr. Barton, nay.
- 954 Mr. Upton?
- 955 The {Chairman.} Votes no.
- 956 The {Clerk.} Mr. Upton, nay.
- 957 Mr. Rush?
- 958 Mr. {Rush.} Aye.

959 The {Clerk.} Mr. Rush, aye.
960 Mr. Inslee?
961 Mr. {Inslee.} Aye.
962 The {Clerk.} Mr. Inslee, aye.
963 Ms. Castor?
964 Ms. {Castor.} Aye.
965 The {Clerk.} Ms. Castor, aye.
966 Mr. Dingell?
967 [No response.]
968 The {Clerk.} Mr. Markey?
969 [No response.]
970 The {Clerk.} Mr. Engel?
971 [No response.]
972 The {Clerk.} Mr. Green?
973 [No response.]
974 The {Clerk.} Mrs. Capps?
975 Mrs. {Capps.} Aye.
976 The {Clerk.} Mrs. Capps, aye.
977 Mr. Doyle?
978 [No response.]
979 Mr. Gonzalez?
980 [No response.]
981 The {Clerk.} Mr. Waxman?
982 Mr. {Waxman.} Aye.

983 The {Clerk.} Mr. Waxman, aye.

984 Mr. Whitfield?

985 Mr. {Whitfield.} No.

986 The {Clerk.} Mr. Whitfield, nay.

987 Mr. {Whitfield.} Are there any members that want to
988 vote or change their vote? The clerk will report the vote.

989 The {Clerk.} Mr. Chairman, on that, there are five
990 ayes, 14 nays.

991 Mr. {Whitfield.} Five ayes, 14 nays, so the amendment
992 is not agreed to.

993 Are there any other amendments? The gentlelady from
994 California, for what purpose do you see recognition?

995 Mrs. {Capps.} I have an amendment at the desk.

996 Mr. {Whitfield.} The clerk will report the amendment.

997 The {Clerk.} An amendment offered by Ms. Capps of
998 California.

999 [The amendment follows:]

1000 ***** INSERT 3 *****

|
1001 Mr. {Whitfield.} Without objection, the reading of the
1002 amendment is dispensed with and the gentlelady from
1003 California is recognized for 5 minutes in support of her
1004 amendment.

1005 Mrs. {Capps.} Thank you, Mr. Chairman.

1006 It is my hope that we can simply all agree to this
1007 amendment. We live in a world of limited resources, and my
1008 amendment seeks to ensure that those resources are used
1009 wisely.

1010 As currently drafted, H.R. 2401 would require a dizzying
1011 number of analyses of EPA rules. History shows us that it
1012 could take years to conduct these studies. For instance, in
1013 2003, Congress asked the National Academy of Sciences to
1014 examine the effects of just two EPA rules relating to
1015 stationary sources. This study took 3-1/2 years to complete.
1016 The TRAIN Act is much more ambitious than this. It calls
1017 explicitly for more than a dozen rules to be analyzed as well
1018 as other rules and actions that may be proposed over the next
1019 two decades, and it doesn't stop there. Because the Clean
1020 Air Act allows State and local governments flexibility in how
1021 they achieve healthy air, the legislation also requires
1022 analyses of potentially hundreds of State and local rules.
1023 And it is not even limited to currently proposed rules. All

1024 of the analyses must be completed by next August. There is a
1025 real question about whether this is even remotely feasible.

1026 My amendment simply states that the committee created by
1027 H.R. 2401 should perform analyses to the extent they are
1028 feasible, given three conditions: available information, the
1029 limitations of economic modeling and available funding. It
1030 also allows the committee to complete the analyses to the
1031 extent the information produced is useful to policymakers and
1032 stakeholders. If the analyses are not feasible or not
1033 useful, we should not be spending taxpayer resources on them.

1034 I will give you an example. Section 3(B)(1)(e) requires
1035 that the committee examine secondary impacts of agency
1036 actions in 2030. This provision will require the committee
1037 to have to examine speculative impacts, and these are
1038 speculative, so far in the future that it is likely to be
1039 impossible. And even if they can produce some kind of
1040 analysis, it is likely to be practically conjecture,
1041 providing little or no value to policymakers.

