

**This is a preliminary transcript of a Committee markup. It has not yet been subject to a review process to ensure that the statements within are appropriately attributed to the witness or member of Congress who made them, to determine whether there are any inconsistencies between the statement within and what was actually said at the proceeding, or to make any other corrections to ensure the accuracy of the record.**

1 {York Stenographic Services, Inc.}

2 RPTS MEYERS

3 HIF264.000

4 MARKUP ON H.R. 2937, THE ``PIPELINE INFRASTRUCTURE AND

5 COMMUNITY PROTECTION ACT OF 2011'';

6 H.R. 2250, THE ``EPA REGULATORY RELIEF ACT OF 2011''; AND

7 H.R. 2681, THE ``CEMENT SECTOR REGULATORY RELIEF ACT OF

8 2011''

9 WEDNESDAY, SEPTEMBER 21, 2011

10 House of Representatives,

11 Committee on Energy and Commerce

12 Washington, D.C.

13 The Committee met, pursuant to call, at 10:22 a.m., in

14 Room 2123 of the Rayburn House Office Building, Hon. Fred

15 Upton [Chairman of the Committee] presiding.

16 Members present: Representatives Upton, Barton,

17 Stearns, Whitfield, Shimkus, Pitts, Bono Mack, Walden, Terry,

18 Rogers, Myrick, Sullivan, Murphy, Burgess, Blackburn,

19 Bilbray, Bass, Gingrey, Scalise, Latta, McMorris Rogers,  
20 Harper, Lance, Cassidy, Guthrie, Olson, McKinley, Gardner,  
21 Pompeo, Kinzinger, Griffith, Waxman, Dingell, Towns, Pallone,  
22 Rush, Eshoo, Green, DeGette, Capps, Doyle, Schakowsky,  
23 Gonzalez, Inslee, Baldwin, Ross, Matheson, Butterfield,  
24 Barrow, Matsui, Christensen and Castor.

25       Staff present: Gary Andres, Staff Director; Charlotte  
26 Baker, Press Secretary; Jim Barnette, General Counsel;  
27 Michael Beckerman, Deputy Staff Director; Maryam Brown, Chief  
28 Counsel, Energy and Power; Allison Busbee, Legislative Clerk;  
29 Garrett Golding, Professional Staff Member, Energy; Cory  
30 Hicks, Policy Coordinator, Energy and Power; Peter Kielty,  
31 Senior Legislative Analyst; Heidi King, Chief Economist; Mary  
32 Neumayr, Senior Energy Counsel; Kristin Amerling, Democratic  
33 Chief Counsel and Oversight Staff Director; Jeff Baran,  
34 Democratic Senior Counsel; Phil Barnett, Democratic Staff  
35 Director; Jen Berenholz, Democratic Chief Clerk; Alison  
36 Cassady, Democratic Senior Professional Staff Member; Greg  
37 Dotson, Democratic Energy and Environment Staff Director;  
38 Kelley Greenman, Democratic Legislative Associate; Caitlin  
39 Haberman, Democratic Policy Analyst; Elizabeth Letter,  
40 Democratic Assistant Press Secretary; Karen Lightfoot,  
41 Democratic Communications Director and Senior Policy Advisor;  
42 and Alexandra Teitz, Democratic Senior Counsel, Environment

43 and Energy.

|  
44 H.R. 2937

45           The {Chairman.} Good morning, everybody. The committee  
46 will come to order and the chair will call up H.R. 2937 and  
47 ask the clerk to report.

48           The {Clerk.} H.R. 2937, to amend Title 49, United  
49 States Code, to provide for enhanced safety and environmental  
50 protection in pipeline transportation, to provide for  
51 enhanced reliability in the transportation of the Nation's  
52 energy products by pipeline, and for other purposes.

53           [H.R. 2937 follows:]

54 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|  
55           The {Chairman.} The chair would recognize for the  
56 purpose of offering an amendment in the nature of a  
57 substitute and would ask the clerk to report that amendment.

58           The {Clerk.} Amendment in the nature of a substitute to  
59 H.R. 2937 offered by Mr. Upton of Michigan and Mr. Dingell of  
60 Michigan.

61           [The amendment follows:]

62 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
63           The {Chairman.} Without objection, the reading of the  
64 report is dispensed with and I would recognize myself for 5  
65 minutes in support of the amendment.

66           The amendment in the nature of a substitute offered by  
67 myself and Chairman Emeritus Dingell is a significant  
68 technical and qualitative improvement of the base text. I  
69 want to thank my friend and colleague from the great State of  
70 Michigan for his hard work and contribution towards this  
71 effort. It has been a bipartisan collaboration from the  
72 beginning and rises to the best traditions and values  
73 certainly of this committee.

74           The amendment in the nature of a substitute makes  
75 numerous important changes to H.R. 2937. Though the basic  
76 framework remains intact, the amendment substantially  
77 clarifies many provisions and provides added safety benefits  
78 to others.

79           Among the changes are these: a requirement that FMSA  
80 develop regulations to address pipelines under riverbeds if  
81 their review of existing pipelines is not adequate;  
82 modification of State One Call program requirements so no  
83 unintended consequences result from the bill's elimination of  
84 certain One Call exemptions; additional factors for FMSA to  
85 consider when evaluating the expansion of integrity

86 management requirements, clarification of FMSA's authority  
87 regarding carbon dioxide pipeline safety standards;  
88 additional FMSA studies on gas pipeline leak detection  
89 systems, and participation in minority- and women-owned  
90 businesses in the pipeline industry. The amendment greatly  
91 improves the underlying text and enhances regulatory  
92 certainty in what is a very complex and technical area of law  
93 and regulations.

94 I want to thank Mr. Dingell, Mr. Waxman and their staff,  
95 particular Greg Sunstrom and Jeff Baran, for their hard work  
96 and cooperation in putting a very worthy bill. And with  
97 that, I yield the balance of my time.

98 Are there other members wishing to speak on the  
99 amendment in the nature of a substitute?

100 Mr. {Dingell.} Mr. Chairman.

101 The {Chairman.} The gentleman from the great State of  
102 Michigan, Mr. Dingell, is recognized for 5 minutes.

103 Mr. {Dingell.} Mr. Chairman, I want to thank you for  
104 moving this bill along. I want to commend you for your  
105 remarkable leadership in this, and I want to observe that we  
106 have legislation today of which we can all be proud, and in a  
107 time when this place is not known either for its  
108 effectiveness or for the bipartisanship with which we  
109 proceed, you may take a bow for having done a splendid job in

110 seeing to it that this is both bipartisan, a good piece of  
111 legislation, and one which deserves enactment and support by  
112 all of our colleagues.

113         The amendment in the nature of a substitute takes a  
114 balanced approach to the issue of pipeline safety and will  
115 help fix many of the existing deficiencies in our current  
116 system. I will observe that this amendment is not only  
117 bipartisan but it has the support of everybody concerned,  
118 including the industry.

119         Specifically, the bill expands the Integrity Management  
120 Program while phasing our class location requirements. This  
121 puts a stronger safety standard in place while taking steps  
122 to remove redundant regulations. The legislation mandates  
123 the use of automatic and remote-control shutoff valves for  
124 new pipelines and requires studies of feasibility and  
125 retrofitting. The leak detection standards is a significant  
126 improvement on existing law and will help us increase public  
127 safety.

128         I want to thank you again, Mr. Chairman, for reaching  
129 across the aisle and working in such a constructive manner,  
130 and I want to congratulate my colleagues and friends on this  
131 side including my friend Mr. Waxman. We believe we should  
132 send this bill to the President's desk, and I urge all of our  
133 colleagues to support the legislation and to work with us to

134 again work with our colleagues on the transportation and  
135 infrastructure to bring the legislation to the Floor.

136 I think it should be observed, Mr. Chairman, that there  
137 are real concerns remaining about pipeline safety. Pipeline  
138 safety was a very much ignored situation in this country for  
139 many years and it took this committee with its leadership a  
140 lot of very hard work to see to it that both the statutes  
141 were moved in the proper direction and also that  
142 administration of the law was moved in the proper direction.  
143 When one of these pipelines goes off and leaks in an urban  
144 area, if it is a natural gas pipeline, the result could be  
145 calamitous and deaths and property destruction of enormous  
146 magnitude can follow. Similar problems in terms of long-term  
147 consequences from oil pipelines failing can be seen and heard  
148 and felt for years to come. We know, as you do, Mr.  
149 Chairman, that we have had similar experiences in Michigan  
150 recently and the consequences are going to be cursing us in a  
151 rather wonderful area of our State for years to come.

152 So I commend you. I am delighted to see us behaving in  
153 a proper bipartisan fashion. I am pleased that we have a  
154 good piece of legislation. The committee has worked together  
155 well. I look forward to working with you on this matter and  
156 hopefully in the future, and I would observe that the  
157 legislation deserves to move and that the amendment that we

158 are about to vote on be adopted overwhelming.

159 I thank you, Mr. Chairman, and I thank my colleagues who  
160 have worked on this and the staff that has done a good job.

161 Thank you. I yield back.

162 The {Chairman.} I appreciate the gentleman's kind  
163 words.

164 Are there other members wishing to speak on the  
165 amendment in the nature of a substitute?

166 Ms. {Eshoo.} Mr. Chairman.

167 The {Chairman.} I would recognize the gentlelady from  
168 California to strike the last word.

169 Ms. {Eshoo.} Thank you, Mr. Chairman.

170 The issue of pipeline safety is one that I take really  
171 very, very seriously, and I know that members of the  
172 committee do as well. Just about a year ago, a little over a  
173 year ago on September 9, 2010, in San Bruno, California,  
174 which is just north of my Congressional district, a natural  
175 gas explosion killed eight people and injured dozens. It  
176 destroyed or damaged over 100 homes, and most frankly, it  
177 wrecked lives. And I think there isn't a member here that  
178 didn't read about this tragedy that took place on the front  
179 pages, carried on the front pages of our Nation's newspapers  
180 and in the electronic media.

181 In this committee, we heard concerns from some of the

182 stakeholders that pipelines carrying diluted bitumen may pose  
183 greater safety risks than pipelines carrying conventional  
184 crude. I was surprised at the time when there was testimony  
185 given by Cynthia Quarterman, the Administrator of FMSA, which  
186 is the agency responsible for regulating pipelines, that the  
187 agency had not done a study to analyze the risks associated  
188 with transporting diluted bitumen. That is why on June 23rd  
189 of this year during the full Energy and Commerce Committee  
190 markup of the bill relating to the Keystone XL, I offered an  
191 amendment to require such a study. Now, I withdrew the  
192 amendment, as you know, Mr. Chairman, at your request so that  
193 we could address the issue during the pipeline safety bill.  
194 Is that your understanding, Mr. Chairman?

195       The {Chairman.} Yes, it is, and I would note that the  
196 pipeline safety bill does direct FMSA to complete a  
197 comprehensive review of all hazardous liquid pipeline  
198 facilities regulations to determine whether these regulations  
199 are sufficient to regulate pipeline facilities used for the  
200 transportation of diluted bitumen and the Secretary shall  
201 report the results of the review to our committee. That is  
202 in the bill, and it is a good provision in the bill and I  
203 appreciate the gentlelady for those suggestions not only  
204 during the subcommittee markup and the hearings that we had  
205 but in essence it is there as it should be.

206 Ms. {Eshoo.} Well, I appreciate what you did to help  
207 move this along. I think it is a good first step requiring  
208 FMSA to review the issue. Now, if the review determines that  
209 the current regulations are not sufficient, I think it will  
210 be important for the committee and for FMSA to act quickly to  
211 address any weaknesses in the standard.

212 Mr. Chairman, do I have your commitment to do everything  
213 that you can to protect this study provision as the bill  
214 moves to the Floor and to act swiftly if the FMSA study  
215 reveals the need for updated regulations?

216 The {Chairman.} Yes, you do. You have my assurance.  
217 It is an important provision and we would look to act quickly  
218 under my leadership and your participation.

219 Ms. {Eshoo.} Thank you, Mr. Chairman, very much. I  
220 yield back.

221 The {Chairman.} Are there other members wishing to  
222 speak on the amendment in the nature of a substitute?

223 Mr. {Rush.} Mr. Chairman.

224 The {Chairman.} The gentleman from Illinois.

225 Mr. {Rush.} I move to strike the last word.

226 The {Chairman.} Mr. Rush is recognized for 5 minutes.

227 Mr. {Rush.} Mr. Chairman, I want to first of all  
228 commend both yourself and Mr. Dingell and Ranking Member  
229 Waxman and also the subcommittee chairman, Mr. Whitfield, for

230 this outstanding work that you all have done on this  
231 bipartisan bill. I am pleased that you have agreed to  
232 include language from my office that would direct the  
233 Secretary of Transportation to submit to Congress a report on  
234 the number of minority business enterprises, women-owned  
235 business enterprises and disadvantaged business enterprises  
236 that have been granted permits to build or operate pipelines,  
237 and to the extent to which pipeline operators utilize the  
238 services of companies that are registered as minority-owned  
239 and women-owned or is a disadvantaged business enterprise.

240 Mr. Chairman, I was kind of astounded at the testimony  
241 of the official from the AOPL when they came to testify  
242 before the subcommittee, and I asked for the membership,  
243 minority-owned membership, women-owned membership of their  
244 association, and they could not forward me an determination,  
245 and I asked them, give me the information in a letter, and  
246 when I received the letter, they indicated that they didn't  
247 have the information, that they don't keep those records,  
248 which tells me that they aren't any, and in this era when we  
249 are trying to ensure diversity and try to ensure that  
250 everyone has economic opportunities, I am just kind of  
251 astounded that there are no members or that this information  
252 isn't forthcoming because the data just doesn't exist because  
253 there are no members of the minority or women who have been

254 contracted.

255           And so I am looking forward to this study, Mr. Chairman.  
256 I ask that you would also pay close attention to this study  
257 because I think the study is important to the American people  
258 and it is a study that is very, very important as we move  
259 forward on these particular matters.

260           Mr. {Waxman.} Would the gentleman yield when you have  
261 completed your comments?

262           Mr. {Rush.} I would certainly yield to the ranking  
263 members.

264           Mr. {Waxman.} I agree with you and all the others who  
265 have talked so far on this bill. I think it is a good  
266 bipartisan effort. I am pleased that we were able to work  
267 together to accomplish this goal. I want to commend Chairman  
268 Upton and Mr. Dingell particularly for their active role in  
269 fashioning the compromise that is in the great tradition of  
270 this committee to have compromises, to work out bills, and I  
271 am pleased the chairman started our markup with this bill  
272 where we can all be together because the others are going to  
273 be a lot more contentious, but I urge my colleagues to  
274 support this amendment and the final passage of the bill.

275           I thank the gentleman for yielding to me.

276           Mr. {Rush.} I yield back.

277           The {Chairman.} The gentleman yields back.

278           Are there other members wishing to speak on the  
279 amendment in the nature of a substitute? Seeing none, the  
280 vote now occurs on the amendment in the nature of a  
281 substitute. All those in favor will say aye. All those  
282 opposed, say no. The ayes appear to have it. The ayes have  
283 and the amendment is adopted.

284           The question now occurs on favorably reporting the bill  
285 as amended to the House. All those in favor will say aye.  
286 Those opposed, say no. The ayes appear to have it.

287           Mr. {Waxman.} Mr. Chairman, I request a roll call vote.

288           The {Chairman.} The gentleman requests a roll call  
289 vote.

290           I might ask if we might roll the vote until the first  
291 vote in the next series, if that is--

292           Mr. {Waxman.} I have no objection.

293           The {Chairman.} Without objection, we will do that just  
294 because some members are not here, and we will do that first  
295 when we have the next recorded vote.

|

296 H.R. 2250

297           The {Chairman.} The chair will now call up H.R. 2250  
298 and ask the clerk to report.

299           The {Clerk.} H.R. 2250, to provide additional time for  
300 the Administrator of the Environmental Protection Agency to  
301 issue achievable standards for industrial, commercial and  
302 institutional boilers, process heaters and incinerators, and  
303 for other purposes.

304           [H.R. 2250 follows:]

305 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
306           The {Chairman.} Without objection, the first reading of  
307 the bill is dispensed with. So ordered.

308           Are there any bipartisan amendments to the bill?

309           Mr. {Griffith.} Mr. Chairman.

310           The {Chairman.} Mr. Griffith.

311           Mr. {Griffith.} Mr. Chairman, it is not bipartisan now  
312 but I believe it will be. I have an amendment at the desk  
313 that I believe will make some members of the other side  
314 happy.

315           The {Chairman.} Let me come back to you next. Let me  
316 just ask if there are any bipartisan amendments ready to be  
317 offered. If not, for what purpose does the gentleman seek  
318 recognition?

319           Mr. {Griffith.} Mr. Chairman, I have an amendment at  
320 the desk.

321           The {Chairman.} The clerk will report the title of the  
322 amendment.

323           The {Clerk.} Amendment to H.R. 2250 offered by Mr.  
324 Griffith of Virginia.

325           [The amendment follows:]

326           \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
327           The {Chairman.} The gentleman is recognized for 5  
328 minutes in support of his amendment.

