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4 HEARING ON REGULATORY REFORM SERIES #7: THE EPA'S REGULATORY
5 PLANNING, ANALYSIS, AND MAJOR ACTIONS
6 THURSDAY, SEPTEMBER 22, 2011
7 House of Representatives,
8 Subcommittee on Oversight and Investigation
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The subcommittee met, pursuant to call, at 9:08 a.m., in
12 Room 2322 of the Rayburn House Office Building, Hon. Cliff
13 Stearns [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Stearns, Murphy,
15 Burgess, Blackburn, Myrick, Bilbray, Gingrey, Scalise,
16 Gardner, Griffith, Barton, Upton (ex officio), DeGette,
17 Schakowsky, Castor, Markey, Christensen, Dingell and Waxman
18 (ex officio).

19 Staff present: Charlotte Baker, Press Secretary; Anita
20 Bradley, Senior Policy Advisor to Chairman Emeritus; Andy
21 Duberstein, Special Assistant to Chairman Upton; Todd
22 Harrison, Chief Counsel, Oversight and Investigations; Kirby
23 Howard, Legislative Clerk; Heidi King, Chief Economist; Carly
24 McWilliams, Legislative Clerk; Mary Neumayr, Senior Energy
25 Counsel; Krista Rosenthal, Counsel to Chairman Emeritus;
26 Alan Slobodin, Deputy Chief Counsel, Oversight; Sam Spector,
27 Counsel, Oversight; Peter Spencer, Professional Staff Member,
28 Oversight; Kristin Amerling, Democratic Chief Counsel and
29 Oversight Staff Director; Alvin Banks, Democratic
30 Investigator; Brian Cohen, Democratic Investigations Staff
31 Director and Senior Policy Advisor; Jacqueline Cohen,
32 Democratic Counsel; Greg Dotson, Democratic Energy and
33 Environment Staff Director; Kelley Greenman, Democratic
34 Legislative Assistant; Alexandra Teitz, Democratic Senior
35 Counsel, Environment and Energy; and Anne Tindall, Democratic
36 Counsel.

|
37 Mr. {Stearns.} Good morning, everybody. The
38 Subcommittee on Oversight and Investigation will come to
39 order, and I will open with my opening statement.

40 Ladies and gentlemen, this past January, President Obama
41 issued Executive Order 13563 to improve regulations and the
42 regulatory review process, noting that our regulatory system
43 ``must protect public health, welfare, safety, and our
44 environment while promoting economic growth, innovation,
45 competitiveness, and job creation.''

46 With job creation and the Nation's economic recovery the
47 focal point, the subcommittee has sought to get a clearer
48 understanding of agency regulatory action under this
49 Administration. Today, in our seventh hearing in this
50 effort, we will examine the EPA's regulatory planning,
51 analysis and major actions taken.

52 While we agree with the principles outlined in the
53 Executive Order, we are disappointed that EPA does not seem
54 to have followed those principles. Time and time again over
55 the last 3 years, we have seen the EPA issue oppressive new
56 regulations that have dramatically raised the costs of doing
57 business in the United States, and, indeed, have driven
58 numerous American companies out of business altogether.

59 The EPA is unquestionably an important public health

60 regulatory agency, which has contributed to the tremendous
61 improvements in clean air, safe drinking water and
62 environmental quality over the past 40 years. It is also an
63 agency that wields tremendous influence over the essential
64 ingredients of economic recovery: the cost of manufacturing,
65 construction and power production, the reliability of energy,
66 the certainty of future rules and standards in the decisions
67 that drive the Nation's commerce.

68 Since the beginning of this Administration, EPA has
69 issued or proposed a number of large, complex and expensive
70 rules. The pace of these rulemakings is such that it is not
71 always clear EPA has fully considered or fully informed the
72 public about the potential negative consequences of its
73 actions on the United States economy, jobs creation and our
74 ability to compete with countries around the world.

75 Now, consider the decision in the first weeks of the
76 Administration to pursue an endangerment finding for
77 greenhouse gases. This formed the regulatory predicate for
78 setting fuel efficiency standards for cars and trucks, an
79 EPA-estimated cost of about \$60 billion. The President
80 announced the prospect of this new regulation at a Rose
81 Garden ceremony. But there was no public discussion about
82 the fact that the new regulation also would have
83 automatically triggered new permitting requirements required

84 by the Clean Air Act for all stationary sources of greenhouse
85 gas emissions. These permitting requirements meant that
86 82,000 stationary sources annually would need to obtain
87 preconstruction permits. Another 6.1 million sources would
88 need to obtain operating permits. EPA estimated that, absent
89 a rulemaking to exempt the majority of these sources, the
90 permitting costs alone would be \$193 billion over just a 3-
91 year period. The cost of ceasing operations or not
92 initiating new projects was never taken into account.

93 To avoid this absurd and self-imposed economic calamity,
94 EPA issued ``tailoring'' rules to exempt most, but not all
95 sources, but left open the possibility of sweeping more
96 entities into the new permitting regime at a later date.
97 This affects the entire U.S. economy, as the future of
98 greenhouse gas permitting exists under a cloud of
99 uncertainty.

100 Now, in another case, in January 2010, EPA chose to
101 reconsider ground-level ozone standards set just recently in
102 2008. Although the proposed standards would potentially
103 sweep vast areas of the Nation into noncompliance and cost
104 upwards of \$90 billion per year, the agency sought to rush
105 and issue final standards in just 8 months. The agency
106 missed that deadline but was still promising to issue final
107 standards, until the President himself, recognizing that

108 issuing such a rule would cause him severe electoral problems
109 in the next election, recently requested that the
110 Administrator refrain from issuing the ozone rule at this
111 time. The President is on board, however, with issuing
112 onerous new regulations in 2013--after the election.

113 Just yesterday, this committee reported legislation to
114 provide adequate time for EPA to develop standards for
115 hazardous air pollutants for boilers and cement plants, after
116 it became apparent that EPA's complex and admittedly rushed
117 rulemaking results in requirements simply unachievable in the
118 real world.

119 Under the Clean Air Act, the Resource Conservation and
120 Recovery Act and various other statutes, EPA appears to be
121 rushing forward with rulemakings that just don't make sense
122 for those who know what it takes to implement them and those
123 concerned with ensuring we simply have a vital economy.

124 It does not appear that the President's stated
125 priorities for thoughtful, transparent and sound rulemaking
126 have taken hold at the EPA. I am particularly interested in
127 learning about EPA's future regulatory plans and how the
128 cumulative impacts of its rules inform its planning. Does
129 EPA consult adequately with other agencies? Does EPA operate
130 openly with affected stakeholders, States, and the public?
131 These are important questions. I look forward to our

132 discussion with the Hon. Lisa Jackson.

133 [The prepared statement of Mr. Stearns follows:]

134 ***** COMMITTEE INSERT *****

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135 Mr. {Stearns.} With that, I recognize the distinguished
136 ranking member, Diana DeGette.

137 Ms. {DeGette.} Thank you very much, Mr. Chairman, for
138 convening this hearing.

139 I think that oversight directed towards ensuring
140 efficient and effective federal regulation is an important
141 endeavor, and I like to work with the majority to have
142 efforts to root out unnecessary and wasteful regulations. As
143 a long-time member of this distinguished subcommittee, I
144 believe the purpose of this committee is to investigate what
145 can be done, not to forward a political agenda, and so I know
146 we are going to have a heated discussion today, but I think
147 we should keep it focused on exactly what regulations we are
148 talking about, what the purpose is and in fact they are
149 necessary.

150 To that end, I am delighted to welcome our witness
151 today, EPA Administrator Lisa Jackson. Administrator Jackson
152 oversees implementation of some of the most important
153 legislation ever passed by Congress, and it is my view that
154 she is one of the most gutsy and effective members of the
155 Administration, so I am glad to have her.

156 The main topic of the conversation today will be jobs.
157 I know that my colleagues on the other side of the aisle will

158 assert that environmental rules and regulations are stifling
159 jobs and harming economic growth, but this is simply not the
160 case. We need to keep in mind the purpose of the Clean Air
161 Act: to protect the health of Americans.

162 Now, in 2010 alone, the Clean Air Act prevented 160,000
163 premature deaths, millions of respiratory illnesses, 3
164 million lost school days and 13 million lost workdays. By
165 2020, the Clean Air Act's total benefit to the economy will
166 reach \$2 trillion, outweighing costs more than 30 to one.

167 The Clean Air Act and other environmental laws do
168 something else: they create millions of jobs and they could
169 create millions more jobs if it weren't for the inaction of
170 this Congress to pass climate change legislation. Compliance
171 with the Clean Air Act generates investment in design,
172 manufacture, installation and operation of equipment to
173 reduce pollution. The environmental technology and services
174 sector has grown steadily since the act's adoption,
175 generating \$300 billion in revenue and supporting nearly 1.7
176 million jobs in 2008 alone.

177 Clean Air Act rules recently announced by the EPA will
178 only add to this remarkable record. For example, investment
179 spurred by the Utility, Toxics and Cross-State Air Pollution
180 Rules will generate 1.5 new jobs by 2015. These will be
181 high-paying, skilled, professional jobs that cannot be

182 outsourced.

183 So Chairman, one of the biggest steps this committee
184 could take to boost the economy would be to pass long-overdue
185 legislation to combat climate change and usher in an era of
186 clean energy. Now, you don't need to be a Democrat to
187 believe this; you just need to live in a science-based world.
188 Two years ago when this committee passed landmark climate
189 legislation, we heard from business leaders that there were
190 billions of dollars sitting on the sidelines just waiting for
191 clear rules of the road to be drawn up for the Nation's
192 energy future. I just met with the Colorado rural electric
193 folks yesterday, who told me the same thing, and these
194 business leaders continue to ask Congress to act.

195 Just last week, for example, the America Energy
196 Innovation Council led by people like Bill Gates, venture
197 capitalist John Doerr and General Electric CEO Jeff Immelt
198 implored the federal government to invest in clean energy
199 technologies. I want to read to you from these leaders'
200 recent report Catalyzing Ingenuity: ``Innovation is the core
201 of America's economic strength and future prosperity. New
202 ideas are the key to fostering sustained economic growth,
203 creating jobs in new industries and continuing America's
204 global leadership. Of all the sectors in the economy where
205 innovation has a critical role to play, the energy sector

206 stands out. Ready access to reliable, affordable forms of
207 energy is not only vital for the functioning of the larger
208 economy, it is also vital to people's everyday lives. It
209 also significantly impacts the country's national security,
210 environmental wellbeing and economic competitiveness.''

211 Mr. Chairman, here is what these business leaders
212 conclude: ``Unfortunately, the country has yet to embark on a
213 clean energy innovation program commensurate with the scale
214 of the national priorities that are at stake.''

215 Mr. Chairman, this committee should listen to these
216 titans of the economy. We should be passing legislation to
217 unleash American innovation and create American jobs in the
218 new energy economy. Instead, unfortunately, this Congress is
219 sitting on the sidelines pretending that scientific and
220 economic realities do not exist. In March, every single
221 Republican member of this committee voted against the
222 overwhelming scientific consensus to deny the very existence
223 of global climate change. Many Republican members are using
224 the Solyndra debacle as an excuse to all-out cut energy
225 funding. This denial of reality is bad for the economy and
226 bad for the environment.