1042 Under this amendment, my amendment, the committee would
1043 be able to bypass this requirement if it is not feasible or
1044 not useful to do it. My amendment also charges the committee
1045 to carry out the law in such a way that it doesn't delay or
1046 interfere with other statutory or legal obligations. It is
1047 just a commonsense argument. It attempts to make a Herculean

1048 task more manageable, given the time and the resource
1049 limitations before us. So I urge my colleagues to vote yes
1050 on this amendment, and I yield back.

1051 Mr. {Whitfield.} The gentlelady yields back her time.

1052 Does anyone seek recognition to speak in opposition to
1053 the amendment? Well, the chair recognizes himself just to
1054 say that this amendment would allow the committee to limit
1055 the analysis by determining it is not feasible or not useful
1056 to policymakers and stakeholders or that it would interfere
1057 with statutory or legal obligations, which would certainly
1058 defeat the import of this legislation so I would just speak
1059 in opposition to the amendment.

1060 The gentleman from California is recognized for 5
1061 minutes.

1062 Mr. {Waxman.} This H.R. 2401 would require a
1063 complicated array of analysis of EPA, State and local rules,
1064 and there are resources to be spent on that analysis.
1065 Deadlines are tight, economic analysis so inherently limited.
1066 This legislation is likely to produce nothing but guesswork
1067 or fail altogether. If the subcommittee is going to approve
1068 this legislation, then we should work to avoid this result.
1069 The Capps amendment will provide the committee with the
1070 discretion it needs to produce a useful report.

1071 EPA's past reports to examine cumulative costs and

1072 benefits is instructive. EPA has recently finalized a
1073 prospective study of the cumulative costs and benefits of the
1074 Clean Air Act. The study began in July of 2001. The
1075 analytic design plan was reviewed in 2003. The study was not
1076 completed until 2011. That is a 10-year process. The study
1077 was reviewed by OMB and outside experts. It was a well-
1078 conducted, state-of-the-art study that confirms the
1079 tremendous benefits of the Clean Air Act. Unfortunately,
1080 this study has been derided by members of the Republican
1081 Party but this legislation proposes something far more
1082 ambitious. It creates a new government bureaucracy to
1083 comprehensively analyze rules finalized on January 1, 2012,
1084 by January 31, 2012, so within one month. It doesn't appear
1085 to be even remotely feasible.

1086 The Capps amendment is common sense. If analyses are
1087 not feasible or not useful, we should not be spending
1088 taxpayer resources on them. The idea behind the bill appears
1089 to be that we can't trust the EPA. We need to have a report
1090 by an interagency government committee in order to understand
1091 the effects of regulation. Well, that is the premise. I
1092 disagree with the premise, but if that is the approach the
1093 majority wishes to use, then we need to trust this
1094 interagency committee to use its judgment to produce an
1095 analysis that is useful to policymakers, given the severe

1096 limitations it will face.

1097 So I urge support for the Capps amendment. I think it
1098 makes a lot of sense. It is consistent with your bill, and
1099 it would make your bill work. Otherwise I fear that the
1100 legislation that is before us today will waste a lot of
1101 money, a lot of time, and won't give us very useful
1102 information with the tight time frames.

1103 I yield back my time.

1104 Mr. {Whitfield.} The gentleman yields back the balance
1105 of his time.

1106 Is there further discussion? The gentleman from
1107 Illinois is recognized.

1108 Mr. {Shimkus.} Just to speak in opposition to the
1109 amendment, and just to underscore why we are here, which I
1110 kind of mentioned in the opening statement, but the number of
1111 people unemployed less than 5 weeks grew in the last report
1112 today by 412,000 people, which hasn't happened since 2008.
1113 That is a scary number. There are 14.1 million Americans
1114 that are unemployed. In April and May, they revised the job
1115 report down 44,000 jobs. Unemployment in the last 6 months,
1116 real unemployment rate is 16.2 percent unemployment. The
1117 average duration of unemployment is now 39.9 weeks. That is
1118 a record. That is why we are here.