329           Mr. {Griffith.} Mr. Chairman, this amendment is a  
330 pretty straightforward amendment. We heard in the  
331 subcommittee some concern about the 15 months and the  
332 language that you see being amended, it says ``or on such  
333 later date as may be determined by the Administrator.'' That  
334 caused some folks some heartburn, so we are striking that  
335 language that says ``or on such later date as may be  
336 determined by the Administrator,'' which means the  
337 finalization of the regulations would have to be done 15  
338 months after the passage of this bill, and I would ask  
339 everybody to vote for it.

340           I think it clarifies what our intent and our purpose was  
341 on this bill, and I am happy to answer any questions members  
342 might have.

343           The {Chairman.} The gentleman yields back his time.  
344 Are there other members wishing to speak on the amendment  
345 offered by the gentleman from Virginia?

346           Mr. {Waxman.} Mr. Chairman.

347           The {Chairman.} Mr. Waxman is recognized for 5 minutes.

348           Mr. {Waxman.} Mr. Chairman, boilers are the second  
349 largest source of toxic mercury air pollution in the United

350 States. We know that if we don't require modern pollution  
351 controls to be installed on boilers that more babies will be  
352 born with birth defects, more babies will be born with brain  
353 damage, more children will not develop to reach their true  
354 potential. Unfortunately, the bill before us today sets up a  
355 triple line of attack on the Clean Air Act to ensure that  
356 industry never has to cut its toxic pollution from boilers.

357 First, the legislation removes any deadline for  
358 pollution sources to ever have to comply with the law.  
359 Explicitly under the bill, no compliance can be required  
360 within 5 years, but the bill goes ever further, saying that  
361 there is no deadline whatsoever for when sources must reduce  
362 pollution. It can be 10 years, 15 years or any other date.

363 Second, the legislation introduces new legal  
364 uncertainties into the Clean Air Act's standard-setting  
365 process for air toxics. If enacted, this legislation will  
366 guarantee years of litigation and could likely result in weak  
367 or meaningless standards ultimately being adopted.

368 And finally, although EPA has requested the courts to  
369 provide until April 2012 to reconsider the boiler rule, this  
370 legislation blocks EPA action until 15 months after the date  
371 of enactment or at least early 2013.

372 The amendment before us improves one of these three  
373 problems by stating that EPA must finalize a new boiler rule

374 on the date that is exactly 15 months from the date of  
375 enactment. This is a very odd way to draft legislation, but  
376 I don't oppose it. However, all members should understand  
377 that even with the adoption of this amendment, two out of the  
378 three attacks on Clean Air Act remain. The standards will be  
379 litigated and likely weakened or eviscerated. Unless all of  
380 these problems are fixed, industrial boilers will continue to  
381 emit toxic air pollution uncontrolled. The people who are  
382 most affected are those who are nearby these facilities,  
383 often low-income, often minority people whose children will  
384 be exposed to mercury. Whoever they are that will be exposed  
385 to this mercury, it is something that we should not allow to  
386 continue on an indefinite basis, and I hope members will be  
387 mindful of that when we get to final passage of the bill.

388 I yield back the balance of my time.

389 The {Chairman.} The gentleman yields back.

390 Are there other members wishing to speak in the Griffith  
391 amendment?

392 Dr. {Gingrey.} Mr. Chairman.

393 The {Chairman.} The gentleman from Georgia, Dr.  
394 Gingrey.

395 Dr. {Gingrey.} Mr. Chairman, just real quickly. This  
396 amendment would strike ``or such later date as may be  
397 determined by the Administrator,'' so it seems to me, as

398 Representative Griffith said, this is a simple, clear  
399 amendment. It clarifies and removes any shadow of a doubt in  
400 regard to the 15 months if the Administrator might delay it  
401 even further. This removes that possibility, and I am in  
402 favor of the amendment and I yield back.

403 The {Chairman.} The gentleman yields back.

404 Are there other members wishing to speak on the  
405 amendment? Seeing none, the vote occurs on the amendment  
406 offered by the gentleman from Virginia. All those in favor  
407 will say aye. All those opposed, say no. The ayes appear to  
408 have it. The ayes have it and the amendment is agreed to.

409 Are there other--

410 Mr. {Rush.} Mr. Chairman.

411 The {Chairman.} The gentleman from Illinois, Mr. Rush.

412 Mr. {Rush.} Mr. Chairman, in the spirit that is kind of  
413 contagious, the bipartisan contagion that is going on in this  
414 committee, I have an amendment, that if my amendment is  
415 agreed upon, then we might be able to get this bill--from my  
416 perspective, I might be able to support the entire bill.

417 But Mr. Chairman, we fixed one aspect of this bill that  
418 I felt was confusing and dilatory but now there is an  
419 additional concern that I have. During her testimony at the  
420 September 8th hearing, Gina McCarthy, the Assistant  
421 Administrator for Air and Radiation at the U.S. Environmental

422 Protection Agency, she called this bill a direct attack at  
423 the corps of the Clean Air Act--

424 Mr. {Barton.} Mr. Chairman, he hasn't offered the  
425 amendment yet.

426 The {Chairman.} If the gentleman from Illinois will  
427 yield for one second, are you going to offer an amendment or  
428 do you want to strike the last word?

429 Mr. {Rush.} I want to offer a amendment.

430 The {Chairman.} Offer the amendment?

431 Mr. {Rush.} Right.

432 The {Chairman.} The clerk will report the title of the  
433 amendment.

434 The {Clerk.} Amendment to H.R. 2250 offered by Mr. Rush  
435 of Illinois.

436 [The amendment follows:]

437 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|  
438           The {Chairman.} The amendment will be considered as  
439 read. The staff will distribute the amendment, and now the  
440 gentleman is recognized for 5 minutes in support of his  
441 amendment.

442           Mr. {Rush.} All right. Well, that is a good way of  
443 getting more time. I thank you.

444           I want to say that one of the concerns I have is that  
445 the bill would indefinitely--we have dealt with the  
446 indefinite delaying of the bill but additionally, Mr.  
447 Chairman, as Mrs. McCarthy testified before the subcommittee,  
448 H.R. 2250 would raise additional public health concerns by  
449 weakening substantive Clean Air Act provisions by requiring  
450 that the EPA select ``the least burdensome'' of the range of  
451 regulatory alternatives, even if a more stringent standard is  
452 feasible, economically viable and would provide greater  
453 public health protection, and as written in Section 5 of H.R.  
454 2250, it would raise legal uncertainty and industry could  
455 then argue in the courts that this new language should modify  
456 or supersede existing provisions of the Clean Air Act which  
457 were designed to achieve maximum reductions in toxic air  
458 pollution. While it remains unclear if this was the intent  
459 of the language or not, the fact remains that the language in  
460 Section 5 is ambiguous or, at best, will roll back important

461 provisions of the Clean Air Act at worse.

462         Mr. Chairman, the research also tells us that low-income  
463 families and minorities are disproportionately affected by  
464 toxic air pollution because they are more likely to live  
465 closer to these industrial facilities. The hazardous air  
466 pollutants emitted from these boilers including mercury and  
467 other harmful toxins can impair brain development,  
468 neurological function and the ability to learn as well as  
469 potentially cause cancer. These toxins can also lead to  
470 respiratory and cardiovascular disease by damaging the  
471 kidneys, lungs and nervous system.

472         So Mr. Chairman, the amendment that I am offering today  
473 would clarify that Section 5 of H.R. 2250 is intended to  
474 supplement the provisions of and shall not be construed to  
475 supersede any requirement, limitation or other provision of  
476 Sections 112 and 129 of the Clean Air Act. If it is the  
477 majority's intent to clarify these rules, and provide  
478 certainty for business, then this amendment would clearly  
479 bring clarity to the EPA, to the industry and the courts  
480 going forward as these rules are inevitably challenged in the  
481 judicial system.

482         So Mr. Chairman, in the spirit of contagious  
483 bipartisanship this morning, I urge all my colleagues to  
484 support my amendment, and with that, I yield back the balance

485 of my time.

486 The {Chairman.} The gentleman yields back.

487 Are there members--Mr. Shimkus from Illinois.

488 Mr. {Shimkus.} I speak in opposition to the amendment,  
489 Mr. Chairman. The whole basis of this piece of legislation,  
490 H.R. 2250, is to have achievable standards, standards that  
491 can be achieved in real-world operations. EPA currently does  
492 a pollutant-by-pollutant analysis. The problem with that is,  
493 is that when they do that, the standards they set cannot be  
494 achieved by current technology, and I don't question my  
495 colleague's intent and his concern, but what our concern is  
496 to make sure that when the EPA moves on these processes that  
497 the language of this legislation and the word ``achievable''  
498 is really key to this piece of legislation because they have  
499 to be able to be met under actual operating conditions, not  
500 some theoretical pie-in-the-sky theory, because if the EPA  
501 does assign standards that can't be met by current  
502 technology, we know what will happen: Industry will shut  
503 down and the things that are produced in this sector will be  
504 produced elsewhere.

505 So that is why I reluctantly oppose my colleague's  
506 amendment.

507 Mr. {Rush.} Would the gentleman yield?

508 Mr. {Shimkus.} I would be happy to yield.

509 Mr. {Rush.} I hear the gentleman's concern but, Mr.  
510 Chairman, I have continuing concern about this section. This  
511 section appears to rewrite the way EPA sets emissions limits  
512 on toxic pollutants and makes it harder to achieve meaningful  
513 reductions from boilers and incinerators. Section 5 puts new  
514 constraints and conditions on how and when the EPA can set  
515 specific emissions standards for toxic pollution. It also  
516 requires the EPA to select what I called in my opening  
517 statement the ``least burdensome regulatory option'' when  
518 deciding how to cut emissions.

519 But the bill is silent on what ``least burdensome''  
520 means. Does this mean that the EPA can only require boilers  
521 to perform annual facility tune-ups or does it mean that EPA  
522 can continue to set achievable emissions standards but must  
523 consider the least burdensome option when going beyond what  
524 the law requires? These are two distinct legal  
525 interpretations of the language. At minimum, this bill will  
526 create a new litigation process and more delay, and I fear  
527 that this section could require EPA to lower the bar for  
528 reduction of toxic air pollution. Rather than requiring the  
529 most polluted facilities to do more to reduce their toxic  
530 emissions, EPA can just require everyone to do less. From  
531 the standpoint of public health, this is totally  
532 unacceptable, and I yield back to the gentleman.

533 Mr. {Shimkus.} Reclaiming my time. I would just  
534 continue to just make the point that if EPA sets standards  
535 that are not achievable by real-world technology, then the  
536 option is to shut down the facility and not have the jobs and  
537 move them overseas.

538 The ``achievable'' language is key in the reforms needed  
539 in this piece of legislation, and I continue to oppose the  
540 amendment. I yield back my time.

541 The {Chairman.} The gentleman yields back. The  
542 gentleman from California is recognized for 5 minutes.

543 Mr. {Waxman.} Mr. Chairman, I rise in support of the  
544 Rush amendment.

545 Proponents of this bill suggest that it gives industry  
546 regulatory certainty. I disagree. This bill just adds more  
547 confusing to what is already a long-overdue effort to reduce  
548 toxic air pollution from boilers and incinerators. In  
549 addition to providing no time for implementation of new  
550 emissions standards, the bill creates significant questions  
551 about how EPA would set limits for toxic air pollution.

552 We know what the law currently requires. The Clean Air  
553 Act takes a reasonable approach. It says that EPA should set  
554 emission limits based on the emission levels already being  
555 achieved by similar facilities in the real world. For  
556 existing sources, EPA bases the emission standard for each

557 pollutant on the average emissions achieved by the best-  
558 performing 12 percent of facilities, not the top 1 percent or  
559 even 5 percent, the top 12 percent. This has been a standard  
560 that has been in place for 20 years. It had worked well. A  
561 hundred categories of sources are already achieving this  
562 requirement.

563         Section 5 of this bill creates legal uncertainty about  
564 whether EPA will be able to follow this model for boilers and  
565 incinerators. It directs EPA to select the ``least  
566 burdensome'' regulatory alternative. The idea of least  
567 burdensome sounds appealing but history shows that it can be  
568 a problem. That exact language was included in the Toxic  
569 Substances Control Act where it proved to be completely  
570 unworkable. The so-called burden on industry should be one  
571 of the factors EPA takes into account when weighing the  
572 different options for how to cut toxic air pollution but it  
573 should not be the only one. EPA should have the flexibility  
574 to choose a regulatory path that is feasible and protects  
575 public health.

576         Attorneys with years of experience litigating the Clean  
577 Air Act told our committee that this section will exempt  
578 boilers and incinerators from having to achieve maximum  
579 reductions in toxic air pollution. At best, the current  
580 language is ambiguous, driving new litigation. At worst, it

581 will eviscerate toxic air pollution standards for some of the  
582 largest sources of toxic air pollution including mercury.

583         The Rush amendment clarifies the intention of this  
584 language. It simply states that the language in this section  
585 supplements but does not replace the requirement that EPA set  
586 numeric emission limits based on the best-performing  
587 emissions reduction technology unless such limits are not  
588 feasible. It is time for our colleagues to clarify what this  
589 language means rather than leave it to industry to litigate  
590 for years and then later for the courts to decide. Members  
591 who want this bill to gut the Clean Air Act and allow these  
592 boilers and incinerators to continue polluting without limits  
593 will oppose this amendment, but if you want to clean up  
594 neurotoxins and carcinogens in communities across the  
595 country, particularly in low-income communities with minority  
596 groups. If you want to keep our kids healthy, you will  
597 support this amendment to preserve the Clean Air Act tools to  
598 cut toxic air pollution and protect public health.

599         So I urge support for the Rush amendment.

600         Mr. {Shimkus.} Would the gentleman yield for just 30  
601 seconds?

602         Mr. {Waxman.} I would be happy to yield.

603         Mr. {Shimkus.} Because the ranking member brought up  
604 the question of ambiguity, I think our position, my position

605 would be, it has been ambiguity that has kept a lot of this  
606 in litigation since 2004. So I would argue at the outset  
607 that this helps provide additional guidance to the EPA, and  
608 that is why I still stand in opposition.

609 I yield back. Thank you.

610 Mr. {Waxman.} Well, reclaiming my time. We have a law  
611 that has been in effect for 20 years. It has worked well.  
612 Whatever issues that might have been ambiguous in that law  
613 have already been settled, and now we are coming in with a  
614 replacement for it, and that replacement, we believe, is  
615 ambiguous.

616 So if you make this a supplement to the existing law, it  
617 would give the EPA the instructions that they ought to be  
618 mindful of the costs to industry, but if you make this  
619 amendment as this bill does a replacement, it invites  
620 additional litigation and additional litigation invites  
621 additional years where the matter won't be settled, and  
622 during that whole period of time, mercury toxic emissions  
623 will continue to pollute these communities with a lot of low-  
624 income people usually and a lot of minorities, Hispanics  
625 African Americans. Those are the people who suffer the most  
626 from these kinds of emissions, and when it comes to something  
627 like mercury, we are talking about a toxin that can kill and  
628 injure children and make them least able to succeed in life.

629           So I would urge adoption of the Rush amendment.

630           The {Chairman.} The gentleman's time has expired. Are  
631 there other members wishing to speak on the amendment? The  
632 gentleman from Virginia is recognized for 5 minutes.

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

634           This amendment would add a provision stating that  
635 Section 5 is intended to supplement and not supersede any  
636 requirement on limitations or other provisions of Section 112  
637 and 129 of the Clean Air Act. Those sections direct the EPA  
638 to set maximum achievable control technology for sources that  
639 emit hazardous pollutants. While it should be clear from the  
640 statute that these be achievable in practice, the courts have  
641 created ambiguities. And Chairman Emeritus Waxman is  
642 correct, the code references 12 percent, and he is correct in  
643 his citing of that. However, when he says that it is not 1  
644 percent or even 5 percent, that may be true in the code but  
645 that is not true in the actions that we have seen.

646           The testimony that we have heard indicates that both on  
647 this bill and I believe on the cement MACT bill that the EPA  
648 standards are actually going for 2 percent of what is  
649 currently achievable in industry, and the clear language was  
650 that it was to be 12 percent although it did give the  
651 Administrator the ability to have some flexibility but I  
652 don't think they intended for it to be 2 percent. And what

653 is interesting, when you look at the language, it says  
654 ``excluding units'', in other words, you are not to count in  
655 that 12 percent units which may have first met the lowest  
656 achievable emission rates 18 months before the date such  
657 standards are proposed or 30 months before the date that such  
658 standards are promulgated, whichever is later. So clearly it  
659 looks like we need action and we need clarification for the  
660 EPA because it does not appear they are following the rules  
661 as stated in the language and as acknowledged by Chairman  
662 Emeritus Waxman. And so I would submit to you that this  
663 amendment needs to be rejected.