227 So I am glad to have this discussion about the rules and
228 regulatory reform efforts and I hope that we can come
229 together in a science-based discussion to talk about new

230 energy and the new economy.

231 Thank you, Mr. Chairman.

232 [The prepared statement of Ms. DeGette follows:]

233 ***** COMMITTEE INSERT *****

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234 Mr. {Stearns.} I thank the gentle lady and recognize the
235 chairman of the full Energy and Commerce Committee, the
236 distinguished gentleman from Michigan, Mr. Upton.

237 The {Chairman.} Thank you, Mr. Chairman.

238 Throughout this year, this committee has focused its
239 oversight and legislation on identifying and mitigating the
240 job-destroying impacts of burdensome regulations, and through
241 its regulatory reform hearing series, this subcommittee's
242 examination of the President's regulatory principles has
243 helped to sharpen our focus on important gaps between the
244 Administration's rhetoric and reality.

245 The rhetoric, which I agree with, is that we should
246 implement reasonable and achievable regs to protect the
247 health, safety and wellbeing of the American people, and we
248 recognize that wellbeing must include ensuring economic
249 growth and healthy job creation. The President has talked
250 about the importance of cost-benefit analysis to ensure that
251 regulations do more good than harm.

252 The reality, unfortunately, is a regulatory onslaught
253 from EPA that is destroying jobs and stifling economic growth
254 with financial burdens and uncertainty, and in some cases,
255 the cost-benefit analysis is completely absent. In other
256 cases, the devastating economic consequences of rules are

257 flat-out ignored.

258 Over the years, I have seen EPA conduct rulemakings on
259 important Clean Air Act provisions, but I have never seen so
260 many major rules from EPA at a pace and complexity as has
261 occurred during this Administration. These have been complex
262 rules with profound impacts on energy production and
263 manufacturing--essential contributors to economic growth in
264 this country.

265 In some cases, such as the boiler and cement rules, we
266 have regs that are technically unachievable because EPA
267 appears to be doing too much too fast. In other cases, the
268 agency lays out rapid and changing deadlines and makes
269 alterations to the rulemakings that raise questions about
270 regulatory judgment and decision-making in the first place.

271 We want the EPA and the Administration to comply with
272 its own principles as outlined in the President's Executive
273 Order on regulation. Today we are going to hear directly
274 from Administrator Jackson to learn just what steps she plans
275 to take to ensure that these actions will begin to match the
276 Administration's regulatory rhetoric.

277 I yield to my friend, the Chairman Emeritus of the
278 committee, Mr. Barton.

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

280 ***** COMMITTEE INSERT *****

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281 Mr. {Barton.} Well, thank you, Mr. Chairman, and
282 welcome again, Madam Administrator. It is good to have you
283 with us.

284 There are many things that are ailing our country right
285 now, Madam Administrator, and it seems that your agency
286 appears to be at ground zero of a fair number of them. Since
287 President Obama took office and you became the Administrator
288 at the Environmental Protection Agency, the EPA has rushed to
289 issue rules on greenhouse gases, which the Congress rejected
290 in the last Congress; ozone, which our President just
291 rejected several weeks ago; coal ash, boiler ash and our
292 boiler MACT and cement industries, which those industries are
293 strenuously objecting to.

294 In my home State of Texas, last year the EPA revoked the
295 flexible air quality permit rules that had been in place for
296 almost 20 years starting with President Clinton, and just
297 recently the EPA announced a Cross-State Air Pollution Rule
298 where Texas, which wasn't even included in the rule 6 months
299 ago, is expected to assume somewhere between 25 and 40
300 percent of the reductions. This is somewhat puzzling since
301 our monitors indicate that we are in compliance, and it is an
302 EPA model that seems to indicate that in certain States there
303 might be a problem.

304 The cost of all these rules is in the billions of
305 dollars annually, resulting in thousands of jobs lost. Just
306 last week in my State, in my Congressional district, a
307 company that is subject to the Cross-State Air Pollution Rule
308 announced the closure of two mines and reduction or closure
309 of two power plants that in my district alone is probably
310 going to cost in the order of magnitude of 1,000 jobs.

311 We have a President who says that we need to create
312 jobs, not destroy jobs. We have a President who says we need
313 a regulatory environment that has a cost-benefit analysis.
314 And yet your agency, the EPA, seems to ignore these
315 admonitions. It is as if there is some evil genie at the EPA
316 that is bound and determined to put every regulation possible
317 on the books as soon as possible regardless of the economic
318 consequences.

319 I hope today, Madam Administrator, that we can get into
320 some of these specific rules. We have a number of very
321 specific questions that we want to ask, and as always, we
322 look forward to having you answer them and tell us where your
323 agency is.

324 With that, I yield back.

325 [The prepared statement of Mr. Barton follows:]

326 ***** COMMITTEE INSERT *****

|
327 Mr. {Stearns.} The gentleman yields back. There are 3
328 seconds.

329 Dr. Burgess, do you want to take 5, 10 seconds?

330 Dr. {Burgess.} Well, let me just submit my entire
331 opening statement for the record, but I do want to remind the
332 Administrator, as we have had to remind every Cabinet
333 Secretary, every head of the federal agencies, that although
334 you work for the Executive Branch, Congress is a coequal
335 branch of government. When we ask for stuff, you need to
336 produce it. We have been stonewalled in this committee over
337 and over again, and those days have to stop because the
338 American people are asking serious questions. They want
339 answers, and it is up to this committee to get those answers
340 for them, and I will yield back.

341 [The prepared statement of Dr. Burgess follows:]

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343 Mr. {Stearns.} I thank the gentleman, and now we
344 recognize the--

345 Mr. {Waxman.} Mr. Chairman, before you recognize me, I
346 would like to ask the gentleman from Texas to provide for us
347 examples of where you think EPA has stonewalled, not now but
348 for the record, because this statement has been made and I
349 would like to see verification.

350 Dr. {Burgess.} And in particular dealing with Title 42
351 regulations, and I have asked these questions--

352 Mr. {Waxman.} I would like to see documentary
353 information.

354 Mr. {Stearns.} The gentleman from California is
355 recognized for his opening statement for 5 minutes.

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

357 This hearing is our seventh hearing on regulatory
358 reform, and we will be told by our colleagues across the
359 aisle that EPA needs to do a better job. We will hear them
360 say they need to better analyze regulations before finalizing
361 them, they need to listen to concerns about their proposals
362 before acting.

363 But this hearing isn't really about regulatory reform.
364 It is just a continuation of a long series of attacks on our
365 environment and public health. This is the most anti-

366 environment House of Representatives in history. So far this
367 Congress, the House of Representatives has voted again and
368 again to block action to address climate change, to halt
369 efforts to reduce air and water pollution, to undermine
370 protections for public lands and coastal areas, and to weaken
371 the protection of the environment in other ways.

372 Mr. Chairman, my staff prepared a database last month on
373 every anti-environmental vote taken in this Congress. The
374 tally was 125. One hundred and twenty-five votes to weaken
375 the Clean Air Act and the Clean Water Act; to make our
376 drinking water less safe; to weaken environmental standards
377 in dozens of different ways. This is an appalling and
378 dangerous environmental record. And it should come as no
379 surprise that this record of anti-environmental votes shows
380 little concern for crafting well-analyzed policy that takes
381 the views of all stakeholders into account.

382 Today, the House will begin consideration of the TRAIN
383 Act, a bill whose passage will block actions to clean up
384 smog, soot and toxic air pollution from the Nation's power
385 plants. When this bill is considered, we will vote on
386 amendments offered by Chairman Whitfield and Representative
387 Latta. The Whitfield amendment will eviscerate the law's
388 ability to require power plants to install modern pollution
389 controls. The Latta amendment will reverse 40 years of clean

390 air policy, allowing our national goals for clean air to be
391 determined by corporate profits, not public health. They
392 will not agree that we need to have a hearing on the Latta
393 amendment before reversing 40 years of success with the Clean
394 Air Act. The Republicans will not clarify the bill on
395 industrial boilers to prevent years and years of litigation
396 and delay.

397 We should hear from States, industry, public health
398 groups, clean air advocates and other stakeholders before
399 voting on these radical clean air amendments. These
400 amendments are being considered through an egregiously flawed
401 process, a stark change from the way this Committee has
402 traditionally handled important clean air legislation. We
403 should at least understand what they do before voting on
404 them.

405 And we are sitting here criticizing the EPA for all the
406 work they put into their regulations before they issue them,
407 and yet we are going to pass laws, at least pass it through
408 the House, without a single moment of hearings just because
409 some representatives want to and maybe the Republican party
410 wants to respond to big business and forget about the safety
411 and the wellbeing and the health of the American people.

412 Well, today's hearing will provide an opportunity to
413 hear from the Administrator of the EPA, and I am pleased to

414 welcome Lisa Jackson. This is not the first time. I don't
415 know how many times she has had to appear before this
416 committee. I don't think she has time to do all the dreadful
417 things the Republicans are accusing her of doing because she
418 is spending most of her time here to listen to complaints
419 from the Republicans about regulations, some of which they
420 haven't even proposed and the Republicans want to repeal it.

421 I will ask the Administrator about the Whitfield and
422 Latta amendments and how dangerous they are to the American
423 people. That will serve as some opportunity to examine these
424 issues, and it will give us an opportunity to hear from the
425 EPA Administrator about the impacts of the entire Republican
426 anti-environment agenda.

427 Mr. Chairman, I have a minute left if any of my
428 Democratic colleagues--Ms. Schakowsky, I yield the balance of
429 my time to you.

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

431 ***** COMMITTEE INSERT *****

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432 Ms. {Schakowsky.} Well, here we are again, and I want
433 to reiterate just a bit what Representative Waxman has said.
434 Clearly, we are witnessing the most anti-environment House of
435 Representatives in American history.

436 My colleague from Texas, the former chairman of this
437 committee, was citing some of the things that have happened
438 in Texas as a reason to undo some of the regulations that you
439 proposed, but I just wanted to point out that under Governor
440 Rick Perry's tenure, Texas has become far and away the
441 Nation's largest CO2 emitter. If Texas were its own country,
442 as Mr. Perry has advocated in the past, it would be the
443 eighth biggest polluter in the world.

444 So it is high time that the Environmental Protection
445 Agency continued in what has been a bipartisan tradition of
446 protecting our environment, of protecting the health of
447 Americans, and by the way, not destroying jobs in any way but
448 creating an opportunity for new 21st century clean jobs, and
449 I yield back.

450 [The prepared statement of Ms. Schakowsky follows:]

451 ***** COMMITTEE INSERT *****

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452 Mr. {Stearns.} The gentlelady yields back. Time has
453 expired--

454 Mr. {Barton.} Would the gentlelady yield to the former
455 chairman?

456 Mr. {Stearns.} All her time is expired, so we are going
457 to move now to swear in Madam Administrator.

458 Madam Administrator, you are aware that the committee is
459 holding an investigative hearing, and when doing so has had
460 the practice of taking testimony under oath. Do you have any
461 objection to testifying under oath?

462 Ms. {Jackson.} No.

463 Mr. {Stearns.} The chair then advises you that under
464 the rules of the House and the rules of the committee, you
465 are entitled to be advised by counsel. Do you desire to be
466 advised by counsel during your testimony today?

467 Ms. {Jackson.} No.

468 Mr. {Stearns.} In that case, if you would please rise
469 and raise your right hand, I will swear you in.

470 [Witness sworn.]