1119 No one doubts the EPA in their role in protecting the

1120 health of individuals and the environment, and they are still
1121 going to do that. All we are asking is that in this bill,
1122 that the impacts on jobs and the economy ought to be
1123 considered, and these numbers, it is all about jobs, folks,
1124 and so we can continue to have a large federal bureaucracy
1125 that puts in more barriers, more hurdles, more costly, longer
1126 longevity in permitting, delays like we have seen in every
1127 piece of legislation that we have passed through this
1128 committee, or we could create jobs. That is really the
1129 debate that we are having today and we will go through the
1130 legislative process. We will get this through the
1131 subcommittee. We will pass it through the full committee.
1132 We will get a chance to get on the Floor.

1133 I am going to stand on the side of jobs, the economy and
1134 holding the Federal Government responsible when in the debate
1135 as I mentioned earlier, two conflicting rules and regs,
1136 greenhouse gases and NOX, conflict with each other to a point
1137 that you can't comply. So if you cannot comply with the
1138 federal regulations, what do you do? You move overseas. And
1139 that will not help the job environment in this country today,
1140 and I yield back my time.

1141 Mr. {Whitfield.} The gentleman yields back his time.

1142 If there no further discussion--

1143 Mr. {Rush.} Mr. Chairman.

1144 Mr. {Whitfield.} For what purpose does the gentleman
1145 from Illinois seek recognition?

1146 Mr. {Rush.} Move to strike the last word.

1147 Mr. {Whitfield.} The gentleman is recognized for 5
1148 minutes.

1149 Mr. {Rush.} Mr. Chairman, I just can't sit here
1150 silently and allow my good friend from my home State to keep
1151 demagoguing about jobs, and those on this side of the aisle,
1152 those who offer reasonable amendments, are not concerned
1153 about jobs. I know that for those of us on this side of the
1154 aisle, we have all had long histories in the Congress and
1155 even prior to Congress fighting for jobs for the American
1156 people and we are as concerned as anyone on this subcommittee
1157 about jobs, and I think that that is the reason why, Mr.
1158 Chairman, that we do take note of the impact that job
1159 creation, job expansion impacts of the Clean Air Act.

1160 Mr. Chairman, again, I want to repeat as I said in my
1161 opening. The environmental protection industry is estimated
1162 to have created a range of 3.8 million to 5 million new jobs,
1163 and this is under the Clean Air Act. So when did all of a
1164 sudden because in the last few months since the majority
1165 became the majority all of a sudden now history and facts are
1166 being revised to say that jobs have not been created under
1167 the Clean Air Act or that the EPA has not created jobs. In

1168 some instances, and I have to be very honest and frank about
1169 this, Mr. Chairman, in my district, if my district suffered
1170 from 16.2 percent joblessness, then we might even consider
1171 that a boom, because in my district, it is double that or in
1172 some instances it is triple that.

1173 So don't get up on your high horse and talk to me about
1174 jobs and try to lecture me, lecture this side of the aisle
1175 about jobs. We are concerned about jobs. We try to create
1176 jobs. The fact is, this legislation, as Mr. Waxman said, you
1177 know, let us be honest. Let us just call it ``We Don't Trust
1178 EPA Act.'' That would be the most honest thing that you
1179 could say. You don't trust the EPA. You don't think the EPA
1180 is doing what it is supposed to do in order to protect the
1181 oil companies and the gas companies. Well, so be it, you
1182 know, but let us not try to fool and bamboozle the American
1183 public and the American people. You can fool some of the
1184 people some of the time but you can't fool all the people all
1185 the time.

1186 We are just as much concerned about jobs, and we have
1187 been creating jobs. Under President Clinton, jobs were
1188 created. We had a surplus under President Clinton, and now
1189 we are suffering from just the opposite: increased
1190 joblessness and also we are suffering from the fact that the
1191 economy is going down the tubes.

1192 Mr. Chairman, I just think that this disingenuousness,
1193 and this is what bothers me, the disingenuousness of those
1194 who are proponents of this legislation. Don't come to me or
1195 members of this side of the aisle talking about jobs and your
1196 zeal for creating jobs. No, you have a zeal for protecting
1197 these industries that have outsourced jobs, that have been
1198 outsourcing jobs to foreign lands and not keeping jobs here
1199 in this country.