664 Further, this amendment actually does create confusion  
665 for the EPA because the agency would have to choose between  
666 the existing language in the statute and the language that is  
667 in the bill and Congress's clarifications in this bill and  
668 that those standards are to be set as achievable in practice  
669 by real-world facilities. It is understandable that some  
670 folks are just going to be against the bill, and in that  
671 sense, we have the debate that we consistently have when we  
672 are talking about regulations. One side argues jobs, the  
673 other side argues health care. But I would point out that in  
674 regard to this bill, I do believe it is significant. Based  
675 on the evidence we heard in the hearings in the subcommittee,  
676 this bill would be a significant job creation benefit. It

677 also will keep a lot of jobs, particularly in the  
678 manufacturing sector, from leaving the country, and we heard  
679 numerous testimony to that effect, particularly from the 9th  
680 district of Virginia.

681 In regard to adopting the amendment, I would ask you to  
682 reject it, and as Jefferson says in the Jefferson's Manual,  
683 he that would totally destroy, referencing the bill, will not  
684 amend it, or as set in gray, the child is not to be put to a  
685 nurse that cares not for it, and I would submit this is an  
686 amendment submitted by one who cares not for the bill and it  
687 should be rejected. Thank you.

688 The {Chairman.} The gentleman yields back his time.  
689 Are there other members wishing to speak on the amendment?  
690 Seeing none--

691 Mr. {Rush.} Mr. Chairman.

692 Mr. {Towns.} Mr. Chairman.

693 The {Chairman.} The gentleman from New York.

694 Mr. {Towns.} I yield to the gentleman from Illinois,  
695 Mr. Rush.

696 Mr. {Rush.} Mr. Chairman, help me, somebody. I need  
697 you all, this remarkable group of people who are no more than  
698 scientists and you have impressed me with your arguments over  
699 these last few months about how you all can rewrite science  
700 and things like that, but help me to understand, in Section 5

701 when this bill requires the EPA to select the ``least  
702 burdensome of the range of regulatory alternatives,'' what  
703 does ``least burdensome'' mean? Maybe somebody can tell me  
704 that. If you can just tell me in your mind, what is the  
705 least burdensome? How would you interpret ``least  
706 burdensome'' or how would you argue that the EPA come up with  
707 the least burdensome alternatives, regulatory alternatives?  
708 How would you define it?

709 Mr. {Griffith.} Would the gentleman yield?

710 Mr. {Rush.} Yes, I will yield.

711 Mr. {Towns.} I would be delighted to yield.

712 Mr. {Griffith.} Mr. Chairman, I am happy to try to  
713 answer his question for him. ``Least burdensome,'' like in  
714 so many endeavors, it is the amount, the easiest way to carry  
715 the burden. Imagine a pack on your back. What you want to  
716 do is to figure out a way that you can carry that pack to the  
717 designation you wish to go with having the lightest weight on  
718 you and without bending you down to the ground, and I would  
719 submit that what is happening currently is the regulations as  
720 proposed are bending businesses down to the ground and many  
721 of them will never finish their trek and they will collapse  
722 under the weight. ``Least burdensome'' means to lift that  
723 weight off their backs a little bit to make it the least or  
724 make it the best way possible for them to carry that load

725 that we want them to carry to make it to their destination  
726 without crippling them.

727 Mr. {Towns.} I yield 2 minutes to the gentleman from  
728 Illinois.

729 Mr. {Rush.} Well, I thank the gentleman because he  
730 really--in his definition, he really kind of made clear my  
731 point in terms of asking the question.

732 First of all, we are not backpackers, we are  
733 legislators. We are not mountain climbers and we are not  
734 walking along a trail. We are legislators. And so I don't  
735 understand the example of backpacking.

736 But he also, you know, just made my point because he has  
737 indicated that in terms of his interpretation, it does not  
738 agree with what my interpretation of what ``least  
739 burdensome'' would mean, particularly as it relates to more  
740 stringent standards. If there are more stringent standards  
741 that are economically feasible, viable and would provide  
742 greater public health protection, that is the part, that is  
743 the aspect of legislating as opposed to backpacking. We are  
744 here trying to not only get to a certain goal but we are also  
745 trying to provide greater public health protection, and so I  
746 think, Mr. Chairman, that the gentleman's definition  
747 completely brings the point home that any two individuals  
748 that will have adversarial positions on this want to

749 disagree, and when it winds up, it is going to wind up in  
750 court and it is going to delay and delay and further delay  
751 because this language is really ambiguous and we need to try  
752 to either correct the language or get the language out. I am  
753 asking that you clarify this language, clarify it before we  
754 take a vote on it.

755 Mr. {Shimkus.} Will the gentleman yield for 53 seconds,  
756 the gentleman from New York?

757 Mr. {Towns.} I would be delighted to yield.

758 Mr. {Shimkus.} Part of the use of this language comes  
759 out of the President's Executive Order 13563, which says an  
760 agency should tailor its regulations to impose the least  
761 burden on society. So, I mean, many of our debates this year  
762 have been on the President's Executive Order that he issued  
763 in January to say we need to have regulations but they have  
764 to make sure that they don't destroy job creation, so that is  
765 why we use that language, and I yield back my time to the  
766 gentleman from New York.

767 Mr. {Towns.} On that note, I yield back, Mr. Chairman.

768 The {Chairman.} The gentleman yields back. Are there  
769 other members wishing to speak on the amendment? The  
770 gentleman from Kentucky, Mr. Whitfield.

771 Mr. {Whitfield.} I would just like to ask counsel a  
772 couple of questions. In the debate on this boiler MACT

773 legislation, we have heard a lot of comment about mercury,  
774 the reduction of mercury and how important that is, and we  
775 all recognize that, but I would ask the counsel, in the  
776 benefits calculated by EPA in issuing the regulation on  
777 boiler MACT, did they determine that there would be any  
778 benefit at all from the reduction of mercury for boiler MACT?

779 {Counsel.} They didn't calculate a benefit for  
780 reductions in mercury.

781 Mr. {Whitfield.} So they didn't even--they did not  
782 calculate any benefit from that. So all their benefit would  
783 come from reduction in particulate matter, not hazardous air  
784 pollutants?

785 {Counsel.} Yes.

786 Mr. {Whitfield.} Thank you. I yield back the balance  
787 of my time.

788 The {Chairman.} The gentleman yields back. Are there  
789 other members wishing to speak on the amendment? Seeing  
790 none, the vote occurs on the amendment offered by the  
791 gentleman from Illinois. All those in favor, say aye. All  
792 those opposed, say no. The nos appear to have it.

793 Mr. {Waxman.} Mr. Chairman, I request a roll call vote.

794 The {Chairman.} The gentleman from California asks for  
795 a roll call. The clerk will call the roll on this amendment  
796 and immediately following this amendment we will have the

797 vote on final passage on H.R. 2937, the pipeline safety bill  
798 which was debated earlier. The clerk will call the roll on  
799 the Rush amendment.

800 The {Clerk.} Mr. Barton?

801 Mr. {Barton.} No.

802 The {Clerk.} Mr. Barton votes no.

803 Mr. Stearns?

804 Mr. {Stearns.} No.

805 The {Clerk.} Mr. Stearns votes no.

806 Mr. Whitfield?

807 Mr. {Whitfield.} No.

808 The {Clerk.} Mr. Whitfield votes no.

809 Mr. Shimkus?

810 Mr. {Shimkus.} No.

811 The {Clerk.} Mr. Shimkus votes no.

812 Mr. Pitts?

813 Mr. {Pitts.} No.

814 The {Clerk.} Mr. Pitts votes no.

815 Mrs. Bono Mack?

816 Mrs. {Bono Mack.} No.

817 The {Clerk.} Mrs. Bono Mack votes no.

818 Mr. Walden?

819 [No response.]

820 The {Clerk.} Mr. Terry?

821 Mr. {Terry.} No.

822 The {Clerk.} Mr. Terry votes no.

823 Mr. Rogers?

824 Mr. {Rogers.} No.

825 The {Clerk.} Mr. Rogers votes no.

826 Mrs. Myrick?

827 Mrs. {Myrick.} No.

828 The {Clerk.} Mrs. Myrick votes no.

829 Mr. Sullivan?

830 [No response.]

831 The {Clerk.} Mr. Murphy?

832 [No response.]

833 The {Clerk.} Mr. Burgess?

834 Dr. {Burgess.} No.

835 The {Clerk.} Mr. Burgess votes no.

836 Mrs. Blackburn?

837 Mrs. {Blackburn.} No.

838 The {Clerk.} Mrs. Blackburn votes no.

839 Mr. Bilbray?

840 Mr. {Bilbray.} No.

841 The {Clerk.} Mr. Bilbray votes no.

842 Mr. Bass?

843 Mr. {Bass.} No.

844 The {Clerk.} Mr. Bass votes no.

845 Mr. Gingrey?  
846 Dr. {Gingrey.} No.  
847 The {Clerk.} Mr. Gingrey votes no.  
848 Mr. Scalise?  
849 [No response.]  
850 The {Clerk.} Mr. Latta?  
851 Mr. {Latta.} No.  
852 The {Clerk.} Mr. Latta votes no.  
853 Mrs. McMorris Rodgers?  
854 Mrs. {McMorris Rodgers.} No.  
855 The {Clerk.} Mrs. McMorris Rodgers votes no.  
856 Mr. Harper?  
857 [No response.]  
858 The {Clerk.} Mr. Lance?  
859 Mr. {Lance.} No.  
860 The {Clerk.} Mr. Lance votes no.  
861 Mr. Cassidy?  
862 Dr. {Cassidy.} No.  
863 The {Clerk.} Mr. Cassidy votes no.  
864 Mr. Guthrie?  
865 Mr. {Guthrie.} No.  
866 The {Clerk.} Mr. Guthrie votes no.  
867 Mr. Olson?  
868 Mr. {Olson.} No.

869 The {Clerk.} Mr. Olson votes no.  
870 Mr. McKinley?  
871 Mr. {McKinley.} No.  
872 The {Clerk.} Mr. McKinley votes no.  
873 Mr. Gardner?  
874 Mr. {Gardner.} No.  
875 The {Clerk.} Mr. Gardner votes no.  
876 Mr. Pompeo?  
877 Mr. {Pompeo.} No.  
878 The {Clerk.} Mr. Pompeo votes no.  
879 Mr. Kinzinger?  
880 Mr. {Kinzinger.} No.  
881 The {Clerk.} Mr. Kinzinger votes no.  
882 Mr. Griffith?  
883 Mr. {Griffith.} No.  
884 The {Clerk.} Mr. Griffith votes no.  
885 Mr. Waxman?  
886 Mr. {Waxman.} Aye.  
887 The {Clerk.} Mr. Waxman votes aye.  
888 Mr. Dingell?  
889 Mr. {Dingell.} Aye.  
890 The {Clerk.} Mr. Dingell votes aye.  
891 Mr. Markey?  
892 [No response.]

893 The {Clerk.} Mr. Towns?  
894 Mr. {Towns.} Aye.  
895 The {Clerk.} Mr. Towns votes aye.  
896 Mr. Pallone?  
897 Mr. {Pallone.} Aye.  
898 The {Clerk.} Mr. Pallone votes aye.  
899 Mr. Rush?  
900 Mr. {Rush.} Aye.  
901 The {Clerk.} Mr. Rush votes aye.  
902 Ms. Eshoo?  
903 Ms. {Eshoo.} Aye.  
904 The {Clerk.} Ms. Eshoo votes aye.  
905 Mr. Engel?  
906 [No response.]  
907 The {Clerk.} Mr. Green?  
908 Mr. {Green.} Aye.  
909 The {Clerk.} Mr. Green votes aye.  
910 Ms. DeGette?  
911 [No response.]  
912 The {Clerk.} Mrs. Capps?  
913 Mrs. {Capps.} Aye.  
914 The {Clerk.} Mrs. Capps votes aye.  
915 Mr. Doyle?  
916 Mr. {Doyle.} Yes.

917 The {Clerk.} Mr. Doyle votes aye.  
918 Ms. Schakowsky?  
919 Ms. {Schakowsky.} Aye.  
920 The {Clerk.} Ms. Schakowsky votes aye.  
921 Mr. Gonzalez?  
922 Mr. {Gonzalez.} Aye.  
923 The {Clerk.} Mr. Gonzalez votes aye.  
924 Mr. Inslee?  
925 [No response.]  
926 The {Clerk.} Ms. Baldwin?  
927 Ms. {Baldwin.} Aye.  
928 The {Clerk.} Ms. Baldwin votes aye.  
929 Mr. Ross?  
930 Mr. {Ross.} No.  
931 The {Clerk.} Mr. Ross votes no.  
932 Mr. Matheson?  
933 Mr. {Matheson.} No.  
934 The {Clerk.} Mr. Matheson votes no.  
935 Mr. Butterfield?  
936 Mr. {Butterfield.} No.  
937 The {Clerk.} Mr. Butterfield votes no.  
938 Mr. Barrow?  
939 Mr. {Barrow.} No.  
940 The {Clerk.} Mr. Barrow votes no.

941 Ms. Matsui?

942 Ms. {Matsui.} Aye.

943 The {Clerk.} Ms. Matsui votes aye.

944 Mrs. Christensen?

945 Dr. {Christensen.} Aye.

946 The {Clerk.} Mrs. Christensen votes aye.

947 Ms. Castor?

948 Ms. {Castor.} Aye.

949 The {Clerk.} Ms. Castor votes aye.

950 Chairman Upton?

951 The {Chairman.} Votes no.

952 The {Clerk.} Chairman Upton votes nay.

953 The {Chairman.} Are there other members wishing to  
954 vote? Mr. Walden?

955 Mr. {Walden.} No.

956 The {Clerk.} Mr. Walden votes no.

957 The {Chairman.} Mr. Sullivan?

958 Mr. {Sullivan.} No.

959 The {Clerk.} Mr. Sullivan votes no.

960 The {Chairman.} Mr. Harper?

961 Mr. {Harper.} No.

962 The {Clerk.} Mr. Harper votes no.

963 The {Chairman.} Mr. Scalise?

964 Mr. {Scalise.} No.

965           The {Clerk.} Mr. Scalise votes no.  
966           The {Chairman.} Mr. Inslee?  
967           Mr. {Inslee.} Inslee votes aye.  
968           The {Clerk.} Mr. Inslee votes aye.  
969           The {Chairman.} Are there other members wishing to cast  
970 their vote? Seeing none, the clerk will report the tally.  
971 Reminder to members that we will be voting immediately on  
972 final passage of the pipeline safety bill once the clerk  
973 reports the vote. Oh, Mr. Murphy. How is Mr. Murphy  
974 recorded?  
975           The {Clerk.} Mr. Murphy is not recorded.  
976           The {Chairman.} Mr. Murphy votes no.  
977           The {Clerk.} Mr. Murphy votes no.  
978           Mr. Chairman, on that vote, there were 35 nos, 16 ayes.  
979           The {Chairman.} Thirty-five nos, 16 ayes. The  
980 amendment is not agreed to.  
981           The clerk will now call the roll on H.R. 2937, the  
982 pipeline safety bill, as amended, final passage.  
983           The {Clerk.} Mr. Barton?  
984           Mr. {Barton.} Yes.  
985           The {Clerk.} Mr. Barton votes aye.  
986           Mr. Stearns?  
987           Mr. {Stearns.} Aye.  
988           The {Clerk.} Mr. Stearns votes aye.

989 Mr. Whitfield?  
990 Mr. {Whitfield.} Aye.  
991 The {Clerk.} Mr. Whitfield votes aye.  
992 Mr. Shimkus?  
993 Mr. {Shimkus.} Aye.  
994 The {Clerk.} Mr. Shimkus votes aye.  
995 Mr. Pitts?  
996 Mr. {Pitts.} Aye.  
997 The {Clerk.} Mr. Pitts votes aye.  
998 Mrs. Bono Mack?  
999 Mrs. {Bono Mack.} Aye.  
1000 The {Clerk.} Mrs. Bono Mack votes aye.  
1001 Mr. Walden?  
1002 Mr. {Walden.} Aye.  
1003 The {Clerk.} Mr. Walden votes aye.  
1004 Mr. Terry?  
1005 Mr. {Terry.} Aye.  
1006 The {Clerk.} Mr. Terry votes aye.  
1007 Mr. Rogers?  
1008 Mr. {Rogers.} Aye.  
1009 The {Clerk.} Mr. Rogers votes aye.  
1010 Mrs. Myrick?  
1011 [No response.]  
1012 The {Clerk.} Mr. Sullivan?

1013 [No response.]