471 Mr. {Stearns.} You are now under oath and subject to
472 the penalties set forth in Title XVIII, Section 1001 of the
473 United States Code. You may now give a 5-minute summary of
474 your written statement. Please begin.

|
475 ^TESTIMONY OF LISA JACKSON, ADMINISTRATOR, U.S. ENVIRONMENTAL
476 PROTECTION AGENCY

477 } Ms. {Jackson.} Thank you. Chairman Stearns, Ranking
478 Member DeGette and members of the subcommittee. I appreciate
479 the opportunity to be here today to testify on the
480 Environmental Protection Agency's regulatory process. It is
481 a priority of the EPA and of this Administration to ensure
482 that our regulatory system is guided by science and that it
483 protects human health and the environment in a pragmatic and
484 cost-effective manner.

485 One means by which this Administration has made this
486 priority clear is through Executive Order 13563, which
487 includes a directive for federal agencies to develop a
488 regulatory retrospective plan for periodic review of existing
489 significant regulations. Under that directive, EPA has
490 developed a plan which includes 35 priority regulatory
491 reviews. Recent reforms already finalized or formally
492 proposed are estimated to save up to \$1.5 billion over the
493 next 5 years.

494 But let me clear: the core mission of the EPA is
495 protection of public health and the environment. That
496 mission was established in recognition of a fundamental fact

497 of American life: regulations can and do improve the lives
498 of people. We need these rules to hold polluters accountable
499 and keep us safe. For more than 40 years, the agency has
500 carried out its mission and established a proven track record
501 that a healthy environment and economic growth are not
502 mutually exclusive.

503 The Clean Air Act is one of the most successful
504 environmental laws in American history and provides an
505 illustrative example of this point. For 40 years, the
506 Nation's Clean Air Act has made steady progress in reducing
507 the threats posed by pollution and allowing us to breathe
508 easier. In the last year alone, programs implemented
509 pursuant to the Clean Air Act Amendments of 1990 are
510 estimated to have saved over 160,000 lives, spared Americans
511 more than 100,000 hospital visits and prevented millions of
512 cases of respiratory problems including bronchitis and
513 asthma.

514 Few of the regulations that gave us these huge gains in
515 public health were uncontroversial at the time they were
516 developed. Most major rules have been adopted amidst claims
517 that they would be bad for the economy and bad for
518 employment. In contrast to doomsday predictions, history has
519 shown again and again that we can clean up pollution, create
520 jobs and grow our economy all at the same time. Over the

521 same 40 years since the Clean Air Act was passed, the gross
522 domestic product of the United States grew by more than 200
523 percent.

524 Some would have us believe that job killing describes
525 EPA's regulations. It is misleading to say that enforcement
526 of our Nation's environmental laws is bad for the economy and
527 employment; it isn't. Families should never have to choose
528 between a job and a healthy environment; they are entitled to
529 both.

530 We must regulate sensibly in a manner that does not
531 create undue burdens and that carefully considers both the
532 benefits and the costs. However, in doing so, we must not
533 lose sight of the reasons for implementation of environmental
534 regulations. These regulations are necessary to ensure that
535 Americans have clean air to breathe and clean water to drink.
536 Americans are no less entitled to a safe, clean environment
537 during difficult economic times than they are in a more
538 prosperous economy.

539 As President Obama recently stated in his joint address
540 to Congress, what we can't do is let this economic crisis be
541 used as an excuse to wipe out the basic protections that
542 Americans have counted on for decades. We shouldn't be in a
543 race to the bottom where we try to offer the worst pollution
544 standards.

545 Thank you for the opportunity to testify, and I look
546 forward to your questions.

547 [The prepared statement of Ms. Jackson follows:]

548 ***** INSERT 1 *****

|
549 Mr. {Stearns.} Thank you, Madam Administrator. I will
550 open with my questions.

551 I think as you can see from opening statements from our
552 side and the other side, this is a question of promoting
553 economic growth, innovation, competition and job creation.
554 Is that your understanding of the principles that the agency
555 must keep in mind when you make regulations?

556 Ms. {Jackson.} Well--

557 Mr. {Stearns.} Yes or no.

558 Ms. {Jackson.} Yes, but we must also implement the
559 laws.

560 Mr. {Stearns.} On the first day of the Administration,
561 you were directed to comply with a similar Executive Order
562 12866 in a memo from the White House. Is that true?

563 Ms. {Jackson.} I believe that is right, sir.

564 Mr. {Stearns.} Do you agree that the regulatory system
565 must promote predictability and reduce uncertainty?

566 Ms. {Jackson.} I think that is the advantage of the
567 regulatory system.

568 Mr. {Stearns.} In the case of ground-level ozone
569 standards that you proposed in January 2010, were there
570 discussions with the White House about the impact of
571 reconsidering this rule prior to submitting a draft final

572 rule to the White House?

573 Ms. {Jackson.} I am sorry. I didn't understand the
574 question.

575 Mr. {Stearns.} Okay. In January 2010, when ground-
576 level ozone standards were proposed, was there discussion
577 between you and the White House about simply the impact of
578 what these would be on this country?

579 Ms. {Jackson.} The proposal went through White House
580 and interagency review.

581 Mr. {Stearns.} Did you meet and participate in
582 discussions with the White House on those ozone standards?

583 Ms. {Jackson.} I am sure that staff in preparation of
584 interagency review did.

585 Mr. {Stearns.} Did you personally meet with the White
586 House?

587 Ms. {Jackson.} On the proposed package in January of
588 2010, not to my recollection, sir.

589 Mr. {Stearns.} Okay. If you recollect differently, if
590 you would be kind enough to submit to this committee who
591 participated in those discussions, that would be helpful.

592 Was there any reaction from the White House on the
593 proposed ozone standards that were being proposed in January
594 of 2010? Do you recollect what the reaction was in the White
595 House?

596 Ms. {Jackson.} The fact that the proposal went out
597 shows that it cleared interagency review and was signed by me
598 for public review.

599 Mr. {Stearns.} So you assumed the White House was on
600 board fully?

601 Ms. {Jackson.} I don't assume anything, sir. I am
602 giving you the facts as I know them.

603 Mr. {Stearns.} Okay. So you are saying the White House
604 reactions much as you know them were supportive?

605 Ms. {Jackson.} The agency exercised its discretion to
606 make rulemaking after an interagency review that was
607 conducted and led by the White House.

608 Mr. {Stearns.} I think there is a chief of staff memo
609 which you cited yourself in the proposed ozone
610 reconsideration as rationale for that reconsideration that
611 was ultimately done. It did not direct any agency to
612 reconsider the regulations that were being finalized,
613 published. Did you consult with the White House before you
614 decided to reconsider the 2008 ozone standard?

615 Ms. {Jackson.} That is the same question you asked
616 before about the proposal, sir.

617 Mr. {Stearns.} Okay.

618 Ms. {Jackson.} No, my answer is the same.

619 Mr. {Stearns.} Three weeks ago, the White House

620 requested that you reconsider issuing the Ozone Rule, noting
621 that the rule would not comport with the President's
622 Executive Order and that our regulatory system must promote
623 predictability and reduce uncertainty. Did you agree with
624 the White House decision?

625 Ms. {Jackson.} I respect the decision and I implemented
626 it.

627 Mr. {Stearns.} Did you personally agree with it?

628 Ms. {Jackson.} Well, I don't think it is a secret that
629 we--that the recommendation we sent over and the package that
630 we sent over was something different.

631 Mr. {Stearns.} Yes, and the reason why you disagreed
632 with the White House is because you felt, was it that the
633 standards you thought were imperative to be implemented? Can
634 you give us your rationale why you still feel strongly that
635 the ozone standards should be--

636 Ms. {Jackson.} Mr. Chairman, you are putting words in
637 my mouth about what I feel, and my feelings--

638 Mr. {Stearns.} I am helping you out.

639 Ms. {Jackson.} --aren't actually germane here.

640 Mr. {Stearns.} Okay. What changed between the time you
641 proposed regulations in January 2010 and September 2, 2011,
642 to warrant reconsideration in your mind if you went along
643 with it? I mean, you are the Administrator. You have strong

644 feelings on this. You don't agree with the President. You
645 are going ahead with it. Can you make some kind of rationale
646 why you are going ahead with it now? I am trying to
647 understand it.

648 Ms. {Jackson.} Well, the facts are that in between
649 those two time periods, the President requested that we
650 reconsider and do the reconsideration in light of new data
651 that will come out such that that reconsideration will happen
652 in 2013.

653 Mr. {Stearns.} And what is that new data?

654 Ms. {Jackson.} That is new public health data that will
655 look at the connection between smog, ozone pollution and
656 asthma and other health indicators.

657 Mr. {Stearns.} Do you think this goes back to what I
658 asked you when I began my questions? Your idea, my idea is
659 the agency has the responsibility to promote economic growth,
660 innovation, competition and job creation? Do you think that
661 was part of the reasons why the President relaxed the
662 standard on ozone standards?

663 Ms. {Jackson.} Well, both the letter from Cass Sunstein
664 and the President's statement explain his rationale and they
665 speak for themselves.

666 Mr. {Stearns.} Did the White House propose this to you
667 any other time than just recently?

668 Ms. {Jackson.} Propose what, sir?

669 Mr. {Stearns.} Relaxation of the ozone standards.

670 Ms. {Jackson.} No, the--

671 Mr. {Stearns.} That was the first time they came to
672 you?

673 Ms. {Jackson.} That was the first time they came to me?
674 The President's actions and his statement and the letter from
675 Mr. Sunstein was the official record of what happened with
676 respect to that package.

677 Mr. {Stearns.} All right. My time is expired.

678 The gentlelady is recognized, Ms. DeGette.

679 Ms. {DeGette.} Thank you very much, Mr. Chairman.

680 Administrator Jackson, let me try to clear up some of
681 the questioning about the new ozone standards that the
682 chairman was pursuing. On September 1st, the Administration
683 announced that the EPA would not be revising the National
684 Ambient Air Quality Standards for ozone. Is that right?

685 Ms. {Jackson.} That is right.

686 Ms. {DeGette.} And this decision, as you know, was
687 controversial. It created a number of extremely important
688 new questions about how we are going to handle the ozone
689 standards going forward. So I am wondering if you can tell
690 us now sitting here today about the next steps you are going
691 to be taking to ensure that States and localities have clear

692 direction on what they should be doing with regard to ozone
693 standards. I think it is important you clarify what you are
694 going to be doing next.

695 Ms. {Jackson.} Yes, ma'am. So we are going to proceed
696 with the regular review in 2013 but simultaneously we are
697 legally required to implement the standard that is on the
698 books. The standard that is on the books now is the 2008
699 standard. It is 75 parts per billion, and EPA will be
700 notifying States in the days ahead of the path forward in
701 implementing that standard.

702 Ms. {DeGette.} So what you are saying is that the
703 intention going forward that the EPA will enforce a 75 parts
704 per billion standard the same as the Bush Administration 2008
705 standard. Is that correct?

706 Ms. {Jackson.} That is right. That is the legal
707 standard on the books.

708 Ms. {DeGette.} Okay. And can you assure us that States
709 and localities will have sufficient time to meet those 2008
710 standards?