1200 With that, I yield back.

1201 Mr. {Whitfield.} The gentleman yields back the balance
1202 of his time.

1203 Mr. {Walden.} I move to strike the last word.

1204 Mr. {Whitfield.} The gentleman from Oregon is
1205 recognized for 5 minutes.

1206 Mr. {Walden.} I thank the gentleman.

1207 Look, I know everybody is concerned about jobs, but EPA
1208 isn't. They are not. It is not what they do, but they know
1209 how to destroy jobs. I will give you a perfect example, the
1210 Cement MACT Rule in my district. This company, Ash Grove
1211 Cement has invested \$20 million and reduced their emissions
1212 by 96 percent. EPA wants them to reduce it by 98 percent.
1213 It may put them out of business. It is 116 direct jobs in a
1214 county of probably 7,000 people. It is the biggest private
1215 sector investment in the county. The EPA will not yield,

1216 will not offer up a subcategory. Now, they have put off this
1217 rule until probably 2013, which is miraculously right after
1218 the presidential election, I have discovered. This is real
1219 stuff. This company is trying to decide whether to stay or
1220 go, how much more they can put in or take out, and if they
1221 go, it is 116 direct jobs. Now, that may not sound like a
1222 lot, but in my part of the country, if you lose 200 jobs in
1223 rural eastern Oregon, it has the economic equivalency,
1224 according to the State of Oregon, of losing 25,000 jobs in
1225 the metro area because you just hollow out the core
1226 employment. We tried for a year, 2 years to get EPA to
1227 listen and they just won't. They don't care. They want
1228 purity at all costs.

1229 Oh, by the way, the mercury that we do get into Oregon
1230 comes through the atmosphere essentially from China, and the
1231 cement is getting imported from China. I doubt they are
1232 living under the Cement MACT Rule proposed by the EPA. So
1233 you are going to offshore jobs. You do it all the time. We
1234 actually care about middle-class America and middle-class
1235 jobs, and that is what this debate and fight is all about.
1236 You can couch it however you want. You can offer up any
1237 amendments you want but at the end of the day, we have
1238 agencies that don't take into account the effect of their
1239 rules on the American economy. That is why unemployment

1240 ticks up another tenth of a percent or whatever, 9.2 percent.
1241 By the way, I heard that under President Clinton jobs were
1242 created and we had a surplus. You also had a Republican
1243 Congress under many of those years.

1244 Under President Obama, though, unemployment continues to
1245 go up. The so-called stimulus that our kids and grandkids
1246 and us are on the hook for for a trillion dollars that was
1247 rammed through here, put into law, we were told oh, if this
1248 goes into effect, you won't have unemployment above 8
1249 percent. How is that working for you? Well, it is not
1250 working very well for the American taxpayer, and we now have
1251 another trillion dollars of debt over time including interest
1252 that is going to have to be paid back. That is why we are
1253 having this fight over the debt ceiling right now. And by
1254 the way, those jobs, according to some independent studies,
1255 cost taxpayers about \$200,000 apiece to create, allegedly.

1256 So you have had your shot. You have had your couple of
1257 years. You had your promises, and everything that we get
1258 back is more regulation, more rules for some cause, and in
1259 the meantime, I have 16 percent unemployment in my district
1260 in some counties. They are struggling. And I could point
1261 you chapter and verse to federal rule, regulation and law
1262 that has eliminated 271 sawmills in Oregon and 20,000 to
1263 30,000 jobs over the last couple of decades and the lawsuits

1264 that go with them because the statutes aren't clear and so
1265 the judges interpret them and we never have the bipartisan
1266 work here to change the law very often. We did on Healthy
1267 Forest Restoration Act and we could on some others. So
1268 meanwhile, your forests go up in smoke and that, by the way,
1269 is the underlying issue about asthma in the air is from
1270 forest fire smoke. That is what that is about. It chokes
1271 your valleys. It chokes your people.

1272 And frankly, there are a lot of Democrats who think they
1273 want to change the law related to forest management so then
1274 you own a lot of these forest fires because your forests, of
1275 which we are all the stewards, are overstocked, they are bug
1276 infested. If it was public housing, you would be called a
1277 slumlord as the manager if you were the Forest Service, but
1278 it is not so it just burns, it goes up. We don't take out
1279 the burned, dead trees while they still have value. I could
1280 go on ad nauseum.