1014 The {Clerk.} Mr. Murphy?

1015 Mr. {Murphy.} Aye.

1016 The {Clerk.} Mr. Murphy votes aye.

1017 Mr. Burgess?

1018 Dr. {Burgess.} Aye.

1019 The {Clerk.} Mr. Burgess votes aye.

1020 Mrs. Blackburn?

1021 Mrs. {Blackburn.} Aye.

1022 The {Clerk.} Mrs. Blackburn votes aye.

1023 Mr. Bilbray?

1024 Mr. {Bilbray.} Aye.

1025 The {Clerk.} Mr. Bilbray votes aye.

1026 Mr. Bass?

1027 Mr. {Bass.} Aye.

1028 The {Clerk.} Mr. Bass votes aye.

1029 Mr. Gingrey?

1030 Dr. {Gingrey.} Aye.

1031 The {Clerk.} Mr. Gingrey votes aye.

1032 Mr. Scalise?

1033 Mr. {Scalise.} Aye.

1034 The {Clerk.} Mr. Scalise votes aye.

1035 Mr. Latta?

1036 Mr. {Latta.} Aye.

1037           The {Clerk.}   Mr. Latta votes aye.  
1038           Mrs. McMorris Rodgers?  
1039           Mrs. {McMorris Rodgers.}   Aye.  
1040           The {Clerk.}   Mrs. McMorris Rodgers votes aye.  
1041           Mr. Harper?  
1042           Mr. {Harper.}   Aye.  
1043           The {Clerk.}   Mr. Harper votes aye.  
1044           Mr. Lance?  
1045           Mr. {Lance.}   Aye.  
1046           The {Clerk.}   Mr. Lance votes aye.  
1047           Mr. Cassidy?  
1048           Dr. {Cassidy.}   Aye.  
1049           The {Clerk.}   Mr. Cassidy votes aye.  
1050           Mr. Guthrie?  
1051           Mr. {Guthrie.}   Aye.  
1052           The {Clerk.}   Mr. Guthrie votes aye.  
1053           Mr. Olson?  
1054           Mr. {Olson.}   Aye.  
1055           The {Clerk.}   Mr. Olson votes aye.  
1056           Mr. McKinley?  
1057           Mr. {McKinley.}   Aye.  
1058           The {Clerk.}   Mr. McKinley votes aye.  
1059           Mr. Gardner?  
1060           Mr. {Gardner.}   Aye.

1061 The {Clerk.} Mr. Gardner votes aye.  
1062 Mr. Pompeo?  
1063 Mr. {Pompeo.} Aye.  
1064 The {Clerk.} Mr. Pompeo votes aye.  
1065 Mr. Kinzinger?  
1066 Mr. {Kinzinger.} Aye.  
1067 The {Clerk.} Mr. Kinzinger votes aye.  
1068 Mr. Griffith?  
1069 Mr. {Griffith.} Aye.  
1070 The {Clerk.} Mr. Griffith votes aye.  
1071 Mr. Waxman?  
1072 Mr. {Waxman.} Aye.  
1073 The {Clerk.} Mr. Waxman votes aye.  
1074 Mr. Dingell?  
1075 Mr. {Dingell.} Aye.  
1076 The {Clerk.} Mr. Dingell votes aye.  
1077 Mr. Markey?  
1078 [No response.]  
1079 The {Clerk.} Mr. Towns?  
1080 Mr. {Towns.} Aye.  
1081 The {Clerk.} Mr. Towns votes aye.  
1082 Mr. Pallone?  
1083 Mr. {Pallone.} Aye.  
1084 The {Clerk.} Mr. Pallone votes aye.

1085 Mr. Rush?

1086 Mr. {Rush.} Aye.

1087 The {Clerk.} Mr. Rush votes aye.

1088 Ms. Eshoo?

1089 Ms. {Eshoo.} Aye.

1090 The {Clerk.} Ms. Eshoo votes aye.

1091 Mr. Engel?

1092 [No response.]

1093 The {Clerk.} Mr. Green?

1094 Mr. {Green.} Aye.

1095 The {Clerk.} Mr. Green votes aye.

1096 Ms. DeGette?

1097 [No response.]

1098 The {Clerk.} Mrs. Capps?

1099 Mrs. {Capps.} Aye.

1100 The {Clerk.} Mrs. Capps votes aye.

1101 Mr. Doyle?

1102 Mr. {Doyle.} Yes.

1103 The {Clerk.} Mr. Doyle votes aye.

1104 Ms. Schakowsky?

1105 Ms. {Schakowsky.} Aye.

1106 The {Clerk.} Ms. Schakowsky votes aye.

1107 Mr. Gonzalez?

1108 Mr. {Gonzalez.} Aye.

1109 The {Clerk.} Mr. Gonzalez votes aye.  
1110 Mr. Inslee?  
1111 [No response.]  
1112 The {Clerk.} Ms. Baldwin?  
1113 Ms. {Baldwin.} Aye.  
1114 The {Clerk.} Ms. Baldwin votes aye.  
1115 Mr. Ross?  
1116 Mr. {Ross.} Aye.  
1117 The {Clerk.} Mr. Ross votes aye.  
1118 Mr. Matheson?  
1119 [No response.]  
1120 The {Clerk.} Mr. Butterfield?  
1121 Mr. {Butterfield.} Aye.  
1122 The {Clerk.} Mr. Butterfield votes aye.  
1123 Mr. Barrow?  
1124 Mr. {Barrow.} Aye.  
1125 The {Clerk.} Mr. Barrow votes aye.  
1126 Ms. Matsui?  
1127 Ms. {Matsui.} Aye.  
1128 The {Clerk.} Ms. Matsui votes aye.  
1129 Mrs. Christensen?  
1130 Dr. {Christensen.} Aye.  
1131 The {Clerk.} Mrs. Christensen votes aye.  
1132 Ms. Castor?

1133 Ms. {Castor.} Aye.

1134 The {Clerk.} Ms. Castor votes aye.

1135 Chairman Upton?

1136 The {Chairman.} Votes aye.

1137 The {Clerk.} Chairman Upton votes aye.

1138 The {Chairman.} Are there other members wishing to cast  
1139 a vote? Mr. Sullivan?

1140 Mr. {Sullivan.} Aye.

1141 The {Clerk.} Mr. Sullivan votes aye.

1142 The {Chairman.} Mr. Inslee?

1143 Mr. {Inslee.} Aye.

1144 The {Clerk.} Mr. Inslee votes aye.

1145 The {Chairman.} The gentleman from Utah?

1146 Mr. {Matheson.} Aye.

1147 The {Clerk.} Mr. Matheson votes aye.

1148 The {Chairman.} The gentlelady from Colorado?

1149 Ms. {DeGette.} Aye.

1150 The {Clerk.} Ms. DeGette votes aye.

1151 The {Chairman.} Are there other members wishing to cast  
1152 a vote? If not, the clerk will report the tally.

1153 The {Clerk.} Mr. Chairman, on that vote, there were 51  
1154 ayes and zero nays.

1155 The {Chairman.} Fifty-one ayes, zero nays. The bill,  
1156 H.R. 2937, is favorably reported.

1157           At this point the committee will return to H.R. 2250,  
1158 the Boiler MACT EPA Regulatory Relief Act. Are there other  
1159 amendments to this bill?

1160           Ms. {Baldwin.} Mr. Chairman.

1161           The {Chairman.} The gentlelady from Wisconsin.

1162           Ms. {Baldwin.} Mr. Chairman, I have an amendment at the  
1163 desk.

1164           The {Chairman.} The clerk will report the title of the  
1165 amendment.

1166           The {Clerk.} Amendment to H.R. 2250 offered by Ms.  
1167 Baldwin of Wisconsin.

1168           [The amendment follows:]

1169           \*\*\*\*\* INSERT 6 \*\*\*\*\*

|  
1170 Ms. {Baldwin.} Mr. Chairman, I ask unanimous consent  
1171 that the amendment be considered as read.

1172 The {Chairman.} Without objection, and the staff will  
1173 pass out the contents of the amendment, and the gentlelady is  
1174 recognized for 5 minutes.

1175 Ms. {Baldwin.} Thank you, Mr. Chairman.

1176 In my home State of Wisconsin, I have heard from a  
1177 number of manufacturers including paper and pulp producers  
1178 and beer makers about the Boiler MACT Rule, and I have also  
1179 heard from doctors and public health officials and parents of  
1180 children with asthma about the Boiler MACT rule. In each  
1181 instance, everyone has asked for certainty. They want  
1182 certainty as these standards are going to be put in place,  
1183 and the legislation before us today fails to answer this  
1184 fundamental request from both industry and public health  
1185 officials.

1186 Mr. {Dingell.} Mr. Chairman, the committee is out of  
1187 order.

1188 The {Chairman.} The gentleman is correct. The  
1189 gentlelady will proceed.

1190 Ms. {Baldwin.} Thank you, Mr. Chairman.

1191 My amendment seeks to address this issue of certainty as  
1192 well as several of the issues that we have been debating this

1193 morning in the underlying bill, H.R. 2250.

1194           We dealt earlier with an amendment offered by  
1195 Representative Griffith dealing with the minimum of 15 months  
1196 to finalize new standards. I voted for his amendment because  
1197 I think it improves the underlying bill, but I think the way  
1198 that I have dealt with it in this amendment is actually an  
1199 improvement upon Mr. Griffith's amendment.

1200           The underlying legislation, Section 2, requires EPA to  
1201 wait a minimum of 15 months to finalize new standards. While  
1202 this sets the minimum time EPA must wait, until we adopted  
1203 the Griffith amendment, there was no requirement as to when  
1204 the standards must be finalized. In effect, the current  
1205 Administration or future Administration could delay  
1206 finalizing the standards indefinitely.

1207           I heard from one business, by the way, with an  
1208 industrial boiler that said our company wants to avoid  
1209 spending capital to comply until there is certainty of what  
1210 will be required of us to meet the standard. What my  
1211 amendment would do in this provision is provide that  
1212 certainty by requiring EPA to finalize the rule within the  
1213 15-month period as opposed to on that day certain at the end  
1214 of the 15-month period. That would allow this Administration  
1215 as well as the next, which may be also the same President, to  
1216 continue working on it during the 15-month period and

1217 announce a final rule at any point during that time, and I  
1218 think that is the preferred way to deal with this.

1219         Secondly, my amendment fixes another open-ended  
1220 compliance date in this legislation. Right now, the  
1221 legislation allows the EPA Administrator to set the  
1222 compliance dates no earlier than 5 years, but as currently  
1223 worded, and this is really important, as currently worded in  
1224 the underlying bill, the Administrator could set the  
1225 compliance dates at 10 years, 20 years or maybe even 30  
1226 years, and I don't like to see our committee, the Energy and  
1227 Commerce Committee, cede its jurisdiction to the Executive  
1228 Branch in this way. I believe that we need to set firm dates  
1229 in place here, and my amendment would allow for a maximum of  
1230 5 years for the regulated entities to comply. This is a  
1231 change from existing law, which sets out a 3-year compliance  
1232 window.

1233         The last part of my amendment would address what has  
1234 become known as the Frankenplant issue. I am not sure who  
1235 makes up these phrases but I have heard this Frankenplant a  
1236 number of times in this debate. Some have said that the EPA  
1237 rule creates a set of standards that are not literally or  
1238 physically attainable with current industrial boilers. The  
1239 underlying legislation attempts to address this issue by  
1240 directing EPA to make apples-to-oranges comparisons. For

1241 example, in selecting the best controlled sources, which are  
1242 the basis for the standards, EPA would be forced to make  
1243 really horrible subjective decisions like is it more  
1244 important to reduce a carcinogen or a neurotoxin. I mean,  
1245 that is not the sort of situation we want to put our EPA or  
1246 anyone in. I believe that inserting this uncertainty will  
1247 only lead to further litigation, as we have seen in the past,  
1248 and further delays. Again, totally the opposite of what  
1249 industry has requested of us, which is certainty and a clear  
1250 path.

1251 My amendment would address industry concerns by  
1252 explicitly directing the EPA to address this issue. If  
1253 control technology for one pollutant interferes with  
1254 controlling another pollutant, EPA must take that into  
1255 account and make sure that plants can in fact meet all  
1256 pollution control requirements simultaneously.

1257 So that is an outline of the three provisions. I think  
1258 it deals well with exactly the issues that we have been  
1259 talking about during today's debate, and I hope that my  
1260 colleagues will accept this amendment and advance the bill.

1261 I would yield back my remaining time.

1262 Mr. {Whitfield.} [Presiding] The gentlelady yields  
1263 back her balance of time.

1264 Does anyone seek recognition to speak in opposition to

1265 the amendment on our side? Mr. Griffith, you are recognized  
1266 for 5 minutes.

1267 Mr. {Griffith.} Thank you, Mr. Chairman.

1268 This amendment would require the EPA to issue the new  
1269 rules within 15 months of the enactment of the act, remove  
1270 the air source rule, boiler rule from the bill, require the  
1271 EPA to set up a maximum compliance period of 5 years, and  
1272 prohibit any extensions of the 5-year period, and then strike  
1273 the heart of the bill, Section 5. The date for issuing the  
1274 rules, 15 months, is a short period for finalizing complex  
1275 rules and we should not amend it to allow the EPA to rush the  
1276 rules. These rules involve detailed data and analysis for  
1277 many boiler types and affect thousands of facilities  
1278 nationwide. The EPA needs enough time to issue the rules and  
1279 get them right.

1280 Under the current rules, sources have 3 years to comply  
1281 with Section 112 standards for boilers and 5 years to comply  
1282 with Section 129 standards, incinerators. The legislation  
1283 directs the EPA to set compliance dates of at least 5 years,  
1284 taking into account real-world considerations like cost,  
1285 equipment and labor and time for permitting, procuring and  
1286 installing the equipment, and we heard testimony from one  
1287 employer in the 9th district of Virginia, which I am proud to  
1288 represent, that even if they decided that the best way to go

1289 is to switch to natural gas, it would take a considerable  
1290 amount of time to figure out how they were going to get the  
1291 natural gas there because there is not currently in the area  
1292 where that facility is located lines with sufficient supply  
1293 to switch their boilers over to natural gas and get around  
1294 the mountains, and I am sure other areas have other barriers,  
1295 natural barriers, that cause problems. It will take them  
1296 quite a bit of time after they analyze whether or not they  
1297 can meet the current requirements without switching over to  
1298 natural gas.

1299         We should not deprive the Administrator of flexibility  
1300 to adjust dates if real-world considerations warrant that  
1301 adjustment. These rules, moreover, come at a time when EPA  
1302 has been issuing many other rules which are converging on the  
1303 U.S. industrial and manufacturing sector. Compliance will be  
1304 difficult due to the technical challenges of integrating all  
1305 of these new rules.

1306         The bill directs the EPA to reissue this rule, which  
1307 affects smaller boilers as well. The amendment would take  
1308 this rule out of the bill. We should not do that because  
1309 this particular part applies to 187,000 boilers. The rule  
1310 imposes tune-up efficiency assessments and in some instances  
1311 numeric emission limits. The rule has been challenged and it  
1312 needs to be fixed. The amendment goes to the heart of the

1313 legislation by effectively striking it. This goes to the  
1314 very core of what we are trying to do. Its focus is to  
1315 ensure EPA sets standards that are achievable in practice by  
1316 real-world facilities operating under actual, not theorized,  
1317 conditions.

1318 I would urge all of my colleagues to vote no on the  
1319 amendment, and I appreciate your time and yield back the  
1320 balance of my time.

1321 Mr. {Shimkus.} Would the gentleman yield?

1322 Mr. {Griffith.} I will yield.

1323 Mr. {Shimkus.} And I appreciate him taking the lead in  
1324 speaking in opposition.

1325 My colleague from Wisconsin is correct on the  
1326 uncertainty debates from both sides and so I applaud her in  
1327 identifying that because that is the same debate that  
1328 industry and the business community is saying across the  
1329 board.

1330 I would agree with my colleague from Virginia in that  
1331 again the heart of this is having standards that are  
1332 achievable in real-world operations and allowing these  
1333 boilers to operate so that we make a decision of whether we  
1334 keep these jobs or they are moved elsewhere. I am also  
1335 concerned about the area source rule issue and the 187,000  
1336 boilers which then you would have to restart the whole

1337 process on.

1338           So with that, I agree with my colleague from Virginia  
1339 and I appreciate his time, and I yield back to him.

1340           Mr. {Griffith.} I yield back the remainder of my time.

1341           Mr. {Whitfield.} The gentleman yields back the balance  
1342 of his time.

1343           Mr. {Waxman.} Mr. Chairman.

1344           Mr. {Whitfield.} The chair recognizes the gentleman  
1345 from California for 5 minutes.

1346           Mr. {Waxman.} Mr. Chairman, I support my colleague's  
1347 amendment, which ameliorates but does not solve several of  
1348 the fundamental problems with this bill.

1349           First, Section 2 of the bill effectively nullifies EPA's  
1350 boiler rules. It directs the EPA to promulgate new standards  
1351 for boilers and incinerators but then turns around and  
1352 prohibits EPA from finalizing these regulations for at least  
1353 15 months. The Baldwin amendment will ensure that EPA can  
1354 finalize the rule when it has completed its work. This is  
1355 one necessary improvement.