711 Ms. {Jackson.} We will do it in a commonsense way,
712 minimizing the burden on State and local governments.

713 Ms. {DeGette.} Thank you. Now, Administrator Jackson,
714 the chairman was asking you about what the process is within
715 the EPA about promulgating rules, and the EPA considers not

716 just the effect on human health but also the economic effect
717 per the Executive Order that he was talking about, correct?

718 Ms. {Jackson.} That is right. Our rules have always,
719 at least as long as I have been there, considered costs and
720 benefits of rules.

721 Ms. {DeGette.} So, you know, one of the things that
722 frustrates me and others is this sort of Sophie's choice that
723 has been articulated that I don't think is true, that you
724 either have to have jobs or high environmental standards, and
725 I want to talk about the Clean Air Act since we are talking
726 about the Clean Air Act as an example. Since the Clean Air
727 Act was signed in 1970, toxic air pollutants have gone down
728 by 60 percent and saved hundreds of lives, and so that is the
729 main goal of the Clean Air Act, correct?

730 Ms. {Jackson.} The Clean Air Act's goal is to clean up
731 the air and therefore make people healthier.

732 Ms. {DeGette.} Right, but in addition, the economy has
733 grown since the Clean Air Act was promulgated. Is that
734 correct?

735 Ms. {Jackson.} That is right. GDP has grown over 200
736 percent.

737 Ms. {DeGette.} So GDP has grown over 200 percent since
738 the Clean Air Act's passage, correct?

739 Ms. {Jackson.} That is correct.

740 Ms. {DeGette.} Also, can you talk to us about the
741 effect of the Clean Air Act on job creation?

742 Ms. {Jackson.} Certainly. There have been numerous
743 studies that show that the Clean Air Act has actually helped
744 foster and growth a pollution control industry in this
745 country that actually exports its innovations and
746 technologies and of course puts them to work here on the
747 ground. When we ask someone to spend money, millions or even
748 billions, on pollution control, those are jobs that are
749 generally produced here, everything from engineers to
750 designers to welders to boilermakers.

751 Ms. {DeGette.} And in fact, I read a study that said
752 just in 2008 all of those things generated \$300 billion in
753 revenue and supported nearly 1.7 million jobs. I talked
754 about that in my opening. Are you aware of that study as
755 well?

756 Ms. {Jackson.} Yes, ma'am.

757 Ms. {DeGette.} Now, I also read a study from the
758 University of Massachusetts that estimated that EPA's
759 Utility, Toxins and Cross-State Air Pollution Rules would
760 generate 1.5 million new jobs by 2015. Are you familiar with
761 that study?

762 Ms. {Jackson.} Yes, generally.

763 Ms. {DeGette.} Okay. And what kind of jobs will

764 compliance with those regulations create?

765 Ms. {Jackson.} Those regulations require companies to
766 invest in pollution controls, scrubbers or selective
767 catalytic reducers. They are everything from working with
768 steelworkers or pipe fitters or engineers, designers, those
769 who actually install and operate pollution control equipment
770 or those who retrofit equipment, and their jobs, because it
771 is the utility industry, it is the energy industry, it has to
772 be done here. It is something that we have to do here to
773 invest in ourselves and--

774 Ms. {DeGette.} Here in the United States?

775 Ms. {Jackson.} That is right.

776 Ms. {DeGette.} Thank you.

777 Thank you very much, Mr. Chairman.

778 Mr. {Stearns.} The gentlelady's time has expired.

779 The gentleman from Texas, Mr. Barton, is recognized for
780 5 minutes.

781 Mr. {Barton.} Thank you.

782 Madam Administrator, in your opening statement, you said
783 that the role of the EPA is to make sure that polluters are
784 accountable. Do you consider an industry that is in
785 compliance with EPA regulation to be a polluter?

786 Ms. {Jackson.} An industry can have a permit and be in
787 compliance with the permit and still be emitting pollution,

788 yes.

789 Mr. {Barton.} But in your definition of a polluter, if
790 an industry is actually complying, then why would you
791 continue to call them a polluter as if they weren't
792 complying?

793 Ms. {Jackson.} Well, it is important for people to
794 understand that in order to operate, there is an assumption
795 that some amount of pollution into our air and water may have
796 to happen. What we do, what our laws require EPA and States
797 to do in their stead is to ratchet down that pollution in the
798 interests of the public health.

799 Mr. {Barton.} So would it be fair to say that in your
800 definition, the only industry that would not be a polluter
801 would be an industry that has no emissions at all, in other
802 words, it was shut down?

803 Ms. {Jackson.} If you don't emit pollution, then you
804 are not a polluter. That is not to say that the emission of
805 some amount of pollution is not permitted. That is the
806 regulatory process.

807 Mr. {Barton.} Let me rephrase the question, Madam. Is
808 it the goal of the EPA to get to zero emissions, i.e.,
809 basically shut down the U.S. economy?

810 Ms. {Jackson.} Of course not, sir.

811 Mr. {Barton.} That is the right answer.

812 You have appeared before this subcommittee and the full
813 committee a number of times this year, and in at least two of
814 those instances I have asked you to document some of these
815 health benefits that EPA spokespersons and yourself continue
816 to allude to as a reason for these new regulations. Unless
817 your agency supplied them to my office last night or this
818 morning, we have yet to receive them. Could you encourage
819 them to actually give us the documents that document these
820 repeatedly referred to health benefits?

821 Ms. {Jackson.} Well, sir, I will say that the
822 regulatory packages that we prepare include significant
823 documentation of both the benefits and the costs of--

824 Mr. {Barton.} You are not answering my question. I
825 don't think they exist.

826 Ms. {Jackson.} You don't think health benefits of clean
827 air exist?

828 Mr. {Barton.} No, I think health benefits from clean
829 air do exist. I don't think some of these documents that you
830 refer to exist or you would have complied with the request to
831 submit them.

832 Ms. {Jackson.} Sir, I will check on any requests for
833 outstanding documentation but I would also refer you to the
834 packages--

835 Mr. {Barton.} I am giving you a request right now. I

836 have given you respectful requests almost every time you have
837 appeared before the subcommittee or the full committee, and
838 you know, when you look in the footnotes of some these
839 proposed regulations, they refer to studies that are 10 to 15
840 years old, usually very small studies, usually studies that
841 are independent with no real peer-reviewed verification, and
842 then we get these, you know, these huge cost-benefit
843 comparison, and in true science, you actually document what
844 is going on. That does not appear to be the case at your
845 EPA. And if they exist, then send them to us.

846 Ms. {Jackson.} I disagree, but I will check again to
847 see what else may be outstanding from your requests,
848 respectfully.

849 Mr. {Barton.} All right. Let me make a comment on what
850 Chairman Waxman said in his opening statement, that we have
851 voted 125 times to weaken environmental regulation in this
852 Congress. That is not true. There is a difference between
853 voting to actually change or reduce an existing standard and
854 voting to delay or slow down our at least review a proposed
855 standard. This Congress has asked and voted to delay,
856 review, go back and check on regulations but I am not aware
857 that we have voted to actually change or weaken any standard
858 that is already in effect, and I think that is a distinction
859 that is worth nothing.

860 The regional administrator in Texas, Dr. Armand Davis,
861 in an op-ed in the Dallas Morning News earlier this week
862 expressed surprise that Texas industry in attempting to
863 comply with this cross-state air pollution regulation
864 actually beginning to shut down power plants and coalmines.
865 He said in his op-ed that the EPA had reached out numerous
866 times and tried to consult with and interact with the
867 affected industries. Could you provide logs of those
868 meetings, emails and telephone conversations to actually
869 document the regional administrator's assertion that he had
870 been trying to work with the industries in Texas? Because
871 when I checked with the industry, they say that they have had
872 almost no interaction and were absolutely blindsided by the
873 inclusion of Texas in the Cross-State Air Pollution Rule at
874 the very last moment with no ability to impact the
875 regulation.

876 Ms. {Jackson.} Sir, I am happy to provide it. I would
877 also just point you to the record of the Cross-State Air
878 Pollution Rule where EPA specifically took comment and
879 received comment and received comment from Texas industries
880 and Texas regulators about Texas's inclusion in both the--

881 Mr. {Barton.} After the fact. After the fact.

882 Ms. {Jackson.} No, no, sir, during the public comment
883 period.

884 Mr. {Barton.} You couldn't have, because Texas wasn't
885 included in the rule.

886 Ms. {Jackson.} Sir, Texas--

887 Mr. {Barton.} There is a one-paragraph mention of Texas
888 possibly including at some future point. They were put into
889 the rule at the last moment.

890 Ms. {Jackson.} Sir, Texas has been complying with the
891 CAIR rule that the Bush Administration put in place. The
892 cross-state rule is a replacement for that rule. We
893 specifically took comment--

894 Mr. {Barton.} I am very aware of that.

895 Ms. {Jackson.} -- and put Texas on notice that besides
896 NOx, ozone, smog requirements, we took comment on what would
897 happen if they weren't in and what would happen if they were.
898 So we have information submitted by Texas regulators and
899 Texas companies--

900 Mr. {Barton.} Well, if you will just comply with my--

901 Mr. {Waxman.} Regular order, Mr. Chairman.

902 Mr. {Stearns.} The gentleman's time has expired and the
903 gentleman from California, the ranking member, Mr. Waxman,
904 for 5 minutes.

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

906 When you propose a rule, you have to establish a record
907 of the scientific basis for your findings. Isn't that

908 correct?

909 Ms. {Jackson.} That is correct, sir.

910 Mr. {Waxman.} And that relies on work that has been
911 done by scientists, often, maybe always, peer reviewed. Is
912 that correct?

913 Ms. {Jackson.} That is right. That work goes through
914 peer review before we put it in the record for our rules.

915 Mr. {Waxman.} And so if Mr. Barton wants to get the
916 scientific backing for your rules, he can just simply look at
917 the record?

918 Ms. {Jackson.} Well, yes, although of course if there
919 is additional information we owe him, I will look to ensure
920 he gets it.

921 Mr. {Waxman.} Well, I have talked to Mr. Barton, and as
922 I understand it, there is a lot of scientific research that
923 has been peer reviewed on the question of the impact of
924 carbon emissions, global warming, climate change, and yet Mr.
925 Barton doesn't believe in the science, nor does anybody else
926 on the other side of the aisle. They have all voted that
927 they reject the idea that science has come up with this
928 conclusion and they reject the science as well.

929 We hear about job-killing regulations, and I haven't
930 seen anybody substantiate the job-killing part of the
931 regulations, but we know that a lot of this pollution kills

932 people, and we have that well documented. Isn't that an
933 accurate statement?

934 Ms. {Jackson.} That is accurate, sir.

935 Mr. {Waxman.} I would like to ask you about the TRAIN
936 Act, which will soon be debated on the House Floor, as a
937 matter of fact, today.

938 Mr. {Barton.} Would the gentleman yield?

939 Mr. {Waxman.} No, I won't. I only have a limited time.

940 Mr. {Barton.} I would like to see--

941 Mr. {Waxman.} The bill reported from the committee--

942 Mr. {Barton.} --one document--

943 Mr. {Stearns.} Regular order.

944 Mr. {Waxman.} Mr. Chairman, regular order.

945 Mr. {Stearns.} The gentleman is recognized.

946 Mr. {Waxman.} I want to ask you about the amendment
947 that is going to be offered by Mr. Whitfield. The reported
948 from the committee would indefinitely delay critical public
949 health protections to reduce soot, smog, mercury and other
950 toxic air pollution from power plants but the Whitfield Floor
951 amendment goes much further. It would nullify EPA's final
952 Cross-State Air Pollution Rule and proposed Mercury Air
953 Toxics Rule and it requires EPA to start from scratch on both
954 rules, which have already been years in the making.