1281 It is time to change. Enough is enough. We have a
1282 responsibility to this country and the people who live here
1283 to get this economy working again by getting government back
1284 at a manageable level. That is what this legislation is
1285 about. That is why we should move it forward. We need an
1286 economic growth plan for America that works, that is logical,
1287 that protects the environment without destroying the economy,

1288 and we can do both.

1289 Mr. {Whitfield.} The gentleman's time is expired.

1290 For what purpose does the gentleman from Washington seek
1291 recognition?

1292 Mr. {Inslee.} To address this fine committee for a
1293 couple of moments.

1294 Mr. {Whitfield.} The gentleman is recognized for 5
1295 minutes.

1296 Mr. {Inslee.} I yield to Mr. Waxman.

1297 Mr. {Waxman.} Let me say to my good friend from Oregon,
1298 we see it differently. I know that you are unhappy with the
1299 decision of EPA. I can't evaluate whether they did the right
1300 thing or not. They may have done the wrong thing. You
1301 certainly believe that. But that doesn't mean that you throw
1302 EPA into a situation where they can't act, that becomes
1303 paralysis by analysis so that we don't get environmental
1304 protection. It seems to me we want something more balanced
1305 than that. I don't think this bill provides that balance.

1306 Now, I must tell you, I don't see that it is fair to
1307 blame us or President Obama for the economic distress that
1308 this country faces. He became President at a time when our
1309 economy was going over a cliff. Wall Street people took
1310 risks with other people's money. The CEOs got the full
1311 amount of their bonuses while their companies went into the

1312 tank and their shareholders and their employees suffered
1313 enormously, and what was the response? Well, the Republican
1314 didn't believe in regulation so nobody had been regulating
1315 these people on Wall Street. They didn't tell them you are
1316 acting beyond the rules. This is not what capitalism
1317 envisions. In order to make our capitalist system work,
1318 oftentimes you need government there.

1319 I think you have to respect the fact that the President
1320 inherited this terrible economy, the worst
1321 recession/depression since the 1930s. How do you get out of
1322 it? Well, the Republican approach to this is to slash
1323 government spending. Every time you cut spending, you are
1324 cutting jobs for which that spending goes, either for the
1325 public employees or the contract employees or the people that
1326 depend on them to go to all the other jobs because they have
1327 the money to spend. Most economists including the economists
1328 that were advising Senator McCain when he ran for President
1329 said at the time the President took office, there is no
1330 lending going on at the banks. Nothing is happening in the
1331 private sector. The public sector has to come in on a
1332 temporary basis and get things moving again. Not a single
1333 Republican in the House would vote for that stimulus bill.
1334 They didn't have an alternative, they just wouldn't vote for
1335 it. And it got through but was very limited in order to get

1336 through because of the 60-vote requirement in the Senate.

1337 Mr. {Sullivan.} Would the gentleman--

1338 Mr. {Waxman.} I am not going to yield yet.

1339 I don't believe it is fair to say that stimulus bill
1340 didn't help the economy. Without that, we would have had a
1341 worse situation. We were going into a very deep depression,
1342 and that has not yet happened but it may, especially if some
1343 of the Republican ideas of balancing the budget on the backs
1344 of the middle class go into effect.

1345 So we do view things differently. I respect your
1346 judgment. I respect the fact that if we had a lot of time to
1347 talk this through, maybe we would find areas where we agree,
1348 although we would still have areas where we disagree. But
1349 this idea that President Obama is responsible? The reason we
1350 have the huge deficit is the wild spending during the Bush
1351 Administration and with the Republicans in the Congress and
1352 Democrats, wild spending. I foreswore the earmarks before it
1353 became popular to do it because I saw all the frenzy of
1354 earmarks, especially after Tom DeLay became the majority
1355 leader. It was a political deal.

1356 And I must say that the approach that the Republicans
1357 are advancing to me doesn't make sense. Certainly we have
1358 got to reduce the deficit but you don't do it at a time and
1359 in a way that keeps the economy from recovering. The best

1360 thing we could do to get the economy going again and reduce
1361 the deficit is to get people to work. What is your jobs
1362 bill? Well, if this is one of your jobs bills, it is simply
1363 saying that the EPA shouldn't enforce the laws that
1364 Republicans and Democrats voted for, e will offer a bill to
1365 stop those laws, change those laws, eliminate the EPA. Be
1366 honest about it. But I don't think the discussion that we
1367 have had, and I have to acknowledge with a deep amount of
1368 sincerity to my friend from Oregon is a fair description of
1369 how we got to where we are or how we are going to get out of
1370 the situation we are in.