1356           The bill also includes other ways to delay pollution  
1357 reductions. Section 3 of the bill bars EPA from requiring  
1358 facilities to reduce pollution to comply with any revised  
1359 standard for at least 5 years and it allows for compliance to  
1360 be delayed indefinitely. The Baldwin amendment caps the

1361 compliance time at 5 years. This still is too long,  
1362 especially for communities with high levels of toxic air  
1363 pollution that have been waiting for cleaner air for decades,  
1364 but at least this provision should provide certainty to  
1365 industry and it will eventually provide relief to the people  
1366 living near these boilers and incinerators.

1367         But the problems with the bill go well beyond the  
1368 delays. Even if EPA sets standards, they won't clean up the  
1369 air unless they require real pollution reductions, and the  
1370 bill likely prevents EPA from adopting meaningful standards.  
1371 The bill's new language for setting the standards may well  
1372 replace the current Clean Air Act criteria for setting  
1373 numerous emission limits for these sources. The likely  
1374 result will be more toxic air emissions of mercury, lead and  
1375 carcinogens. The certain result will be more litigation and  
1376 delay.

1377         Under the Clean Air Act, EPA sets emission limits based  
1378 on the reductions actually being achieved for each pollutant  
1379 by better-performing sources. This makes sense since each  
1380 pollutant has different health effects and may need different  
1381 types of pollution control. Section 5 of the bill may  
1382 require EPA to set emissions limits based on the sources that  
1383 perform best across all the regulated pollutants. This  
1384 sounds fine but is completely unworkable. How is EPA

1385 supposed to decide whether a source emitting fewer  
1386 neurotoxins or fewer carcinogens is better performing?  
1387 Section 5 may also prevent the EPA from setting numeric  
1388 emissions limits altogether. This section directs the EPA to  
1389 select the least burdensome regulatory alternative when  
1390 deciding how to reduce toxic pollution from these sources,  
1391 and this may amount to nothing more than requiring periodic  
1392 boiler tune-ups.

1393           Mr. Rush asked this question and did not get an answer:  
1394 If existing sources are using pollution control technologies,  
1395 can the EPA set standards based on those technologies or must  
1396 EPA simply require annual boiler tune-ups? That would  
1397 certainly be less burdensome. It is also far less cleanup  
1398 than the Clean Air Act provides.

1399           The Baldwin amendment strikes this ambiguous and  
1400 potentially extremely language and replaces it with a simple  
1401 provision that directly responds to the concerns industry has  
1402 raised. It directs the EPA to address concerns about meeting  
1403 the emissions limits for each pollutant at the same time  
1404 using EPA's existing authority. This amendment does not  
1405 remove all my concerns about the bill but it does improve it  
1406 significantly, and I urge my colleagues to support the  
1407 amendment, and I yield back the balance of my time.

1408           Mr. {Whitfield.} The gentleman yields back the balance

1409 of his time.

1410 Is there further discussion on the amendment? In that  
1411 case, the question will now be on the Baldwin amendment. All  
1412 those in favor, signify by saying aye. All those opposed,  
1413 signify by saying no.

1414 Mr. {Waxman.} Mr. Chairman, I request a roll call vote.

1415 Mr. {Whitfield.} The gentleman requests a roll call  
1416 vote. The clerk will call the roll.

1417 The {Clerk.} Mr. Barton?

1418 [No response.]

1419 The {Clerk.} Mr. Stearns?

1420 [No response.]

1421 The {Clerk.} Mr. Whitfield?

1422 Mr. {Whitfield.} No.

1423 The {Clerk.} Mr. Whitfield votes no.

1424 Mr. Shimkus?

1425 Mr. {Shimkus.} No.

1426 The {Clerk.} Mr. Shimkus votes no.

1427 Mr. Pitts?

1428 Mr. {Pitts.} No.

1429 The {Clerk.} Mr. Pitts votes no.

1430 Mrs. Bono Mack?

1431 Mrs. {Bono Mack.} No.

1432 The {Clerk.} Mrs. Bono Mack votes no.

1433 Mr. Walden?  
1434 Mr. {Walden.} No.  
1435 The {Clerk.} Mr. Walden votes no.  
1436 Mr. Terry?  
1437 Mr. {Terry.} No.  
1438 The {Clerk.} Mr. Terry votes no.  
1439 Mr. Rogers?  
1440 Mr. {Rogers.} No.  
1441 The {Clerk.} Mr. Rogers votes no.  
1442 Mrs. Myrick?  
1443 [No response.]  
1444 The {Clerk.} Mr. Sullivan?  
1445 Mr. {Sullivan.} No.  
1446 The {Clerk.} Mr. Sullivan votes no.  
1447 Mr. Murphy?  
1448 Mr. {Murphy.} No.  
1449 The {Clerk.} Mr. Murphy votes no.  
1450 Mr. Burgess?  
1451 [No response.]  
1452 The {Clerk.} Mrs. Blackburn?  
1453 [No response.]  
1454 The {Clerk.} Mr. Bilbray?  
1455 [No response.]  
1456 The {Clerk.} Mr. Bass?

1457 Mr. {Bass.} No.  
1458 The {Clerk.} Mr. Bass votes no.  
1459 Mr. Gingrey?  
1460 Dr. {Gingrey.} No.  
1461 The {Clerk.} Mr. Gingrey votes no.  
1462 Mr. Scalise?  
1463 Mr. {Scalise.} No.  
1464 The {Clerk.} Mr. Scalise votes no.  
1465 Mr. Latta?  
1466 Mr. {Latta.} No.  
1467 The {Clerk.} Mr. Latta votes no.  
1468 Mrs. McMorris Rodgers?  
1469 Mrs. {McMorris Rodgers.} No.  
1470 The {Clerk.} Mrs. McMorris Rodgers votes no.  
1471 Mr. Harper?  
1472 Mr. {Harper.} No.  
1473 The {Clerk.} Mr. Harper votes no.  
1474 Mr. Lance?  
1475 Mr. {Lance.} No.  
1476 The {Clerk.} Mr. Lance votes no.  
1477 Mr. Cassidy?  
1478 Dr. {Cassidy.} No.  
1479 The {Clerk.} Mr. Cassidy votes no.  
1480 Mr. Guthrie?

1481 Mr. {Guthrie.} No.

1482 The {Clerk.} Mr. Guthrie votes no.

1483 Mr. Olson?

1484 Mr. {Olson.} No.

1485 The {Clerk.} Mr. Olson votes no.

1486 Mr. McKinley?

1487 Mr. {McKinley.} No.

1488 The {Clerk.} Mr. McKinley votes no.

1489 Mr. Gardner?

1490 Mr. {Gardner.} No.

1491 The {Clerk.} Mr. Gardner votes no.

1492 Mr. Pompeo?

1493 Mr. {Pompeo.} No.

1494 The {Clerk.} Mr. Pompeo votes no.

1495 Mr. Kinzinger?

1496 Mr. {Kinzinger.} No.

1497 The {Clerk.} Mr. Kinzinger votes no.

1498 Mr. Griffith?

1499 Mr. {Griffith.} No.

1500 The {Clerk.} Mr. Griffith votes no.

1501 Mr. Waxman?

1502 Mr. {Waxman.} Aye.

1503 The {Clerk.} Mr. Waxman votes aye.

1504 Mr. Dingell?

1505 Mr. {Dingell.} Votes aye.  
1506 The {Clerk.} Mr. Dingell votes aye.  
1507 Mr. Markey?  
1508 [No response.]  
1509 The {Clerk.} Mr. Towns?  
1510 Mr. {Towns.} Aye.  
1511 The {Clerk.} Mr. Towns votes aye.  
1512 Mr. Pallone?  
1513 Mr. {Pallone.} Aye.  
1514 The {Clerk.} Mr. Pallone votes aye.  
1515 Mr. Rush?  
1516 Mr. {Rush.} Aye.  
1517 The {Clerk.} Mr. Rush votes aye.  
1518 Ms. Eshoo?  
1519 Ms. {Eshoo.} Aye.  
1520 The {Clerk.} Ms. Eshoo votes aye.  
1521 Mr. Engel?  
1522 [No response.]  
1523 The {Clerk.} Mr. Green?  
1524 Mr. {Green.} Aye.  
1525 The {Clerk.} Mr. Green votes aye.  
1526 Ms. DeGette?  
1527 Ms. {DeGette.} Aye.  
1528 The {Clerk.} Ms. DeGette votes aye.

1529 Mrs. Capps?  
1530 Mrs. {Capps.} Aye.  
1531 The {Clerk.} Mrs. Capps votes aye.  
1532 Mr. Doyle?  
1533 Mr. {Doyle.} Yes.  
1534 The {Clerk.} Mr. Doyle votes aye.  
1535 Ms. Schakowsky?  
1536 Ms. {Schakowsky.} Aye.  
1537 The {Clerk.} Ms. Schakowsky votes aye.  
1538 Mr. Gonzalez?  
1539 Mr. {Gonzalez.} Aye.  
1540 The {Clerk.} Mr. Gonzalez votes aye.  
1541 Mr. Inslee?  
1542 Mr. {Inslee.} Aye.  
1543 The {Clerk.} Mr. Inslee votes aye.  
1544 Ms. Baldwin?  
1545 Ms. {Baldwin.} Aye.  
1546 The {Clerk.} Ms. Baldwin votes aye.  
1547 Mr. Ross?  
1548 Mr. {Ross.} No.  
1549 The {Clerk.} Mr. Ross votes no.  
1550 Mr. Matheson?  
1551 Mr. {Matheson.} No.  
1552 The {Clerk.} Mr. Matheson votes no.

1553 Mr. Butterfield?  
1554 [No response.]  
1555 The {Clerk.} Mr. Barrow?  
1556 Mr. {Barrow.} No.  
1557 The {Clerk.} Mr. Barrow votes no.  
1558 Ms. Matsui?  
1559 Ms. {Matsui.} Aye.  
1560 The {Clerk.} Ms. Matsui votes aye.  
1561 Mrs. Christensen?  
1562 Dr. {Christensen.} Aye.  
1563 The {Clerk.} Mrs. Christensen votes aye.  
1564 Ms. Castor?  
1565 Ms. {Castor.} Aye.  
1566 The {Clerk.} Ms. Castor votes aye.  
1567 Chairman Upton?  
1568 The {Chairman.} Votes no.  
1569 The {Clerk.} Chairman Upton votes no.  
1570 Mr. {Whitfield.} The gentleman from Florida?  
1571 Mr. {Stearns.} No.  
1572 The {Clerk.} Mr. Stearns votes no.  
1573 Ms. Myrick?  
1574 Mrs. {Myrick.} No.  
1575 The {Clerk.} Ms. Myrick votes no.  
1576 Mr. {Whitfield.} Dr. Burgess?

1577 Dr. {Burgess.} No.

1578 The {Clerk.} Mr. Burgess votes no.

1579 Mr. {Whitfield.} Mr. Bilbray?

1580 Mr. {Bilbray.} Bilbray votes no.

1581 The {Clerk.} Mr. Bilbray votes no.

1582 Mrs. {Blackburn.} Blackburn.

1583 Mr. {Whitfield.} Ms. Blackburn?

1584 Mrs. {Blackburn.} No.

1585 The {Clerk.} Ms. Blackburn votes no.

1586 Mr. {Whitfield.} Mr. Butterfield?

1587 Mr. {Butterfield.} Butterfield, no.

1588 The {Clerk.} Mr. Butterfield votes no.

1589 Mr. {Whitfield.} Has everyone has the opportunity to

1590 vote?

1591 Will the clerk report the vote, please?

1592 The {Clerk.} Mr. Chairman, on that, there were 17 ayes

1593 and 34 nos.

1594 Mr. {Whitfield.} Seventeen ayes, 34 nos. The amendment

1595 is not agreed to.

1596 Are there further amendments on H.R. 2250? If not, the

1597 question now would occur on favorably reporting the bill as

1598 amended to the House. All those in favor, say aye. Those

1599 opposed, no. The ayes appear to have it. The ayes--

1600 Mr. {Waxman.} Mr. Chairman.

1601 Mr. {Whitfield.} The gentleman from California.  
1602 Mr. {Waxman.} I request a roll call vote.  
1603 Mr. {Whitfield.} The gentleman from California requests  
1604 a roll call vote. Will the clerk please call the roll?  
1605 The {Clerk.} Mr. Barton?  
1606 [No response.]  
1607 The {Clerk.} Mr. Stearns?  
1608 Mr. {Stearns.} Aye.  
1609 The {Clerk.} Mr. Stearns votes aye.  
1610 Mr. Whitfield?  
1611 Mr. {Whitfield.} Aye.  
1612 The {Clerk.} Mr. Whitfield votes aye.  
1613 Mr. Shimkus?  
1614 Mr. {Shimkus.} Aye.  
1615 The {Clerk.} Mr. Shimkus votes aye.  
1616 Mr. Pitts?  
1617 Mr. {Pitts.} Aye.  
1618 The {Clerk.} Mr. Pitts votes aye.  
1619 Mrs. Bono Mack?  
1620 Mrs. {Bono Mack.} Aye.  
1621 The {Clerk.} Mrs. Bono Mack votes aye.  
1622 Mr. Walden?  
1623 Mr. {Walden.} Aye.  
1624 The {Clerk.} Mr. Walden votes aye.

1625 Mr. Terry?  
1626 Mr. {Terry.} Aye.  
1627 The {Clerk.} Mr. Terry votes aye.  
1628 Mr. Rogers?  
1629 Mr. {Rogers.} Aye.  
1630 The {Clerk.} Mr. Rogers votes aye.  
1631 Mrs. Myrick?  
1632 Mrs. {Myrick.} Aye.  
1633 The {Clerk.} Mrs. Myrick votes aye.  
1634 Mr. Sullivan?  
1635 Mr. {Sullivan.} Aye.  
1636 The {Clerk.} Mr. Sullivan votes aye.  
1637 Mr. Murphy?  
1638 Mr. {Murphy.} Aye.  
1639 The {Clerk.} Mr. Murphy votes aye.  
1640 Mr. Burgess?  
1641 Dr. {Burgess.} Aye.  
1642 The {Clerk.} Mr. Burgess votes aye.  
1643 Mrs. Blackburn?  
1644 [No response.]  
1645 The {Clerk.} Mr. Bilbray?  
1646 Mr. {Bilbray.} Aye.  
1647 The {Clerk.} Mr. Bilbray votes aye.  
1648 Mr. Bass?

1649 Mr. {Bass.} Aye.  
1650 The {Clerk.} Mr. Bass votes aye.  
1651 Mr. Gingrey?  
1652 Dr. {Gingrey.} Aye.  
1653 The {Clerk.} Mr. Gingrey votes aye.  
1654 Mr. Scalise?  
1655 Mr. {Scalise.} Aye.  
1656 The {Clerk.} Mr. Scalise votes aye.  
1657 Mr. Latta?  
1658 Mr. {Latta.} Aye.  
1659 The {Clerk.} Mr. Latta votes aye.  
1660 Mrs. McMorris Rodgers?  
1661 Mrs. {McMorris Rodgers.} Aye.  
1662 The {Clerk.} Mrs. McMorris Rodgers votes aye.  
1663 Mr. Harper?  
1664 Mr. {Harper.} Aye.  
1665 The {Clerk.} Mr. Harper votes aye.  
1666 Mr. Lance?  
1667 Mr. {Lance.} Aye.  
1668 The {Clerk.} Mr. Lance votes aye.  
1669 Mr. Cassidy?  
1670 Dr. {Cassidy.} Aye.  
1671 The {Clerk.} Mr. Cassidy votes aye.  
1672 Mr. Guthrie?

1673 Mr. {Guthrie.} Aye.

1674 The {Clerk.} Mr. Guthrie votes aye.

1675 Mr. Olson?

1676 Mr. {Olson.} Aye.

1677 The {Clerk.} Mr. Olson votes aye.

1678 Mr. McKinley?

1679 Mr. {McKinley.} Aye.

1680 The {Clerk.} Mr. McKinley votes aye.

1681 Mr. Gardner?

1682 Mr. {Gardner.} Aye.

1683 The {Clerk.} Mr. Gardner votes aye.

1684 Mr. Pompeo?

1685 [No response.]