955 Administrator Jackson, how long have we been waiting for

956 old, uncontrolled power plants to finally clean up and how do
957 these power plants compare with other sources of pollution?

958 Ms. {Jackson.} The 1990 Amendments to the Clean Air Act
959 first called for power plant--toxics from power plants to be
960 addressed. The Good Neighbor provisions in the rule I
961 believe were added then as well, which is the basis for the
962 Cross-State Air Pollution Rule. Power plants are the largest
963 emitters in our country of soot and smog and mercury, and for
964 that reason, the prior Administration, the Bush
965 Administration, tried to address through the Clean Air
966 Interstate Rule and the Clean Air Mercury Rule, rules that
967 were later overturned in court because they did not comply
968 with the law and did not do an adequate job.

969 Mr. {Waxman.} The Whitfield amendment would ensure that
970 power plants would not have to control toxic air pollution
971 for at least 7 years or reduce sulfur dioxide and nitrogen
972 oxide for at least 8 years, and those are minimum delays
973 because the amendment would eliminate all Clean Air Act
974 deadlines for the rules. In addition to these delays, the
975 Whitfield amendment changes the underlying Clean Air Act
976 authorities for the rules. I am concerned that these changes
977 would block EPA from ever reissuing the rules for air toxics.
978 The Whitfield amendment replaces the Clean Air Act's proven
979 standard-setting criteria with an entirely new approach for

980 power plants that appears to be completely unworkable. It
981 requires EPA to set standards based on the 12 percent of
982 power plants that are best performing in the aggregate for
983 all toxic pollutants. Administrator Jackson, this would
984 require you to decide whether a plant that emits more
985 neurotoxins but less carcinogens is better or worse
986 performing than a plant that emits more carcinogens but less
987 neurotoxins. Is there any scientific basis for you to make
988 such a decision and how is such a decision likely to fare in
989 the courts?

990 Ms. {Jackson.} Well, sir, I think it would weaken and
991 possibly destroy our ability to ever address those toxins,
992 toxic pollutants because that is not the way they work in our
993 body. You know, those pollutants all act together and we
994 have good science that documents the health effects of
995 mercury and arsenic and lead and hydrochloric acid but to try
996 to pick between one or the other, I fear would simply make
997 the rules subject to being overturned and we would not get
998 those protections.

999 Mr. {Waxman.} This amendment would change the criteria
1000 for addressing pollution that is generated in one State but
1001 is blown by the wind and causes unhealthy air quality in a
1002 downwind State. States can't require polluters in upwind
1003 States to clean up so the Clean Air Act includes a Good

1004 Neighbor provision directing EPA to ensure that upwind States
1005 clean up pollution that causes unhealthy air beyond their
1006 State boundaries. The Whitfield amendment includes an
1007 amazing provision that prohibits the EPA from relying on
1008 modeling for any rule to address cross-state pollution.
1009 Administrator Jackson, if EPA can't rely on modeling, what
1010 effect would this have on the agency's ability to issue
1011 another cross-state pollution rule to address ozone and
1012 particulate problems in downwind States?

1013 Ms. {Jackson.} Sir, if we are required to only use
1014 monitoring data, which of course we use, but without the
1015 modeling to go along with it, I don't believe we will be able
1016 to issue a regional cross-state rule in the future ever
1017 because we simply have to be able to use scientific modeling
1018 to address upwind sources of pollution.

1019 Mr. {Waxman.} And how are these rules that the
1020 Whitfield amendment would strike, how are these rules--why
1021 are they so important to public health?

1022 Ms. {Jackson.} Well, I think looking at the mercury
1023 rule, for example, we talk about 6,800 to 17,000 avoided
1024 premature deaths a year once implemented, 120,000 avoided
1025 asthma attacks per year. The cross-state air pollution, \$120
1026 billion to \$280 billion in benefits, which represent 13,000
1027 to 34,000 avoided premature deaths and 400,000 avoided asthma

1028 attacks every year.

1029 Mr. {Stearns.} The gentleman's time has expired.

1030 Mr. {Waxman.} Mr. Chairman, I want to say that Mr.

1031 Barton characterized the report. I would like to offer my

1032 report to be in the record, and that is the 125 in our tally

1033 votes to weaken the Clean Air Act.

1034 Mr. {Stearns.} Without objection, so ordered.

1035 [The information follows:]

1036 ***** COMMITTEE INSERT *****

|
1037 Mr. {Stearns.} The gentleman from Pennsylvania is
1038 recognized, Mr. Murphy, for 5 minutes.

1039 Mr. {Murphy.} Thank you very much, and welcome here,
1040 Administrator Jackson.

1041 On this discussion of premature deaths, et cetera, I am
1042 trying to get some accuracy of this from a scientific
1043 standpoint. Now, EPA is responsible for setting the National
1044 Ambient Air Quality Standard at a level to protect public
1045 health including sensitive subgroups with an adequate margin
1046 of safety. Am I correct?

1047 Ms. {Jackson.} Yes.

1048 Mr. {Murphy.} And the current annual standard for fine
1049 particulate matter is 15 micrograms per cubic meter?

1050 Ms. {Jackson.} Yes.

1051 Mr. {Murphy.} Recent review suggests EPA might consider
1052 lowering it further to a level of 11. Am I correct?

1053 Ms. {Jackson.} Sir, we have not made any regulatory
1054 determination. That science is ongoing.

1055 Mr. {Murphy.} Are you considering a level of 11?

1056 Ms. {Jackson.} We are required by law to review that
1057 level every 5 years.

1058 Mr. {Murphy.} And these standards are based on review
1059 of science. Am I correct in that too?

1060 Ms. {Jackson.} That is correct, sir.

1061 Mr. {Murphy.} Are external science advisors involved in
1062 that or is it all within the agency?

1063 Ms. {Jackson.} Yes. Congress mandated that there be an
1064 external advisory board, the Clean Air Science Advisory
1065 Board, I believe is their name.

1066 Mr. {Murphy.} Thank you. In EPA's recent regulatory
1067 impact analyses for Utility MACT, Boiler MACT and Cross-State
1068 Air Pollution Rule, most of the deaths the EPA says are
1069 caused by particulate matter are at air quality levels much
1070 cleaner than the air stands require. So I would like to show
1071 you a chart with some EPA estimates, a bar chart of estimate
1072 in mortality by air quality, if we could have that show up on
1073 the screen. We have marked the level of the current
1074 particulate matter standard, and as you see, most of the
1075 estimated mortality is below the protective standards, to the
1076 left of that line.

1077 Now, let me look at the next slide. To make this
1078 easier, here is another bar chart. The tall bar represents
1079 EPA's estimate of deaths from all causes occurring where the
1080 air is cleaner than the current ambient air quality standard,
1081 and the short bar represents EPA's estimate of the deaths
1082 from all causes occurring at levels less clean than the
1083 ambient air quality standards.

1084 So a couple questions on that, Ms. Jackson. EPA's own
1085 documents raise an interesting question. Is it true that
1086 when you estimate the benefit of your regulations, you are
1087 assuming that clean air also kills people?

1088 Ms. {Jackson.} Sir, the whole point of the National
1089 Ambient Air Quality Standards is to define what is clean air.
1090 People deserve to know what level of air will actually make
1091 them less sick and avoid those premature deaths.

1092 Mr. {Murphy.} And I am just trying to get to the
1093 science because it looks like clean air also is in the
1094 category of what has happened to this definition. So the EPA
1095 always in the particulate matter risk assessment report that
1096 ``We do not have information characterizing'' deaths for
1097 people whose air was determined to be clean by national
1098 standards. So reading EPA's own document, it sounds like
1099 that there is not evidence that clean air is associated with
1100 deaths. So could you please share with the committee any
1101 studies that show a causal or associative relationship
1102 between fine particulate matter and deaths at levels below
1103 what EPA calls lowest measured level? Is that something you
1104 could provide for us?

1105 Ms. {Jackson.} I am happy to provide whatever science
1106 we have that shows the correlation, which is quite clear. It
1107 is not an assumed correlation between soot and death. When

1108 people breathe in high levels of soot or even moderate
1109 levels, that is why we are looking at the National Ambient
1110 Air Quality Standard. It causes premature death. People die
1111 before they should.

1112 Mr. {Murphy.} Thank you. Now, in the past I believe
1113 EPA has said that they don't necessarily take into account
1114 the regulations' economic impact or job impact but you waxed
1115 extensively on the issue of jobs created by pollution control
1116 industry. You said we extort and growth pollution control
1117 industry, welders, designers, boilermakers. I might add that
1118 my boilermakers would like to be putting some cleaner power
1119 plants here in the United States. And also it was brought up
1120 that the GDP has grown 200 percent since passage. Is this
1121 the cause and effect that by passing the Clean Air Act, we
1122 have caused a 200 percent growth in our economy?

1123 Ms. {Jackson.} No, sir, that wasn't my point. My point
1124 was, in contrast to people who say that the Clean Air Act is
1125 a job killer, the Clean Air Act has been around for 40 years
1126 and our economy has been fine.

1127 Mr. {Murphy.} But is it cause and effect? Are we
1128 causing--because here is my question. In the last 10 years,
1129 we have lost 2.8 million jobs to China, and I think we would
1130 all agree, I mean, 16 of the 20 most polluted cities in the
1131 world are in China, and we have lost a lot of jobs to China,

1132 and I think we would agree, their air quality standards are
1133 not good, and my concern also is, a lot of our manufacturers
1134 and others who find it cheaper for lots of reasons, not just
1135 air quality, I would put that in part of the mix of the
1136 issues along with currency manipulation, reverse engineering,
1137 cheating, et cetera. That may be one of the factors involved
1138 with costs of energy and compliance in this country. So my
1139 concern is, instead of just looking at the aspect of jobs
1140 being created related to the pollution control industry,
1141 which I think is important, I also want to make sure we are
1142 evaluating jobs lost if companies are leaving the Nation,
1143 going there and then not only reimporting products but
1144 reimporting pollution. Is that something that your agency
1145 can give us some information on?

1146 Ms. {Jackson.} We do look at jobs impacts, especially
1147 for the rules that have been under discussion so far this
1148 morning. Let me also say that there are studies by
1149 economists that show that the cost of environmental
1150 regulation, the kinds of things we are talking about, are not
1151 really determinative of a company's decision. Labor costs,
1152 currency costs, some of the things you mentioned, are much
1153 more important. These are very, very small--

1154 Mr. {Murphy.} I just want to make sure we are also
1155 looking at the--I mean, it was somewhere in the last century,

1156 someone referred to Pittsburgh as Hell with the lid off
1157 because of levels of pollution, and pretty nasty pollution.
1158 It is now quite a remarkably clean city. Unfortunately, that
1159 also means we don't have a steel mill in Pittsburgh at all
1160 anymore too. But if you could provide that information?

1161 One other thing in my remaining time. Last March when
1162 you were here, I asked you on a different topic related to
1163 our natural gas industry in Pennsylvania if you could provide
1164 us some information, recommendations and evaluation if you
1165 think Pennsylvania's laws regarding natural gas are not
1166 adequate or if the enforcement is not adequate. I am still
1167 waiting for that document. If you would be so kind as to
1168 give me information, I would like to advance it to
1169 Pennsylvania with some recommendations, or I would be glad to
1170 talk to you about that further later on.