1371 I yield back the balance of my time.

1372 Mr. {Whitfield.} The gentleman yields back.

1373 For what purpose does the gentleman from Oklahoma seek
1374 recognition?

1375 Mr. {Sullivan.} Strike the last word.

1376 Mr. {Whitfield.} The gentleman is recognized for 5
1377 minutes.

1378 Mr. {Sullivan.} Mr. Waxman is a good man, but I can't
1379 believe he said with a straight face that taxing, the
1380 borrowing and stimulus spending has actually helped our
1381 economy. It has done the opposite. There is a jobs report
1382 out today that shows that we are lacking in jobs. It is
1383 anemic. We are not gaining in that respect.

1384 Like Congressman Walden said, it allegedly cost almost
1385 \$300,000 per job in that stimulus bill, and only 4 percent of
1386 that stimulus money was spent on infrastructure that actually
1387 would create some jobs. The rest was just on pork-barrel
1388 spending, and I am glad no Republican voted for that because
1389 that is not the way out of this economic situation that we
1390 are in.

1391 And the Obama Administration is regulating what it can't
1392 legislate, and these rules are hurting people. People are
1393 suffering out there. The economy is suffering and
1394 unemployment rates are at an unacceptable level right now.
1395 We need to take a different approach, and requiring people to
1396 pay more through these regulations is asinine. We shouldn't
1397 do it. It is absolutely ridiculous, and it affects people.
1398 Congressman Walden came up with great examples. Everyone on
1399 this committee could talk about how it affects jobs and the
1400 economy in their own districts, and for example, in my State
1401 of Oklahoma, we have three plants that were told by the
1402 Federal Government if they come up with a State
1403 implementation plan and achieve a certain goal on emissions,
1404 that would be okay. They worked very hard and they did a
1405 good job to reach the goals that they were told to reach yet
1406 the Federal Government, the heavy hand of government came
1407 down and said no, you need to do this federal implementation

1408 plan. Well, what is that going to cost? It is going to the
1409 citizens of my State \$2 billion. It is going to go down to
1410 the ratepayers. You know, people are struggling. I have
1411 neighbors who have lost jobs. They don't know what they are
1412 going to do. And when they hear about this, it is wrong.

1413 We need to take a different approach. We don't need to
1414 create government jobs. We don't need government spending.
1415 We don't need to tax more. What we need to do is create
1416 private sector jobs, not census takers and IRS agents but
1417 private sector jobs. This is wrong. We need a different
1418 approach, and the I respect the gentleman on the other side
1419 of the aisle but I believe their approach has not worked. We
1420 need to take a different approach, and that is not regulating
1421 to the hilt everything out there. We need to take the human
1422 species. We talk about these snails and different bugs and
1423 things that are going to be affected, but what about the
1424 human species? We need think about them, how it is going to
1425 affect them.

1426 That is why this legislation is so important. It is
1427 going to focus on that. It is going to have a cost-benefit
1428 analysis and show how important this is and how important it
1429 is to our economy to not impose these onerous, these
1430 burdensome government regulations upon them, and I yield
1431 back.

1432 Mr. {Whitfield.} The gentleman yields back. If there
1433 is no further discussion, the vote will occur on the Capps
1434 amendment. All those in favor shall signify by saying
1435 aye. All those opposed, no. In the opinion of the chair,
1436 the nos have it and the amendment is not agreed to.

1437 If there are no further amendments, then we will now
1438 vote on the bill. All those in favor of reporting out this
1439 legislation, the TRAIN Act, signify by saying aye. All
1440 those opposed, no. In the opinion of the chair, the ayes
1441 have it, and the bill is reported out of committee.

1442 Without objection, staff is authorized to make technical
1443 and conforming changes to the bill approved by the
1444 subcommittee today. So ordered.

1445 The chair thanks all the members and the staff, and the
1446 subcommittee stands adjourned.

1447 [Whereupon, at 10:30 a.m., the subcommittee was
1448 adjourned.]