1686 The {Clerk.} Mr. Kinzinger?

1687 Mr. {Kinzinger.} Aye.

1688 The {Clerk.} Mr. Kinzinger votes aye.

1689 Mr. Griffith?

1690 Mr. {Griffith.} Aye.

1691 The {Clerk.} Mr. Griffith votes aye.

1692 Mr. Waxman?

1693 Mr. {Waxman.} No.

1694 The {Clerk.} Mr. Waxman votes no.

1695 Mr. Dingell?

1696 Mr. {Dingell.} No.

1697           The {Clerk.}   Mr. Dingell votes no.  
1698           Mr. Markey?  
1699           [No response.]  
1700           The {Clerk.}   Mr. Towns?  
1701           Mr. {Towns.}   No.  
1702           The {Clerk.}   Mr. Towns votes no.  
1703           Mr. Pallone?  
1704           Mr. {Pallone.}  No.  
1705           The {Clerk.}   Mr. Pallone votes aye.  
1706           Mr. Rush?  
1707           Mr. {Rush.}    No.  
1708           The {Clerk.}   Mr. Rush votes no.  
1709           Ms. Eshoo?  
1710           Ms. {Eshoo.}   No.  
1711           The {Clerk.}   Ms. Eshoo votes aye.  
1712           Mr. Engel?  
1713           [No response.]  
1714           The {Clerk.}   Mr. Green?  
1715           Mr. {Green.}   Aye.  
1716           The {Clerk.}   Mr. Green votes aye.  
1717           Ms. DeGette?  
1718           Ms. {DeGette.} No.  
1719           The {Clerk.}   Ms. DeGette votes no.  
1720           Mrs. Capps?

1721 Mrs. {Capps.} No.  
1722 The {Clerk.} Mrs. Capps votes no.  
1723 Mr. Doyle?  
1724 Mr. {Doyle.} No.  
1725 The {Clerk.} Mr. Doyle votes no.  
1726 Ms. Schakowsky?  
1727 Ms. {Schakowsky.} No.  
1728 The {Clerk.} Ms. Schakowsky votes no.  
1729 Mr. Gonzalez?  
1730 Mr. {Gonzalez.} Yes.  
1731 The {Clerk.} Mr. Gonzalez votes aye.  
1732 Mr. Inslee?  
1733 Mr. {Inslee.} No.  
1734 The {Clerk.} Mr. Inslee votes no.  
1735 Ms. Baldwin?  
1736 [No response.]  
1737 The {Clerk.} Mr. Ross?  
1738 Mr. {Ross.} Aye.  
1739 The {Clerk.} Mr. Ross votes aye.  
1740 Mr. Matheson?  
1741 Mr. {Matheson.} Aye.  
1742 The {Clerk.} Mr. Matheson votes aye.  
1743 Mr. Butterfield?  
1744 Mr. {Butterfield.} Aye.

1745 The {Clerk.} Mr. Butterfield votes aye.  
1746 Mr. Barrow?  
1747 Mr. {Barrow.} Aye.  
1748 The {Clerk.} Mr. Barrow votes aye.  
1749 Ms. Matsui?  
1750 Ms. {Matsui.} No.  
1751 The {Clerk.} Ms. Matsui votes no.  
1752 Mrs. Christensen?  
1753 Dr. {Christensen.} No.  
1754 The {Clerk.} Mrs. Christensen votes no.  
1755 Ms. Castor?  
1756 Ms. {Castor.} No.  
1757 The {Clerk.} Ms. Castor votes no.  
1758 Chairman Upton?  
1759 The {Chairman.} Votes aye.  
1760 The {Clerk.} Chairman Upton votes aye.  
1761 Mrs. Blackburn?  
1762 Mrs. {Blackburn.} Aye.  
1763 The {Clerk.} Mrs. Blackburn votes aye.  
1764 Mr. Pompeo?  
1765 Mr. {Pompeo.} Aye.  
1766 The {Clerk.} Mr. Pompeo votes aye.  
1767 Mr. {Whitfield.} Has everyone had the opportunity to  
1768 cast a vote on this legislation? It appears that everyone

1769 has cast a vote. Will the clerk please report the tally?

1770           The {Clerk.} Mr. Chairman, on that there were 36 ayes,

1771 14 nays.

1772           Mr. {Whitfield.} Thirty-six ayes and 14 nays on H.R.

1773 2250 as amended, so the bill has been favorably reported.

|

1774 H.R. 2681

1775 Mr. {Whitfield.} The chair would now call up H.R. 2681

1776 and ask the clerk to report.

1777 The {Clerk.} H.R. 2681, to provide additional time for

1778 the Administrator of the Environmental Protection Agency--

1779 [H.R. 2681 follows:]

1780 \*\*\*\*\* INSERT 7 \*\*\*\*\*

|  
1781           Mr. {Whitfield.} Without objection, the first reading  
1782 of the bill is dispensed with. So ordered.

1783           Are there any bipartisan amendments to H.R. 2681? The  
1784 chair recognizes Mr. Sullivan. For what purpose do you seek  
1785 recognition?

1786           Mr. {Sullivan.} For my amendment.

1787           Mr. {Whitfield.} The clerk will please report the  
1788 amendment.

1789           The {Clerk.} Amendment to H.R. 2681 offered by Mr.  
1790 Sullivan of Oklahoma.

1791           [The amendment follows:]

1792           \*\*\*\*\* INSERT 8 \*\*\*\*\*

|  
1793 Mr. {Whitfield.} The gentleman will be recognized for 5  
1794 minutes to explain his amendment.

1795 Mr. {Sullivan.} Thank you, Mr. Chairman.

1796 I am pleased to offer this amendment. It would require  
1797 EPA to re-propose and finalize rules for the cement  
1798 manufacturing industry on the date that is 15 months of  
1799 enactment of that. Under the bill, the EPA must issue  
1800 replacement rules for three rules that were issued by the  
1801 agency during the past year. Section 2(a)(2) currently  
1802 directs EPA to finalize those regulations on that date that  
1803 is 15 months after the date of enactment of this act or such  
1804 later date as may be determined by the Administrator.

1805 This amendment would strike ``or such later date as may  
1806 be determined by the Administrator.'' The clause being  
1807 struck was intended to provide modest discretion to EPA in  
1808 the event the agency needed it. The effect of this amendment  
1809 would be to direct EPA to issue the new rules on the date  
1810 that is 15 months after enactment of the act. These are  
1811 complex rulemakings, and this would put EPA on a definitive  
1812 schedule as well as address any concerns raised by my  
1813 colleagues that the legislation as drafted would result in  
1814 EPA delaying issuing the new rules.

1815 At the same time, by directing EPA to take 15 months, it

1816 will ensure that EPA has a reasonable period of time to re-  
1817 propose and finalize these complex rules. This timing  
1818 reflects the schedule that was always contemplated I this  
1819 bipartisan legislation for issuing the rules.

1820 I urge my colleagues to support the amendment.

1821 Mr. {Whitfield.} The gentleman yields back the balance  
1822 of his time.

1823 For what purpose does the gentleman--

1824 Mr. {Green.} Strike the last word.

1825 Mr. {Whitfield.} The gentleman is recognized for 5  
1826 minutes.

1827 Mr. {Green.} Mr. Chairman, I want to thank Mr. Sullivan  
1828 for his amendment. I still have some concerns with the bill,  
1829 namely with the language in Section 5, but this amendment is  
1830 a great step in the right direction. We can now be assured  
1831 that this rule will be issued and will not be indefinitely  
1832 delayed and our businesses will have the regulatory certainty  
1833 they need to plan and invest.

1834 Again, I want to thank my colleague, Mr. Sullivan, for  
1835 this amendment and I encourage my colleagues to support it,  
1836 and I yield back my time.

1837 Mr. {Whitfield.} The gentleman yields back the balance  
1838 of his time.

1839 Are there further--for what purpose does the gentleman

1840 from California seek recognition?

1841 Mr. {Waxman.} To speak on the amendment.

1842 Mr. {Whitfield.} The gentleman is recognized for 5  
1843 minutes.

1844 Mr. {Waxman.} Mr. Chairman, for far too long, cement  
1845 kilns have been allowed to emit neurotoxins, carcinogens and  
1846 other hazardous air pollutants without any controls. In  
1847 fact, cement kilns are one of the largest sources of toxic  
1848 mercury air pollution in the United States. Mercury  
1849 pollution can have a devastating impact on babies' developing  
1850 brains, leading to birth defects, brain damage and learning  
1851 disabilities in children. This bill attacks the Clean Air  
1852 Act on multiple fronts to ensure that cement kilns can  
1853 continue to pollute without limits.

1854 First, the legislation removes any deadline for cement  
1855 kilns to comply with any emissions standards. Under the  
1856 bill, EPA cannot require compliance for at least 5 years  
1857 after the regulations are finalized. The bill also  
1858 eliminates the Clean Air Act deadline for when cement kilns  
1859 must reduce their toxic pollution and provides no new  
1860 deadline.

1861 Second, the legislation adds confusion to the Clean Air  
1862 Act standard-setting process for air toxics and upends a  
1863 process that has worked for two decades. If enacted, this

1864 legislation will guarantee years of litigation to sort out  
1865 this confusion and could force EPA to adopt weak or  
1866 meaningless emissions standards for these sources of toxic  
1867 pollution.

1868           And finally, this legislation blocks EPA action on new  
1869 emissions standards for cement kilns until at least 15 months  
1870 after the date of the enactment. The timeline is open-ended.

1871           The amendment before us addresses this last problem by  
1872 stating that EPA must finalize a new boiler rule on the date  
1873 that is exactly 15 months from the date of enactment but this  
1874 does not make this bill acceptable. This bill remains an  
1875 attack on the Clean Air Act and undermines EPA's authority to  
1876 protect the health of children and all Americans from toxic  
1877 air pollution.

1878           I support this amendment but remain opposed to the bill  
1879 overall. I yield back the balance of my time.

1880           Mr. {Whitfield.} The gentleman yields back the balance  
1881 of his time.

1882           Does anyone else seek recognition to speak for or  
1883 against the amendment? Since no one seeks recognition, the  
1884 question will now occur on the approval of the amendment.  
1885 Those in favor will signify by saying aye. Those opposed,  
1886 no. In the opinion of the chair, the ayes have it and the  
1887 amendment is adopted.

1888 Mr. {Rush.} Mr. Chairman.

1889 Mr. {Whitfield.} For what purpose does the gentleman  
1890 from Illinois--

1891 Mr. {Rush.} Mr. Chairman, I have an amendment at the  
1892 desk.

1893 Mr. {Whitfield.} The clerk will report the gentleman's  
1894 amendment.

1895 The {Clerk.} Amendment to H.R. 2681 offered by Mr. Rush  
1896 of Illinois.

1897 [The amendment follows:]

1898 \*\*\*\*\* INSERT 9 \*\*\*\*\*

|  
1899           Mr. {Whitfield.} Without objection, the reading of the  
1900 amendment is dispensed with and the gentleman from Illinois  
1901 recognized for 5 minutes in support of his amendment.

1902           Mr. {Rush.} Mr. Chairman, as indicated earlier, cement  
1903 kilns are a major source of mercury pollution and other toxic  
1904 air pollution. Until last year, cement kilns had managed to  
1905 avoid any sort of requirement to reduce these emissions. In  
1906 August, the EPA finalized requirements for cement kilns to  
1907 use readily available technology to cut their pollution.  
1908 This bill nullifies these new health standards and requires  
1909 EPA to go back to the drawing board. Supporters of this bill  
1910 argue that it will provide certainty to industry when in fact  
1911 it does precisely the opposite.

1912           First, as we discussed previously, this bill allows for  
1913 an indefinite delay of the cement rules so that industry has  
1914 no idea when it would have to comply with new emissions  
1915 limits, if at all. Additionally, as written, Section 5 of  
1916 2681 will raise legal uncertainty and ambiguity for industry,  
1917 for the EPA and the courts over whether language contained in  
1918 this bill should modify or supersede existing provisions of  
1919 the Clean Air Act that were designed to achieve maximum  
1920 reduction in toxic air pollution.

1921           This section requires EPA to set emissions standards for

1922 cement kilns that can be met ``consistently and  
1923 concurrently.'' It also requires the EPA to select the  
1924 ``least burdensome'' regulatory alternative even if a  
1925 stronger standard is feasible and will provide more public  
1926 health benefits. While words like ``least burdensome'' and  
1927 ``consistently and concurrently'' sound reasonable, in this  
1928 case, they are misleading.

1929         The Clean Air Act requires EPA to set toxic air  
1930 pollution standards for cement kilns based on numeric  
1931 emission levels that cleaner facilities are actually  
1932 achieving in today's world, in the real world of today, not  
1933 in a lab but in the real world. However, section 5 could  
1934 replace the existing criteria for EPA to set numerical  
1935 emissions standards with a requirement that EPA must always  
1936 choose ``the least burdensome'' regulatory option including  
1937 just requiring work practice standards, even if this option  
1938 doesn't go far enough to protect the public health and other  
1939 feasible options are available.

1940         Mr. Chairman, I have been arguing that this section  
1941 could gut the Clean Air Act and has the potential to weaken  
1942 public health protections because the language in the bill is  
1943 ambiguous. Does the bill intend to replace the existing  
1944 criteria and let polluters off the hook or does it intend to  
1945 give EPA direction where they already have some discretion.

1946 Even for policymakers that are responsible for enacting this  
1947 legislation, it is unclear to us as it will be to them.

1948 My amendment would clarify that Section 5 of H.R. 2681  
1949 is intended to supplement the provisions of and shall not be  
1950 construed to supersede any requirement, limitation or  
1951 provision of Sections 112 and 129 of the Clean Air Act. This  
1952 amendment clarifies the rules and provides certainty for EPA,  
1953 industry and the courts.

1954 Mr. Chairman, I urge my colleagues to support my  
1955 amendment, and with that, I yield back the balance of my  
1956 time.

1957 Mr. {Whitfield.} The gentleman yields back the balance  
1958 of his time.

1959 For what purpose does the gentleman from Illinois seek  
1960 recognition?

1961 Mr. {Kinzinger.} Mr. Chairman, I want to speak in  
1962 opposition.

1963 Mr. {Whitfield.} The gentleman is recognized for 5  
1964 minutes.

1965 Mr. {Kinzinger.} Well, thank you, Mr. Chairman, and you  
1966 know, thank you to my colleague from Illinois, but let us be  
1967 quite honest about what this is. This is an attempt to kill  
1968 this bill as we discussed earlier on a prior bill where you  
1969 had a similar amendment. This is nothing more than an

1970 attempt to amend this to where it is ineffective.

1971 Let us talk just quickly, and I will try not to take my  
1972 whole 5 minutes, about what we are really dealing with here.  
1973 We are dealing with a time when Americans are looking for  
1974 jobs. We are dealing with potential of killing 20,000 jobs.  
1975 This is an attempt to save jobs in the cement industry, and  
1976 we are talking about the potential of 18 of 100 cement plants  
1977 closing, but we still need cement, right? I mean, obviously  
1978 you can close the plants but you still have the requirement  
1979 for cement. Where are we going to get that cement from?

1980 Well, if it not going to be here, it is probably going to be  
1981 somewhere like China, and what do we know when we get things  
1982 from places like China that they don't have the environmental  
1983 controls in the production of cement that we have here  
1984 already.

1985 So when we talk about wanting to save the environment--  
1986 and we all want to. We want a healthy environment. We want  
1987 to make sure our kids are raised in a society where they are  
1988 not exposed to these kinds of chemicals, but when you have an  
1989 alternative of producing this in China and giving them our  
1990 jobs, buying their product, this is a net negative for the  
1991 environment and a net negative for our economy. What we want  
1992 to do is just give some breathing room to be able to comply  
1993 with these standards.

1994 I mean, we have spent a lot of time talking about jobs  
1995 and jobs plans and jobs programs, and I agree, one of the  
1996 things that we can do though is make sure that our actions in  
1997 Congress and our actions in Congress are not killing jobs.  
1998 That would be a very good first initial step to an actual  
1999 economic recovery.

2000 So I think when we look at that, I mean, this is the  
2001 right thing to do. Let us get some breathing room, get some  
2002 time, and let us move forward. So I yield back.

2003 Mr. {Shimkus.} Would the gentleman from Illinois yield  
2004 to me?

2005 Mr. {Kinzinger.} Yes, I would be happy to yield to my  
2006 friend from Illinois.

2007 Mr. {Shimkus.} Thanks, and I appreciate the time.

2008 Again, this is very similar to the debate we had with  
2009 the other bill. ``Achievable'' just means ``achievable.''  
2010 The EPA does and will do an emittent-by-emittent standard  
2011 which as we have heard already is that whole debate on the  
2012 Frankenplants. So what we want is standards that are  
2013 achievable, which is really what the--you know, the EPA in  
2014 the Boiler MACT Rule, that section 112(d)(3) of the Clean Air  
2015 Act is ambiguous as to whether the MACT floor is to be based  
2016 on the performance of an entire source or on the performance  
2017 achieved in controlling particular hazardous air pollutants.

2018           So we just want standards that are achievable by the  
2019 industries today, and why is that important? As I mentioned  
2020 in the opening statement yesterday, one of the large options  
2021 in my district in Joppa, Illinois, they employ 110 men and  
2022 women. They have an annual payroll of \$10 million. They pay  
2023 over \$650,000 in State and county taxes, and this is in  
2024 rural, poor southern Illinois. They employ people from  
2025 Illinois and also from Paducah, Kentucky, which is in the  
2026 chairman's district. These rules and regs are a direct  
2027 assault on these jobs, and the product from these plants goes  
2028 primarily right now to the Corps of Engineers lock and dam in  
2029 Olmstead, which the chairman also knows is being built on the  
2030 Ohio River, and to major other construction projects.