1171 Mr. {Stearns.} The gentleman's time is expired.

1172 The gentlelady, Ms. Schakowsky, is recognized for 5
1173 minutes.

1174 Ms. {Schakowsky.} Thank you, Mr. Chairman.

1175 I would just like to suggest that the gentleman from
1176 Pennsylvania I think made a very good argument that when we
1177 negotiate trade agreements, that environmental concerns ought
1178 to be part of that, that we want to make sure that not only
1179 are we looking at the benefits or detriment to commerce but

1180 that the world environment is also in those trade agreements.

1181 I wanted to get back to the mercury and air toxic rules
1182 that actually are being considered for overturning
1183 essentially or at least diminishing on the Floor today, and
1184 there were actually, my understanding is, 800,000 comments in
1185 favor of those rules that were submitted and wondered if you
1186 could respond to the reaction to the rules that were offered.

1187 Ms. {Jackson.} Yes, I can't confirm the exact number
1188 for you, ma'am, but, you know, the idea of cutting mercury
1189 pollution is very popular with the American people, and most
1190 Americans are shocked when they find that power plants are
1191 allowed to emit unlimited amounts of mercury and other toxics
1192 like arsenic and lead into their communities. They want the
1193 power, of course, but they have even said that they
1194 understand that we need to invest to ensure we have clean
1195 power in our communities because they don't want their
1196 children exposed to toxic mercury, they don't want those
1197 impacts on their neurological development.

1198 Ms. {Schakowsky.} And that is what I wanted to ask you
1199 about. If you could describe for us what are the public
1200 health consequences of what we are seeing today, the
1201 Republican efforts to kill this rule?

1202 Ms. {Jackson.} Without a doubt, if this rule is delayed
1203 or, God forbid, killed in any way, there will be more

1204 premature deaths, more hospital admissions, more people
1205 getting sick because of increased levels of everything from
1206 mercury to soot, as we heard earlier, to arsenic, to lead, to
1207 hydrochloric acid to hydrofluoric acid. In the case of the
1208 cross-state air pollution, the entire third of the country,
1209 which is quite populated--I think it is a third or more of
1210 our population will be subject to air pollution that they can
1211 do nothing about because EPA's hands are tied and cannot stop
1212 upwind sources from affecting people, especially our children
1213 and our elderly, who are more susceptible to those premature
1214 deaths and those asthma and bronchitis attacks.

1215 Ms. {Schakowsky.} We will also see adverse effects to
1216 wildlife as well, right? So there is--

1217 Ms. {Jackson.} Yes. I don't mean to minimize it, but
1218 the environment from the loads of those pollutants is harmed.
1219 Of course, the example most Americans know is acid rain, the
1220 idea that the SOx pollution, the SO2 goes into our
1221 atmosphere, comes down in the form of rain that is acidic and
1222 it changes the chemistry of our lakes and harms our forests
1223 and our plants and wildlife.

1224 Ms. {Schakowsky.} I also wanted to reemphasize
1225 something I heard you say earlier, that there was actually a
1226 Congressional mandate in 1990 to do this.

1227 Ms. {Jackson.} That is right.

1228 Ms. {Schakowsky.} And so we have failed for 21 years to
1229 actually live up to that mandate?

1230 Ms. {Jackson.} We have not until this point been able
1231 to make rules that have survived court challenge, and every
1232 one of those years of delay is more mercury. Mercury
1233 accumulates in the environment, so once it is there, it is
1234 deposited and stays. The way you are exposed to mercury is,
1235 you eat fish, and the way it gets there is that it comes out
1236 of the air, it deposits into our lakes and streams.

1237 Ms. {Schakowsky.} I wanted to also ask you about the
1238 Cross-State Air Pollution Rule. Why did the EPA find it
1239 necessary to act to ameliorate cross-state air pollution?
1240 What would be the impact of the Republican efforts to repeal
1241 this rule?

1242 Ms. {Jackson.} Well, as I mentioned, first we were
1243 compelled to do so by the courts. The courts overturned the
1244 Clean Air Interstate Rule, which was promulgated in the last
1245 Administration, in the Bush Administration, and in remanding
1246 it gave it back to EPA and said I will let this rule stand
1247 because I don't want to lose the health benefits of this rule
1248 such that they are and the market because it is a marked-
1249 based program while EPA fixes it. The Cross-State Air
1250 Pollution Rule is the replacement for that rule, and the
1251 reason it is important is because of the 13,000 to 34,000

1252 premature deaths avoided and the 400,000 avoided asthma
1253 attacks. Those are just two of the significant and severe
1254 public health impacts that will be lost if we lose or delay
1255 those rules.

1256 Ms. {Schakowsky.} I thank you, and I thank you for the
1257 work that you are doing.

1258 Mr. {Stearns.} I thank the gentlelady, and the
1259 gentlelady from Tennessee, Ms. Blackburn, is recognized for 5
1260 minutes.

1261 Mrs. {Blackburn.} Thank you, Mr. Chairman, and Madam
1262 Administrator, thank you for being with us this morning.

1263 There has been some discussion about the generalities,
1264 and I want to talk with you about the specifics. I think we
1265 have had some discussion of where does the rubber meet the
1266 road and how do these rules and regulations affect companies
1267 and affect employees, and I have got an example. This is the
1268 labeling requirements for EPA container rules that went into
1269 effect on August 27, 2011. It is, I think, a great example
1270 of the negative impact that the regulations are having on our
1271 economy and specifically Buckman Labs, which is an
1272 international chemical company located in Tennessee. To be
1273 compliant with these new labeling regulations from the EPA
1274 container rule, Buckman Labs had to change all of their
1275 targeted micro--their labels and send them to the EPA for

1276 approval. Not surprisingly, EPA did not send some of the new
1277 labels back to Buckman until just one week before the new
1278 regulation went into effect and then Buckman Labs had to rush
1279 the EPA-approved labels to their clients for approval as well
1280 as 50 States where the product is sold just so that they
1281 could continue to maintain existing business. This was not
1282 for new business, this was for existing business. And to put
1283 this into perspective, we aren't talking about just a small
1284 handful of labels, we are talking about 4,000 labels that had
1285 to be reviewed and had to be changed to meet compliance,
1286 requiring the hiring of temporary employees whose sole job is
1287 to work on compliance for this one rule.

1288 So did this new labeling rule actually change the
1289 contents of the product?

1290 Ms. {Jackson.} I would have to look into the specifics,
1291 but I assume it is a pesticide labeling rule, so I would look
1292 but I would suppose not. Perhaps you know.

1293 Mrs. {Blackburn.} You are correct. It did not. It
1294 didn't. Was there any type of economic impact study
1295 conducted before this new rule went into effect and how many
1296 jobs it was projected to create or projected to create?

1297 Ms. {Jackson.} I can get you specifics on the rule. I
1298 don't have them in front of me. It sounds like some people
1299 got hired, though, which is a good thing.

1300 Mrs. {Blackburn.} Well, I think that what we are seeing
1301 is that the cost of compliance goes up, which means that
1302 these companies are not hiring new workers. The cost of
1303 4,000 labels, the slowing of the process of business--Buckman
1304 Labs and the microbicides issue and the re-labeling issue is
1305 a perfect example of how this slows the wheels of commerce
1306 and how it is added cost and an added expense for these
1307 companies, who are trying to create jobs, and, you know, this
1308 is money that could have been spent for R&D. It is money
1309 that could have been spent for additional employees in this
1310 process, but yet they had to go through this compliance.

1311 Now, yesterday they received notice that five more
1312 chemical product labels must be altered to meet the EPA label
1313 language changes that will require them that they are going
1314 to have to spend more time and more money to go through the
1315 process again. Can you see how the uncertainty or do you
1316 have an understanding of how the uncertainty that your agency
1317 is causing is affecting the businesses that are in my State?

1318 Ms. {Jackson.} Certainly, I would not argue that
1319 regulations and standard setting for safety and health don't
1320 have impacts on business but we are happy to look at the
1321 specific issue, but remember that the pesticide laws and
1322 regulations are for the safety of the users of those
1323 pesticides so whatever is being--

1324 Mrs. {Blackburn.} Ms. Jackson, we are all for clean
1325 air, clean water and a safe environment. There is no
1326 argument about that. What we are looking at is the cost-
1327 benefit analysis of this. We are looking at the added
1328 burden, which indicates to Buckman Labs it didn't change what
1329 the composition is. It didn't change any of the content. It
1330 was an added regulation. This is specifically the point.

1331 You know, you can't argue about the fact that we are all
1332 for clean air, clean water and a clean environment. What we
1333 are saying is the manner in which all of these new
1334 regulations, you have put over nearly 1,000 new regulations
1335 since you all went in at the EPA. The cost to our small
1336 businesses now, Chamber of Commerce says is about \$10,000 per
1337 employee. The cost to families who are losing their jobs--we
1338 started our job creator listening sessions the first of the
1339 year and working with our small businesses and our employers
1340 in our district, the overreach of the EPA comes up regularly,
1341 and it is of concern to us. I yield back.

1342 Mr. {Stearns.} Dr. Christensen is recognized for 5
1343 minutes.

1344 Dr. {Christensen.} Thank you, Mr. Chairman, and
1345 welcome, Administrator Jackson.

1346 Let me just say before I ask my question that as a
1347 representative of a district with one of the highest

1348 concentrations of greenhouse gases, I really thank EPA for
1349 its continued support and help to people of the Virgin
1350 Islands, and also as a member of a racial minority whose
1351 communities are often where some of the most polluting
1352 industries are placed, we thank you for your commitment to
1353 environmental justice. And I have had the opportunity to see
1354 you work and see how you always work toward solutions to
1355 protect health and safety while still ensuring and even
1356 stimulating economic growth in communities across the
1357 country, and the Congressional Black Caucus looks forward to
1358 recognizing your work this weekend.

1359 Ms. {Jackson.} It is quite an honor.

1360 Dr. {Christensen.} So despite, you know, the agency's
1361 tremendous record when it comes to producing sensible
1362 regulations that protect the environment while stimulating
1363 innovation that drives economic growth, that is not what we
1364 are hearing from the other side of the aisle. Republicans on
1365 the committee and in the House appear to be living in an
1366 alternate reality when it comes to environmental regulation.
1367 For example, in a markup of legislation last week that would
1368 stymie your agency's efforts to protect the air we breathe
1369 and bring regulations implementing Clean Air Act into
1370 compliance with the finally after all this time,
1371 Representative Burgess suggested that EPA'S Boiler MACT Rule,

1372 and I am quoting here ``would not provide one scintilla of
1373 improvement in the air we breathe.''

1374 Ms. Jackson, your agency's rulemaking process for Boiler
1375 MACT Rule was extensive and issued a 232-page impact
1376 analysis. Is Mr. Burgess correct that the Boiler MACT Rule
1377 you promulgated would not improve air quality one scintilla?

1378 Ms. {Jackson.} No, that is not correct.

1379 Dr. {Christensen.} Okay. Would you care to elaborate?

1380 Ms. {Jackson.} Sure. EPA estimates show that for every
1381 \$5 spent on reducing pollution on pollution control, there
1382 are \$12 worth of public health benefits. That is in reduced
1383 mercury, soot and other toxic pollutants.