2031           When we had the subcommittee markup and we talked about  
2032 the need for infrastructure and concrete, obviously cement is  
2033 a major part of production of concrete, which will be used in  
2034 our roads and our bridges and our locks and dams. Additional  
2035 rules and regulations will make the cost of this higher than  
2036 it is, meaning less projects.

2037           So I appreciate my colleague's support. I would ask  
2038 people to reject this amendment.

2039           Mr. {Latta.} If the gentleman would yield, Mr.  
2040 Chairman. Thank you very much.

2041           Just briefly, if I could just add to the previous two

2042 gentlemen from Illinois, from the National Manufacturers  
2043 Association, I asked them to give me the number of  
2044 manufacturing jobs that are on this committee alone. Back in  
2045 March of this year, we had 1.8 million manufacturing jobs,  
2046 and that has dropped to 1.55 million since then. We are  
2047 losing jobs in this country, and as the gentleman just  
2048 mentioned, these jobs will go overseas and we just can't--you  
2049 know, we all want clean air and clean water but at the same  
2050 time we want to have achievable standards. We have to be  
2051 able to do that. Otherwise in another 2 months when I am  
2052 sitting here, I will telling you how many more jobs we have  
2053 lost and now we are down to 1.55 million from 1.8 million  
2054 earlier this year, and I yield back.

2055 Mr. {Whitfield.} The time of the gentleman from  
2056 Illinois has expired.

2057 The chair recognizes the gentleman from California to  
2058 speak in favor of the amendment.

2059 Mr. {Waxman.} Mr. Chairman, what we have just heard is  
2060 an argument that we shouldn't kill jobs, but the alternative  
2061 may be to kill children, and that doesn't make sense. I  
2062 think that the existing law should be allowed to work. I  
2063 fear that this bill undermines the fundamental premises of  
2064 Section 112 and 129 of the Clean Air Act by establishing two  
2065 new criteria for setting emissions standards for toxic air

2066 pollution.

2067 Does this bill provide a breather? Well, not for the  
2068 kids. What it does is say to the cement industry that they  
2069 won't have to do anything during the recession and maybe  
2070 forever. There is no great demand now for cement because my  
2071 friends on the other side of the aisle wouldn't support  
2072 efforts to use government funds for construction in our  
2073 infrastructure. That would have provided jobs. It would  
2074 have provided a market for cement. But the answer to that  
2075 request was no, we can't spend money because that will widen  
2076 the deficit. So instead, what we see are economic problems  
2077 in many of our communities.

2078 I know that the argument on the other side is that these  
2079 provisions sound reasonable, but in actuality, Section 5 of  
2080 the bill could dramatically weaken EPA's ability to require  
2081 cement kilns to reduce toxic air pollutants such as mercury  
2082 and dioxins. At a minimum, it is utterly unclear how the new  
2083 language interacts with the existing criteria for standard  
2084 setting. On controversial issues such as these, that glaring  
2085 ambiguity guarantees years, if not decades, of litigation.  
2086 That is quite a breather, decades of litigation. The  
2087 provisions could replace effective clean air authority that  
2088 has worked well for 20 years.

2089 The bill requires EPA to set toxic air pollution

2090 standards for cement kilns based on the best performers in  
2091 the industry, the facilities with the lowest emission levels.  
2092 EPA is not going to base these emission reductions on pie-in-  
2093 the-sky technology. They calculate what is being done now to  
2094 actually achieve these emission reductions in the real world.  
2095 Section 5 of this bill may gut these public health  
2096 protections rather than have the EPA choose the best-  
2097 performing sources for all pollutants. I think this is an  
2098 impossible task. Is a facility with the lower lead emissions  
2099 better or worse than a facility with lower mercury or arsenic  
2100 or dioxins? Giving EPA open-ended and unworkable directions  
2101 is a recipe for litigation and weak, if any, standards.

2102         What we have in the law is the maximum achievable  
2103 reductions. What we have in this bill is the minimum  
2104 reductions, and it is very ambiguous as to that. Section 5  
2105 requires EPA to select the least burdensome regulatory  
2106 alternative even if there is a feasible and economically  
2107 viable alternative that would be more protective of human  
2108 health. That should be what EPA should select.

2109         Environmental lawyers have said this would result in a  
2110 lot of litigation. One could interpret these new criteria as  
2111 overriding the existing criteria for determining the maximum  
2112 achievable pollution reductions. What we do know is that if  
2113 Section 5 of the bill overrides this current standard, we are

2114 going to have the weakest possible protections of public  
2115 health. Congress should be clear about what this language  
2116 means and not leave it to the courts to sort out.

2117         That is why I am supporting Mr. Rush's amendment. It  
2118 simply states that the language in Section 5 supplements but  
2119 does not replace the requirements that have been in the Clean  
2120 Air Act for the past 20 years. It clarifies the EPA should  
2121 still set numeric emission limits to reduce toxic air  
2122 pollution unless such limits are not feasible as described in  
2123 the statute.

2124         My colleagues, we have two choices: support the Rush  
2125 amendment to clarify that the bill is not designed to let  
2126 cement kilns off the hook for their toxic pollution or oppose  
2127 the Rush amendment and admit that this bill goes much further  
2128 than its supporters claim it does, and I urge everyone on  
2129 this committee to support the Rush amendment and make this  
2130 clear clarification in support of public health.

2131         Mr. {Whitfield.} The chair recognizes the gentleman  
2132 from Oklahoma for 5 minutes.

2133         Mr. {Sullivan.} Thank you, Mr. Chairman.

2134         Opposition to the Rush amendment is not going to kill  
2135 children. We have to think about what will hurt children,  
2136 and that is, if their parents don't have a job, and if this  
2137 rule goes into effect, 20 percent of our cement plants will

2138 be shut down and families won't be able to provide for their  
2139 children or have health insurance to send them to the doctor  
2140 when they are sick, and that is what this is all about.

2141         The EPA, it is okay if they regulate, we just want them  
2142 to do it the right way, and I am in opposition to the Rush  
2143 amendment. Section 112 and 129 direct EPA to set maximum  
2144 achievable control technology for sources that emit hazardous  
2145 air pollutants. While it should be clear from the statute  
2146 that these will be achievable in practice, courts have  
2147 created ambiguity. The EPA is currently following a  
2148 pollutant-by-pollutant approach and setting standards that  
2149 cannot be met by real-world boilers. This is sometimes  
2150 referred to as the Frankenboiler or the Frankenplant problem.  
2151 This approach is not required by the Clean Air Act.

2152         The purpose of H.R. 2681 is to clarify Congress's intent  
2153 that EPA must set standards that are actually achievable in  
2154 practice by real-world units. H.R. 2681 specifies that the  
2155 Administrator must ensure that the emissions standards set  
2156 can be met under actual operating conditions and can be met  
2157 at the same time for all pollutants being regulated under the  
2158 rule. Put simple, ``achievable'' means ``achievable.''

2159         This amendment would create confusion for EPA because  
2160 the agency would have to choose between the existing language  
2161 in the statute and Congress's clarification in this bill that

2162 the standards being set are achievable in practice by real-  
2163 world facilities. Ambiguity has kept these rules in  
2164 litigation since 2004 and it is critical that Congress  
2165 provide additional direction to EPA.

2166 I urge you to vote ``no'' on this amendment.

2167 Mr. {Whitfield.} Does the gentleman yield back the  
2168 balance of his time?

2169 Mr. {Sullivan.} Yes.

2170 Mr. {Whitfield.} The chair recognizes the gentleman  
2171 from North Carolina.

2172 Mr. {Butterfield.} Thank you very much, Mr. Chairman.

2173 I have listened very closely to this debate, and I think  
2174 there are some valid points on both sides, but, you know, if  
2175 we have to choose between children and cement boilers, I  
2176 think we have to trend in the direction of protecting our  
2177 children, but I want to learn more about this and have an  
2178 open mind about it because there are good points on both  
2179 sides.

2180 I yield the remainder of my time to the gentleman from  
2181 Illinois, Mr. Rush.

2182 Mr. {Rush.} I thank the gentleman for yielding.

2183 Mr. Chairman, my friend, from Illinois, Mr. Kinzinger,  
2184 talked about breathing room, and I must just say to him there  
2185 are breathing rooms that have different levels, so there are

2186 rooms that you and I wouldn't want to spend 5 minutes in them  
2187 because the air in the room is so toxic and the air outside  
2188 the room is so toxic.

2189         The debate kind of reminds me of, I can imagine the  
2190 debate back at the turn of the century around the air in  
2191 coalmines, and there are some probably taking the same  
2192 position that jobs were at stake and that so what if there is  
2193 black lung disease that threatens the workers. You know,  
2194 industry needed the jobs.

2195         But on the issue of jobs, Mr. Chairman, I think that Mr.  
2196 Steven Pearlstein in the Washington Post the other day, I  
2197 think he put this fairly clearly and succinctly in a two-  
2198 paragraph column entitled ``The Magical World of Voodoo  
2199 Economists'' and he says, ``One recent example of voodoo  
2200 economists comes from the cement industry which now warns  
2201 that new regulations limiting emissions of sulfur dioxide and  
2202 nitrogen oxide could close as many as 18 of the 100 cement  
2203 plants in the U.S., resulting in a direct loss of 13,000  
2204 jobs. Then again, where do you think all these customers of  
2205 the 18 plants will get their cement? Do you think that they  
2206 might get some of it from the other 82 plants, which in turn  
2207 might have to add a few workers to handle the additional  
2208 volume? Or that a higher price for cement might induce  
2209 somebody to build a modern plant to take advantage of the

2210 suddenly unmet demand or perhaps that higher prices for  
2211 cement will lead some customers to use another building  
2212 material produced by an industry that will have to add  
2213 workers to increase its output? And what about the  
2214 possibility that the regulation will encourage some  
2215 innovative company to devise emissions control equipment that  
2216 will not only allow some of the plants to remain open but  
2217 generate a few thousand extra jobs of its own as it exports  
2218 to plants around the world. Such possibilities are rarely,  
2219 if ever, acknowledged in these 'job-scare studies'' and the  
2220 job-scare rhetoric that we have heard today. ``Also left out  
2221 of many of the estimates of the benefits that might accrue in  
2222 terms of longer, healthier lives. In the Republican  
2223 alternative universe, it is all costs, no benefits, when it  
2224 comes to government regulation. As they see it, government  
2225 regulators wake up every morning with an uncontrollable urge  
2226 to see how many jobs they can destroy.'' And that is the end  
2227 of his article.

2228         Mr. Chairman, I just want to say that, you know, the way  
2229 I have heard it this morning and during these hearings on  
2230 this bill, you know, the EPA doesn't stand for the  
2231 Environmental Protection Agency anymore, it is the Evil  
2232 Practices Agency, and I don't agree with that. The EPA is  
2233 not the Evil Practices Agency, it is the Environmental

2234 Protection Agency, and so I wish that my friends from the  
2235 other side will get on this. We don't have to have  
2236 either/or. We can have ``both and.'' What about ``both  
2237 and''? We can have clean air and good jobs. We can have  
2238 clean air and a cement industry that meets standards as set  
2239 by the EPA or, as Mr. Pearlstein said, why not use our  
2240 innovative skills and wherewithal to create additional  
2241 building materials that won't threaten the air that we  
2242 breathe.

2243 Mr. Chairman, I would hate to get to a point where we  
2244 have to send a canary into the cement manufacturing  
2245 facilities before the workers can go in. I yield back.

2246 Mr. {Butterfield.} I reclaim my time and yield back.

2247 Mr. {Whitfield.} The gentleman yields back his time.

2248 The chair recognizes the gentleman from California, Mr.  
2249 Bilbray, for 5 minutes.

2250 Mr. {Bilbray.} Mr. Chairman, I just ask both sides to  
2251 take a look at the way the discussion has been going and  
2252 understand that we have been talking about maximum achievable  
2253 reductions based on a stationary source, and the discussion  
2254 on the other side of the aisle has been almost like an  
2255 assumption that the one stationary source is all that we need  
2256 to look at, is all that is considered, and I would just try  
2257 to ask colleagues on both sides of the aisle to at least

2258 admit that the historical approach by EPA to these issues  
2259 that has been stationary source by stationary source now is  
2260 being transferred into a concept that will go cross state  
2261 transport as if that is the holistic real-world experience.  
2262 I challenge you to the fact that the real-world experience is  
2263 not even considered by EPA and legislatively is not required  
2264 to be considered by EPA. They get to look at a snapshot in a  
2265 small area of the globe and then assume that is the entire  
2266 impact. I don't know how many people on this committee would  
2267 accept an amendment that no regulatory modification should  
2268 occur unless there is a guarantee that there will not be any  
2269 increase of toxic materials or mercury. You can go down the  
2270 list anywhere in the country. And if you gave that kind of  
2271 condition that I want a guarantee that a change in the  
2272 Midwest is not going to cause more mercury to hit my  
2273 constituents in San Diego and I will not support any agency  
2274 that may modify a rule that causes that, this is a very  
2275 defensible position in my district.

2276         And you may say this is not real-world experience. I  
2277 think we saw the renewable fuel issue that ended up having to  
2278 look at real-world experiences and nobody in EPA when they  
2279 proposed that rule change considered the fact that their rule  
2280 change would lead to the destruction of carbon sink in Third  
2281 World countries while rainforests were cut down to grow food

2282 to replace material that was being used for other strategies  
2283 that the EPA thought was great and nobody even considered the  
2284 global impact of so much of this stuff.

2285         So I just have to say, we shouldn't take too high and  
2286 mighty approach that we know exactly what is going. We  
2287 ignore the fact that we want to talk about minorities or  
2288 disproportionately impacted by air pollutant exposures, which  
2289 is true, but they are also exposed more to economic downturns  
2290 proportionately in a matter of two or three times when the  
2291 general population is. You want to talk about that? There  
2292 is environmental risk and economic risk but I have just have  
2293 to turn right back around and say I can't be assured that if  
2294 we put these regulations in the Midwest that this production  
2295 and this emissions is not going to end up in Monterey,  
2296 Mexico, or in China, and my constituents in California are  
2297 going to be impacted, my children in San Diego are not going  
2298 to have a higher mercury exposure than what they have today.  
2299 And don't tell me that oh, this is absolutely impossible. We  
2300 have seen exactly how underestimated the global impacts of  
2301 our national and local regulatory oversight has been.

2302         So I just ask everybody that we just understand that  
2303 this is not as simple as either side would like to point out  
2304 but there is economic and environmental impact, and for those  
2305 that want to say that this is all about children as opposed

2306 to businesses, no, this is talking about a balance between a  
2307 proper environmental and economic strategy that balances the  
2308 fact that our constituents need a safe environment and a  
2309 healthy economy and there is no such thing as a safe  
2310 environment where there is not a healthy economy.

2311 I yield back.

2312 The {Chairman.} The gentleman's time is expired.

2313 Are there any other members wishing to speak on the  
2314 amendment? Seeing none, the vote now occurs on the Rush  
2315 amendment. Those in favor, say aye. Those opposed, say no.  
2316 The nos appear to have it. The nos have it.

2317 A roll call is requested. The clerk will call the roll  
2318 on the Rush amendment.

2319 The {Clerk.} Mr. Barton?

2320 [No response.]

2321 The {Clerk.} Mr. Stearns?

2322 Mr. {Stearns.} No.

2323 The {Clerk.} Mr. Stearns votes no.

2324 Mr. Whitfield?

2325 Mr. {Whitfield.} No.

2326 The {Clerk.} Mr. Whitfield votes no.

2327 Mr. Shimkus?

2328 Mr. {Shimkus.} No.

2329 The {Clerk.} Mr. Shimkus votes no.

- 2330 Mr. Pitts?
- 2331 Mr. {Pitts.} No.
- 2332 The {Clerk.} Mr. Pitts votes no.
- 2333 Mrs. Bono Mack?
- 2334 Mrs. {Bono Mack.} No.
- 2335 The {Clerk.} Mrs. Bono Mack votes no.
- 2336 Mr. Walden?
- 2337 Mr. {Walden.} No.
- 2338 The {Clerk.} Mr. Walden votes no.
- 2339 Mr. Terry?
- 2340 Mr. {Terry.} No.
- 2341 The {Clerk.} Mr. Terry votes no.
- 2342 Mr. Rogers?
- 2343 Mr. {Rogers.} No.
- 2344 The {Clerk.} Mr. Rogers votes no.
- 2345 Mrs. Myrick?
- 2346 [No response.]
- 2347 The {Clerk.} Mr. Sullivan?
- 2348 [No response.]
- 2349 The {Clerk.} Mr. Murphy?
- 2350 Mr. {Murphy.} No.
- 2351 The {Clerk.} Mr. Murphy votes no.
- 2352 Mr. Burgess?
- 2353 Dr. {Burgess.} No.

2354 The {Clerk.} Mr. Burgess votes no.  
2355 Mrs. Blackburn?  
2356 Mrs. {Blackburn.} No.  
2357 The {Clerk.} Mr. Blackburn votes no.  
2358 Mr. Bilbray?  
2359 Mr. {Bilbray.} No.  
2360 The {Clerk.} Mr. Bilbray votes no.  
2361 Mr. Bass?  
2362 Mr. {Bass.} No.  
2363 The {Clerk.} Mr. Bass votes no.  
2364 Mr. Gingrey?  
2365 Dr. {Gingrey.} No.  
2366 The {Clerk.} Mr. Gingrey votes no.  
2367 Mr. Scalise?  
2368 Mr. {Scalise.} No.  
2369 The {Clerk.} Mr. Scalise votes no.  
2370 Mr. Latta?  
2371 Mr. {Latta.} No.  
2372 The {Clerk.} Mr. Latta votes no.  
2373 Mrs. McMorris Rodgers?  
2374 Mrs. {McMorris Rodgers.} No.  
2375 The {Clerk.} Mrs. McMorris Rodgers votes no.  
2376 Mr. Harper?  
2377 Mr. {Harper.} No.

2378 The {Clerk.} Mr. Harper votes no.  
2379 Mr. Lance?  
2380 Mr. {Lance.} No.  
2381 The {Clerk.} Mr. Lance votes no.  
2382 Mr. Cassidy?  
2383 Dr. {Cassidy.} No.  
2384 The {Clerk.} Mr. Cassidy votes no.  
2385 Mr. Guthrie?  
2386 Mr. {Guthrie.} No.  
2387 The {Clerk.} Mr. Guthrie votes no.  
2388 Mr. Olson?  
2389 Mr. {Olson.} No.  
2390 The {Clerk.} Mr. Olson votes no.  
2391 Mr. McKinley?  
2392 Mr. {McKinley.} No.  
2393 The {Clerk.} Mr. McKinley votes no.  
2394 Mr. Gardner?  
2395 Mr. {Gardner.} No.  
2396 The {Clerk.} Mr. Gardner votes no.  
2397 Mr. Pompeo?  
2398 Mr. {Pompeo.} No.  
2399 The {Clerk.} Mr. Pompeo votes no.  
2400 Mr. Kinzinger?  
2401 Mr. {Kinzinger.} No.

2402 The {Clerk.} Mr. Kinzinger votes no.  
2403 Mr. Griffith?  
2404 Mr. {Griffith.} No.  
2405 The {Clerk.} Mr. Griffith votes no.  
2406 Mr. Waxman?  
2407 Mr. {Waxman.} Aye.  
2408 The {Clerk.} Mr. Waxman votes aye.  
2409 Mr. Dingell?  
2410 [No response.]  
2411 The {Clerk.} Mr. Markey?  
2412 [No response.]  
2413 The {Clerk.} Mr. Towns?  
2414 Mr. {Towns.} Aye.  
2415 The {Clerk.} Mr. Towns votes aye.  
2416 Mr. Pallone?  
2417 Mr. {Pallone.} Aye.  
2418 The {Clerk.} Mr. Pallone votes aye.  
2419 Mr. Rush?  
2420 Mr. {Rush.} Aye.  
2421 The {Clerk.} Mr. Rush votes aye.  
2422 Ms. Eshoo?  
2423 Ms. {Eshoo.} Aye.  
2424 The {Clerk.} Ms. Eshoo votes aye.  
2425 Mr. Engel?

2426 [No response.]

2427 The {Clerk.} Mr. Green?

2428 Mr. {Green.} Aye.

2429 The {Clerk.} Mr. Green votes aye.

2430 Ms. DeGette?

2431 Ms. {DeGette.} Aye.

2432 The {Clerk.} Ms. DeGette votes aye.

2433 Mrs. Capps?

2434 Mrs. {Capps.} Aye.

2435 The {Clerk.} Mrs. Capps votes aye.

2436 Mr. Doyle?

2437 [No response.]

2438 The {Clerk.} Ms. Schakowsky?

2439 Ms. {Schakowsky.} Aye.

2440 The {Clerk.} Ms. Schakowsky votes aye.

2441 Mr. Gonzalez?

2442 [No response.]

2443 The {Clerk.} Mr. Inslee?

2444 [No response.]

2445 The {Clerk.} Ms. Baldwin?

2446 [No response.]

2447 The {Clerk.} Mr. Ross?

2448 Mr. {Ross.} No.

2449 The {Clerk.} Mr. Ross votes no.

2450 Mr. Matheson?

2451 Mr. {Matheson.} No.

2452 The {Clerk.} Mr. Matheson votes no.

2453 Mr. Butterfield?

2454 Mr. {Butterfield.} Aye.

2455 The {Clerk.} Mr. Butterfield votes aye.

2456 Mr. Barrow?

2457 Mr. {Barrow.} No.

2458 The {Clerk.} Mr. Barrow votes no.

2459 Ms. Matsui?

2460 Ms. {Matsui.} Aye.

2461 The {Clerk.} Ms. Matsui votes aye.

2462 Mrs. Christensen?

2463 Dr. {Christensen.} Aye.

2464 The {Clerk.} Mrs. Christensen votes aye.

2465 Ms. Castor?

2466 Ms. {Castor.} Aye.

2467 The {Clerk.} Ms. Castor votes aye.

2468 Chairman Upton?

2469 The {Chairman.} Votes no.

2470 The {Clerk.} Chairman Upton votes no.

2471 The {Chairman.} Are there other members wishing to cast

2472 their vote? Mr. Sullivan?

2473 Mr. {Sullivan.} No.

2474           The {Clerk.} Mr. Sullivan votes no.

2475           The {Chairman.} Other members? Seeing none, the clerk  
2476 will report the tally.

2477           The {Clerk.} Mr. Chairman, on that vote there were 32  
2478 ayes, 13 nays--oh, sorry--32 nays, 13 ayes.

2479           The {Chairman.} Thirty-two nays, 13 ayes, the amendment  
2480 is not agreed to.

2481           Are there other amendments to the bill?

2482           Mr. {Waxman.} Mr. Chairman.

2483           The {Chairman.} The gentleman from California.

2484           Mr. {Waxman.} I move to strike the last word.

2485           The {Chairman.} The gentleman is recognized for 5  
2486 minutes.

2487           Mr. {Waxman.} Mr. Chairman, the House leadership has  
2488 determined that this week is Dirty Air Week. The raft of  
2489 proposals moving through the House this week if enacted will  
2490 cut the heart out of the Clean Air Act. We have a mercury  
2491 pollution problem in this country. It is poisoning our lakes  
2492 and rivers and it is poisoning our children. The three  
2493 biggest sources of mercury pollution are power plants,  
2494 industrial boilers and cement plants. At today's markup, we  
2495 are giving industrial boilers and cement plants a pass on  
2496 cleaning up their air pollution.

2497           Later this week, we will consider the TRAIN Act on the

2498 House Floor. This will give power plants a pass on cleaning  
2499 up their pollution. We will also consider the Latta  
2500 amendment. This proposal will reverse 40 years of Clean Air  
2501 Act policy. Single-handedly the Latta amendment would gut  
2502 Clean Air standards in every corner of the Nation, and we  
2503 have never had a hearing on it. We have never had a markup  
2504 on it. We will get just 10 minutes of debate to consider it.  
2505 It is a far-reaching and extreme proposal.

2506 All of these proposals that we are considering this week  
2507 will, in my opinion, hurt Americans, they will not create  
2508 jobs, and that is why I have called week Dirty Air Week for  
2509 the Republican House agenda.

2510 I yield back my time.

2511 The {Chairman.} The gentleman yields back.

2512 The question now occurs on favorably reporting the bill  
2513 as amended to the House. All those in favor, say aye. Those  
2514 opposed, say no. The ayes appear to have it. The ayes have  
2515 it.

2516 Mr. {Waxman.} Roll call.

2517 The {Chairman.} Roll call is requested so the clerk  
2518 will call the roll on final passage.

2519 The {Clerk.} Mr. Barton?

2520 [No response.]

2521 The {Clerk.} Mr. Stearns?

2522 Mr. {Stearns.} Aye.  
2523 The {Clerk.} Mr. Stearns votes aye.  
2524 Mr. Whitfield?  
2525 Mr. {Whitfield.} Aye.  
2526 The {Clerk.} Mr. Whitfield votes aye.  
2527 Mr. Shimkus?  
2528 Mr. {Shimkus.} Aye.  
2529 The {Clerk.} Mr. Shimkus votes aye.  
2530 Mr. Pitts?  
2531 Mr. {Pitts.} Aye.  
2532 The {Clerk.} Mr. Pitts votes aye.  
2533 Mrs. Bono Mack?  
2534 Mrs. {Bono Mack.} Aye.  
2535 The {Clerk.} Mrs. Bono Mack votes aye.  
2536 Mr. Walden?  
2537 Mr. {Walden.} Aye.  
2538 The {Clerk.} Mr. Walden votes aye.  
2539 Mr. Terry?  
2540 Mr. {Terry.} Aye.  
2541 The {Clerk.} Mr. Terry votes aye.  
2542 Mr. Rogers?  
2543 Mr. {Rogers.} Aye.  
2544 The {Clerk.} Mr. Rogers votes aye.  
2545 Mrs. Myrick?

2546 [No response.]  
2547 The {Clerk.} Mr. Sullivan?  
2548 Mr. {Sullivan.} Aye.  
2549 The {Clerk.} Mr. Sullivan votes aye.  
2550 Mr. Murphy?  
2551 Mr. {Murphy.} Aye.  
2552 The {Clerk.} Mr. Murphy votes aye.  
2553 Mr. Burgess?  
2554 Dr. {Burgess.} Aye.  
2555 The {Clerk.} Mr. Burgess votes aye.  
2556 Mrs. Blackburn?  
2557 Mrs. {Blackburn.} Aye.  
2558 The {Clerk.} Mrs. Blackburn votes aye.  
2559 Mr. Bilbray?  
2560 Mr. {Bilbray.} Aye.  
2561 The {Clerk.} Mr. Bilbray votes aye.  
2562 Mr. Bass?  
2563 Mr. {Bass.} Aye.  
2564 The {Clerk.} Mr. Bass votes aye.  
2565 Mr. Gingrey?  
2566 Dr. {Gingrey.} Aye.  
2567 The {Clerk.} Mr. Gingrey votes aye.  
2568 Mr. Scalise?  
2569 Mr. {Scalise.} Aye.

2570 The {Clerk.} Mr. Scalise votes aye.  
2571 Mr. Latta?  
2572 [No response.]  
2573 The {Clerk.} Mrs. McMorris Rodgers?  
2574 Mrs. {McMorris Rodgers.} Aye.  
2575 The {Clerk.} Mrs. McMorris Rodgers votes aye.  
2576 Mr. Harper?  
2577 Mr. {Harper.} Aye.  
2578 The {Clerk.} Mr. Harper votes aye.  
2579 Mr. Lance?  
2580 Mr. {Lance.} Aye.  
2581 The {Clerk.} Mr. Lance votes aye.  
2582 Mr. Cassidy?  
2583 Dr. {Cassidy.} Aye.  
2584 The {Clerk.} Mr. Cassidy votes aye.  
2585 Mr. Guthrie?  
2586 Mr. {Guthrie.} Aye.  
2587 The {Clerk.} Mr. Guthrie votes aye.  
2588 Mr. Olson?  
2589 Mr. {Olson.} Aye.  
2590 The {Clerk.} Mr. Olson votes aye.  
2591 Mr. McKinley?  
2592 Mr. {McKinley.} Aye.  
2593 The {Clerk.} Mr. McKinley votes aye.

2594 Mr. Gardner?

2595 Mr. {Gardner.} Aye.

2596 The {Clerk.} Mr. Gardner votes aye.

2597 Mr. Pompeo?

2598 Mr. {Pompeo.} Aye.

2599 The {Clerk.} Mr. Pompeo votes aye.

2600 Mr. Kinzinger?

2601 Mr. {Kinzinger.} Aye.

2602 The {Clerk.} Mr. Kinzinger votes aye.

2603 Mr. Griffith?

2604 Mr. {Griffith.} Aye.

2605 The {Clerk.} Mr. Griffith votes aye.

2606 Mr. Waxman?

2607 Mr. {Waxman.} No.

2608 The {Clerk.} Mr. Waxman votes no.

2609 Mr. Dingell?

2610 [No response.]

2611 The {Clerk.} Mr. Markey?

2612 [No response.]

2613 The {Clerk.} Mr. Towns?

2614 Mr. {Towns.} No.

2615 The {Clerk.} Mr. Towns votes no.

2616 Mr. Pallone?

2617 Mr. {Pallone.} No.

2618 The {Clerk.} Mr. Pallone votes no.  
2619 Mr. Rush?  
2620 Mr. {Rush.} No.  
2621 The {Clerk.} Mr. Rush votes no.  
2622 Ms. Eshoo?  
2623 Ms. {Eshoo.} No.  
2624 The {Clerk.} Ms. Eshoo votes no.  
2625 Mr. Engel?  
2626 [No response.]  
2627 The {Clerk.} Mr. Green?  
2628 Mr. {Green.} Aye.  
2629 The {Clerk.} Mr. Green votes aye.  
2630 Ms. DeGette?  
2631 Ms. {DeGette.} No.  
2632 The {Clerk.} Ms. DeGette votes no.  
2633 Mrs. Capps?  
2634 Mrs. {Capps.} No.  
2635 The {Clerk.} Mrs. Capps votes no.  
2636 Mr. Doyle?  
2637 [No response.]  
2638 The {Clerk.} Ms. Schakowsky?  
2639 Ms. {Schakowsky.} No.  
2640 The {Clerk.} Ms. Schakowsky votes no.  
2641 Mr. Gonzalez?

2642 [No response.]

2643 The {Clerk.} Mr. Inslee?

2644 [No response.]

2645 The {Clerk.} Ms. Baldwin?

2646 [No response.]

2647 The {Clerk.} Mr. Ross?

2648 Mr. {Ross.} Aye.

2649 The {Clerk.} Mr. Ross votes aye.

2650 Mr. Matheson?

2651 Mr. {Matheson.} Aye.

2652 The {Clerk.} Mr. Matheson votes aye.

2653 Mr. Butterfield?

2654 Mr. {Butterfield.} No.

2655 The {Clerk.} Mr. Butterfield votes no.

2656 Mr. Barrow?

2657 Mr. {Barrow.} Aye.

2658 The {Clerk.} Mr. Barrow votes aye.

2659 Ms. Matsui?

2660 Ms. {Matsui.} No.

2661 The {Clerk.} Ms. Matsui votes no.

2662 Mrs. Christensen?

2663 Dr. {Christensen.} Aye.

2664 The {Clerk.} Mrs. Christensen votes no.

2665 Ms. Castor?

2666 Ms. {Castor.} No.

2667 The {Clerk.} Ms. Castor votes no.

2668 Chairman Upton?

2669 The {Chairman.} Votes aye.

2670 The {Clerk.} Chairman Upton votes aye.

2671 The {Chairman.} Are there other members wishing to  
2672 vote? Mr. Latta?

2673 Mr. {Latta.} Votes aye.

2674 The {Clerk.} Mr. Latta votes aye.

2675 The {Chairman.} Are there other members wishing to cast  
2676 their vote? If not, the clerk will report the tally.

2677 The {Clerk.} Mr. Chairman, on that vote, there were 33  
2678 ayes and 12 nays.

2679 The {Chairman.} Thirty-three ayes, 12 nays. The bill  
2680 is favorably reported and passed.

2681 Without objection, the staff is authorized to make  
2682 technical and conforming changes to the bills--

2683 Mr. {Waxman.} Reserving the right to object, Mr.  
2684 Chairman.

2685 The {Chairman.} --approved by the committee. So  
2686 ordered.

2687 For what purpose does--

2688 Mr. {Waxman.} Well, don't order it yet because I am not  
2689 done--

2690           The {Chairman.} Go ahead.

2691           Mr. {Waxman.} In order to confirm that this unanimous  
2692 consent agreement would authorize committee staff to correct  
2693 a technical drafting error to Section 7 of H.R. 2937 that  
2694 inadvertently excluded hazardous-liquid pipelines from the  
2695 scope of the provision.

2696           Mr. Chairman.} Without objection, that will be fixed  
2697 correctly.

2698           Mr. {Waxman.} And Mr. Chairman, I would like to request  
2699 on behalf of the minority the customary period of time in  
2700 which we may file different views.

2701           The {Chairman.} Without objection, so ordered.

2702           So the chair would thank all members and staff, and I  
2703 just want to give Godspeed to Maryam Brown for a good markup.  
2704 This will be her last markup for a number of weeks as she is  
2705 with child. She is expecting next week, so we wish her the  
2706 very best.

2707           With that, the committee stands adjourned.

2708           [Whereupon, at 12:24 p.m., the Committee was adjourned.]