1384 Dr. {Christensen.} And, you know, he is not alone in
1385 his refusal to accept scientific facts supporting EPA
1386 regulatory action. At a hearing in this committee earlier
1387 this year, former Chairman Barton spoke strongly against
1388 Clean Air Act regulations that would address dangerous
1389 emissions from power plants, and in opposing these
1390 regulations he suggested that mercury emissions, which you
1391 have heard a lot about this morning, cause no threat to human
1392 health. You have spoken generally about the mercury, the
1393 impact of mercury and the fact that it is cumulative in the
1394 environment. Would you say something about the impact,
1395 especially on the health of children?

1396 Ms. {Jackson.} Certainly. Mercury, as I noted, is a
1397 neurotoxin. It affects developing brain cells and it can
1398 affect those cells whether a child has been born or is still
1399 in the womb, and lowered IQ points are generally the way that
1400 mercury impacts are measured. Recently, EPA Science Advisory
1401 Board peer-reviewed data to show that those impacts are real.

1402 Dr. {Christensen.} Thank you, Administrator Jackson. I
1403 believe it is our fundamental duty to protect our children
1404 against these dangers, and the only way to argue otherwise is
1405 really to ignore decades of science on mercury emissions.

1406 Unfortunately, denying basic scientific facts seems to
1407 have become a requirement for the other side of the aisle
1408 serving on the committee. I don't have to remind you that in
1409 March of this year, every single Republican member of this
1410 committee voted to deny the very existence of global warming.
1411 So Administrator Jackson, is there any legitimate scientific
1412 debate about the existence of global warming?

1413 Ms. {Jackson.} Climate change, global warming has been
1414 reviewed by numerous scientific panels and the results remain
1415 the same, which is that the climate is changing and that
1416 human activities and particularly emissions of global-warming
1417 gases or climate-forcing gases are a primary cause.

1418 Dr. {Christensen.} And as you stated, you know,
1419 according to a study conducted by the National Academy of

1420 Sciences, 97 percent of scientists believe not simply that
1421 climate change exists but that humans are causing it.
1422 Notwithstanding that overwhelming scientific consensus, my
1423 colleagues on the other side are throwing in their lot with a
1424 handful of radical outliers in order to block meaningful
1425 governmental action to protect our children from rising
1426 temperatures, rising tides and the devastating consequences.
1427 So denying the problem exists is not a way to solve it.

1428 Let me ask one more question. Would reducing or
1429 terminating the ``lowest priority programs'' in accordance
1430 with the Accountable Government Initiative result in cost
1431 savings significant enough to justify the termination of
1432 those programs?

1433 Ms. {Jackson.} I would have to ask you to be a little
1434 bit more specific. We are certainly committed to making sure
1435 that we are as efficient as possible with our budget, and our
1436 budget is such that we can't fund every single program that
1437 we are actually required by law to implement, so we are
1438 making those kinds of hard choices right now.

1439 Dr. {Christensen.} Thank you, and thank you for your
1440 testimony and thank you for being here.

1441 Mr. {Stearns.} The gentlelady's time has expired.

1442 The gentleman from Texas, Dr. Burgess, is recognized for
1443 5 minutes.

1444 Dr. {Burgess.} Thank you, Mr. Chairman.

1445 So much has been said on the other side that I need to
1446 refute and yet there are some things that I need to get out
1447 here. First off, it would be of great help to me if you
1448 would provide us the actuarial data that you are using to
1449 support the statement that 34,000 lives would be lost if your
1450 regulations do not go forward and then I would further ask
1451 the question, I am sure you made the President aware of this,
1452 does the President not care about the health of Americans by
1453 delaying the Ozone Rule?

1454 Ms. {Jackson.} Sir, the President can speak for
1455 himself, but I think his statement makes clear why he made
1456 the decision he made.

1457 Dr. {Burgess.} Well, you know, that is part of the
1458 point. Of course, there was a recent Nobel scientist who
1459 resigned from America's membership in the American Physical
1460 Society because of the position that that society took on
1461 global warming, and I think paraphrasing his statement, we
1462 can sit around for hours and argue about the constant mass of
1463 a proton but we are not able to discuss whether or not the
1464 validity of the science on climate change is valid or not.
1465 And, you know, people of good will and good intention can
1466 disagree about things. Chairman Waxman, Ranking Member said
1467 that we don't believe in the science. Well, yeah, that is

1468 right. I mean, I believe in God. The science actually
1469 should be proven, and if it is true science, it should be
1470 provable and that is what the argument is about.

1471 Now, let me ask you this because it is important on this
1472 Cross-State Air Pollution Rule because it does affect Texas
1473 in a big way. We were faced with the possibility of rolling
1474 blackouts this last August because of the electricity usage
1475 during the month of August and now we are told that with the
1476 introduction of the Cross-State Air Pollution Rule in the
1477 time frame as provided by the rulemaking at the EPA that
1478 eight to 18 power plants may be shuttered on January 1st, and
1479 that will put obviously a significant restriction on the
1480 ability to deliver electricity in the State of Texas, and I
1481 would argue that that is going to have a significant impact
1482 on public health because as we all know, people can die in
1483 the cold but they really can die in large numbers in un-air-
1484 conditioned homes during the hot summer months.

1485 Did you coordinate, the EPA, did you coordinate with
1486 FERC as to the implementation of this rule as the discussions
1487 were going forward?

1488 Ms. {Jackson.} Sir, in looking at our--EPA did a
1489 reliability analysis and asked FERC and the Department of
1490 Energy to review that.

1491 Dr. {Burgess.} How did you coordinate the information

1492 that was provided?

1493 Ms. {Jackson.} As EPA did its analysis, we asked for
1494 review and comment on the analysis that we did.

1495 Dr. {Burgess.} And did we just ignore FERC's
1496 recommendations? Because they don't seem to be completely
1497 coincident with the decisions that you made.

1498 Ms. {Jackson.} No, not at all, sir. In fact, in my own
1499 personal conversations with Chairman Wellinghoff and others
1500 at DOE, what we have assured them is that we would work with
1501 States and others to ensure the Clean Air Act's perfect
1502 record of never having caused a reliability incident in its
1503 40-year history.

1504 Dr. {Burgess.} Let me ask you this. Will you provide
1505 for this committee all of the relevant memos, communications,
1506 letters, emails that are available?

1507 Ms. {Jackson.} Certainly, sir.

1508 Dr. {Burgess.} And what time frame might we expect
1509 those?

1510 Ms. {Jackson.} As soon as we can, sir.

1511 Dr. {Burgess.} I might suggest that there is a time
1512 frame that could be suggested to you but I will leave that up
1513 to the chairman.

1514 Now, I have here a letter to you from the Southwest
1515 Power Pool, a regional transmission organization, on

1516 electrical reliability, and the Southwestern Power Pool
1517 supports a more flexible approach to meeting the emission
1518 requirements under CSAPR and they cite several operators who
1519 are of similar opinion. They go on to say that EPA must be
1520 provide time to allow the industry to plan an approach to
1521 comply with its rules in a reliable and reasonable fashion.
1522 As it stands now, the southwest pool and its members may be
1523 placed in the untenable position of deciding which agency's
1524 rules to violate, EPA or the FERC's. Putting an industry
1525 with a critical infrastructure in the position of choosing
1526 which agency's rules to violate is bad public policy.
1527 Editorial comment: I agree. They also suggest that the EPA
1528 delay CSAPR's effective date by at least a year to allow for
1529 investigating, planning and developing solutions. What would
1530 be the problem with delaying for a year?

1531 Ms. {Jackson.} The rule is flexible enough. Because it
1532 is a market-based program that is intended to replace a rule
1533 that was remanded to EPA by the courts, we are under
1534 obligation to--

1535 Dr. {Burgess.} I am running out of time. With all due
1536 respect, people in the industry do not agree with you. I am
1537 not sure FERC agrees with you.

1538 Ms. {Jackson.} Sir, in 40 years, the Clean Air Act has
1539 never caused a reliability problem. I am confident that this

1540 rule can be implemented in a way that lets businesses make
1541 the decisions they need but doesn't sacrifice public health.

1542 Dr. {Burgess.} And what if you are wrong? Are you
1543 infallible?

1544 Ms. {Jackson.} Of course I am not, but the 40-year
1545 history shouldn't be ignored, sir, just because of doomsday
1546 scenarios by those who want to stop the public health
1547 protections in this rule.

1548 Dr. {Burgess.} Well, and I disagree that they want to
1549 stop the public health protections, and that is the overreach
1550 of which the agency is guilty, but will you provide us the
1551 response to the letter to the Southwestern Power Pool that
1552 they have posed to you?

1553 Ms. {Jackson.} If they were submitted during the public
1554 comment period, we may already have it, but I am happy to
1555 give you a response if it exists.

1556 Mr. {Stearns.} The gentleman's time has expired.

1557 The gentleman from Michigan, the emeritus of the full
1558 committee, Mr. Dingell, is recognized for 5 minutes.

1559 Mr. {Dingell.} Mr. Chairman, thank you for your
1560 courtesy.

1561 Ms. Jackson, welcome. I want to thank you for your
1562 visit to southeast Michigan last month and your tour of the
1563 Detroit River International Refuge, of which you know I am

1564 very interested. I have a number of questions to which I
1565 would hope you would answer yes or no.

1566 One, does EPA take public comments into consideration
1567 during its rulemaking?

1568 Ms. {Jackson.} Yes.

1569 Mr. {Dingell.} Does EPA allow industry representatives
1570 to provide comments during the rulemaking process?

1571 Ms. {Jackson.} Yes, sir.

1572 Mr. {Dingell.} Does EPA take into account during the
1573 rulemaking process a cost analysis of the proposed rule's
1574 effect on industry and the costs of that?

1575 Ms. {Jackson.} Yes, sir.

1576 Mr. {Dingell.} Now, as I remember the writing of the
1577 legislation, the EPA is required to in writing these rules to
1578 come first to its decisions on the basis of health, and then
1579 to come to further decisions on how the rule will be
1580 implemented on the basis of other things as well, in other
1581 words, cost and impact on industry and things of that kind.
1582 Is that right?

1583 Ms. {Jackson.} That is generally correct, sir, yes.

1584 Mr. {Dingell.} And so if I am correct, then the TRAIN
1585 Act would change the sequence of those things. The first
1586 decision would be cost of the rule and the second decision
1587 would then be how the health of people is going to be

1588 affected by the different circumstances in which the rule is
1589 directed. Is that right?

1590 Ms. {Jackson.} I believe that is right, or it may be
1591 the Latta amendment that would amend the TRAIN Act to do
1592 that.

1593 Mr. {Dingell.} Now, would you briefly state what effect
1594 you think there would be if the cost basis analysis is done
1595 before the scientific health benefit analysis?

1596 Ms. {Jackson.} I think it would require the American
1597 people to be kept in the dark about what is happening to
1598 their health and about what is clean air. It is analogous to
1599 a doctor not giving a diagnosis to a patient because the
1600 patient might like be able to afford the treatment. The
1601 American people have the right to know whether the air they
1602 breathe is healthy or unhealthy.

1603 Mr. {Dingell.} Well, now, how are you going to assess
1604 the costs if you don't know what the problem you are
1605 addressing might be? I am trying to understand. We are
1606 going to have a big proceeding to define cost and then after
1607 we have defined the cost we are going to decide about the
1608 health and what we are going to do. I find this rather
1609 curious. How are we going to be able to assess the cost if
1610 we don't know what is going to be required to be done?

1611 Ms. {Jackson.} I see. I am not sure, sir. I haven't--

1612 I don't know what the thinking is.

1613 Mr. {Dingell.} Just for my own curiosity, there have
1614 been a lot of major changes proposed to the Clean Air Act,
1615 and I am sure you will remember that over the years I have
1616 not been entirely happy about either the Clean Air Act or the
1617 administration of it by EPA. But how many times have you
1618 been called upon by the Congress to testify on these proposed
1619 changes?

1620 Ms. {Jackson.} I believe it is approaching a dozen,
1621 sir, but we can get you the exact number.

1622 Mr. {Dingell.} Please, if you would. Now, as I
1623 mentioned, my colleagues on the committee know I have had
1624 some very major disagreements with EPA over the rules, and
1625 there are a lot of serious issues that need to be addressed
1626 in the Clean Air Act and other policies, and from time to
1627 time I have been worried that the industry will bear an undue
1628 burden as a result of EPA rules. Those concerns still exist
1629 today in places.

1630 I have to say that I am disappointed, Mr. Chairman, that
1631 this committee has decided not to address these issues head
1632 on through legislation. Instead, we have been running around
1633 following false paper trails, taking issues out of context,
1634 ignoring policies already in place instead of finding
1635 legitimate and balanced solutions to protect the economy and

1636 the environment and having hearings in which we address the
1637 concerns of industry to find what the specific concerns are
1638 and what the particular actions of this committee should be
1639 to address those concerns and see to it that we are
1640 addressing with proper focus and diligence the questions of
1641 protecting the economy, jobs and at the same time addressing
1642 the problems in the environment.

1643 I note that my time is up and I thank you for your
1644 courtesy, Mr. Chairman.

1645 Mr. {Stearns.} Dr. Gingrey is recognized for 5 minutes,
1646 the gentleman from Georgia.

1647 Dr. {Gingrey.} Madam Administrator, thank you for
1648 appearing before the committee. Your response to the
1649 gentleman from Michigan in regard to what comes first in
1650 consideration of the EPA rulemaking and your response was
1651 health and protecting the health of the American people comes
1652 first, and I think your response also to what comes second
1653 was other things including cost. Is that correct? Was that
1654 essentially your response to the gentleman from Michigan's
1655 line of questioning?

1656 Ms. {Jackson.} Yes, with respect to the National
1657 Ambient Air Quality Standards and the Clean Air Act.

1658 Mr. {Dingell.} If the gentleman would yield, that is
1659 required in the statute and something that caused me a lot of

1660 trouble.

1661 Dr. {Gingrey.} Reclaiming my time, and I appreciate
1662 that, but the EPA, and this is the reason I bring this up.
1663 The EPA counts benefits from protecting people from clean
1664 air. They don't actually believe there is a risk at those
1665 levels but they are counting the benefits so we are concerned
1666 about overstating the benefits in regard to health and
1667 understating the risks to the economy. Yes or no, is it true
1668 that the Administrator of EPA, yourself, has the
1669 responsibility to set ambient air quality standards to
1670 protect the public health including sensitive subgroups with
1671 an adequate margin of safety?

1672 Ms. {Jackson.} Yes, sir.

1673 Dr. {Gingrey.} And again, yes or no, is it true that
1674 the Administrator, yourself, considers advice from EPA staff
1675 and also advice from the science advisors on the Clean Air
1676 Act Science Advisory Committee in setting those standards?

1677 Ms. {Jackson.} Yes, sir.

1678 Dr. {Gingrey.} Now, EPA staff and their particulate
1679 matter report say that there is no evidence of health effects
1680 at levels much lower than the EPA calls the ``lowest measured
1681 level.'' Is that your understanding?

1682 Ms. {Jackson.} Sir, that wouldn't make sense to me,
1683 that below the lowest measured level there be no effects or

1684 effects that would be hard to attribute because you couldn't
1685 measure the pollutant.

1686 Dr. {Gingrey.} Right. So the answer is yes, and I
1687 thank you for that.

1688 Now, according to the most recent particulate matter
1689 risk assessment, EPA estimates, and I quote that ``total
1690 particulate matter 2.5 micron related premature mortality
1691 ranges from 63,000 and 88,000 each year above the lowest
1692 measured level.'' Of course, that is a large number. Would
1693 you agree, 63,000 to 88,000?

1694 Ms. {Jackson.} It is a lot of premature deaths.

1695 Dr. {Gingrey.} It represents in fact, Madam
1696 Administrator, between 3 and 4 percent of all deaths in the
1697 United States annually.

1698 But now I turn to the recent Transport Rule which of
1699 course we have concerns over and to its estimates of benefits
1700 which involve almost all particulate matter and note that the
1701 benefit ranged between 130,000 and 320,000 deaths per year.
1702 That is quite different from EPA's own integrated science
1703 assessment. So how do you explain that?

1704 Ms. {Jackson.} I am sorry.

1705 Dr. {Gingrey.} Well, let me say it again. The most
1706 recent Transport Rule and to its estimate of benefits, which
1707 involve all particulate matter, and note that the benefits

1708 range between 130,000 and 320,000 deaths per year. As I
1709 said, that is quite different from 63,000 to 88,000 from
1710 EPA's own integrated science assessment. How do you explain
1711 that delta?

1712 Ms. {Jackson.} The number I have, sir, is 13,000 to
1713 34,000 avoided premature deaths under the Cross-State Air
1714 Pollution Rule. Perhaps our numbers should be reconciled,
1715 but that is what I have and I believe that is directly from
1716 the rule and their regulatory impact analysis.

1717 Dr. {Gingrey.} Well, I would like, Madam Administrator,
1718 for you to clarify that for me and I would appreciate that
1719 very much, because the question becomes--and as I said at the
1720 outset--is the EPA modifying the numbers to exaggerate the
1721 benefits? Is the EPA claiming benefits below the level where
1722 the data support such claims? How can EPA promulgate rules
1723 and put out numbers that represent two- and threefold
1724 increases over the agency's own scientific assessment? Will
1725 you agree, Madam Administrator, that this does raise
1726 legitimate questions about overestimating the health
1727 benefits?

1728 Ms. {Jackson.} No, respectfully, because I don't
1729 believe I agree with your numbers, sir, so I can't agree with
1730 your premise.

1731 Dr. {Gingrey.} Well--

1732 Ms. {Jackson.} You know, it was briefed not long ago by
1733 scientists who said simply--these are scientists who study
1734 fine particle pollution--that if you could reduce the levels
1735 down to levels that would be considered doable
1736 technologically, you could have an impact on public health--

1737 Dr. {Gingrey.} Well, let me interrupt you just for a
1738 second, Madam Administrator, with all due respect, and I do
1739 respect you--I have only got--in fact, in fact, I am a little
1740 bit over time, but it is really, it is kind of like this
1741 business of the stimulus bill saving jobs. It didn't grow
1742 jobs but of saving jobs, and you put out numbers in regard to
1743 saving lives. That is much more important, and that has to
1744 be accurate.

1745 So thank you for getting that information to me in a
1746 timely manner, and I know I have gone over so I yield back.

1747 Mr. {Stearns.} The gentleman's time is expired.

1748 I recognize the gentlelady from Florida, Ms. Castor. I
1749 welcome her to the hearing.

1750 Ms. {Castor.} Thank you, Mr. Chairman, and thank you,
1751 Madam Administrator.

1752 You know, coming from Florida, we really appreciate our
1753 clean water and clean air because jobs and the economy are
1754 directly tied to having clean air and clean water, and I just
1755 have to--you know, this past week on Monday was the 1-year

1756 anniversary of finally sealing, closing off the BP Deepwater
1757 Horizon well, and there is no better example to explain why
1758 rational regulations need to be in place to protect not just
1759 the environment but when the environment is tied to the
1760 economy and jobs, and I know of the last 30 years even, we
1761 have seen a very predictable pattern of when the EPA goes to
1762 carry out the direction of the Congress under the law and the
1763 will of the American people, there is this typical tug of war
1764 that then ensues. You will propose a regulation and then
1765 certain industries will weigh in, local citizens, maybe the
1766 heart and lung associations, and I think this is very
1767 healthy. I think a robust exchange of ideas and looking at
1768 all of these regulations is essential to getting to the right
1769 result. It can be messy and it can be very contentious
1770 sometimes and sometimes folks here in Washington have very
1771 high-paid lobbyists that can weigh in, and it is important to
1772 have a balance when people at home that oftentimes don't have
1773 the same voice. But I think if EPA sticks to the science and
1774 if you fairly consider all industry points of view and you
1775 consider rational alternatives, is there a less costly
1776 alternative, I think if we follow the science, we will get to
1777 the right point. And I have a couple of examples. When EPA
1778 announced plans to control benzene emissions from chemical
1779 production plants, you know, remember that industry claimed

1780 pollution controls would cost over \$350,000 per plant, but
1781 instead, technological innovation led to replacement of
1782 benzene with other chemicals and the compliance costs turned
1783 out to be zero.

1784 Administrator Jackson, is this the sort of innovation--
1785 is this sort of innovation unusual in the face of new
1786 environmental regulation?

1787 Ms. {Jackson.} No, and indeed, to the contrary, it is
1788 the pattern. For example, the industry overstated the per-
1789 ton cost of the acid-rain trading program by a factor of
1790 four, and what happens is that once industry puts its mind to
1791 complying instead of fighting, they learn to do it in a way
1792 that is more cost-effective than the current technology and
1793 we get both cleaner air and water and jobs as well.

1794 Ms. {Castor.} Then there is a great example just in the
1795 home district from decades ago. We had a coal-fired power
1796 plant by the local electric company. They were in
1797 litigation, and you know, rather than proceed down
1798 litigation, the business took a hard look at the new
1799 technologies available to clean the air and to settle that
1800 they invested in the new technology on scrubbers, and this
1801 has been the best business decision for them. Not only has
1802 it earned them great PR but has cleaned the air. It is right
1803 on Tampa Bay. The health of Tampa Bay has improved. We

1804 don't have as much atmospheric deposition coming on to the
1805 water, and I think oftentimes the science and technology
1806 proves out to be the best business decision.

1807 Another example, when EPA announced limits on
1808 chlorofluorocarbons in vehicle air conditioners, the auto
1809 industry insisted they would add up to \$1,200 to the price of
1810 every car, but the real cost turned out to be as low as \$40.
1811 So in that case, did the benefits to eliminating
1812 chlorofluorocarbons outweigh this \$40 cost, in your opinion?

1813 Ms. {Jackson.} Yes, I am sure they did, although I
1814 don't know the exact ratio, but because the cost was so much
1815 less--they already had weighed it when we posed the rule but
1816 the happy coincident of innovation is that it is much cheaper
1817 than we expected.

1818 Ms. {Castor.} Why do you think this is the case? Why
1819 do affected industries and their high-paid lobbyists up here,
1820 why do they so often overestimate the costs?

1821 Ms. {Jackson.} You know, there has become this dance
1822 that is done inside Washington where we propose public health
1823 protections in accordance with the law and then the costs are
1824 overstated, and even though the history shows that that is
1825 not the impact, it seems to me to be devoid of concern for
1826 the real people who would be most affected, and that is the
1827 American people who want clean air and clean water, and of

1828 course they want jobs as well, and I believe we can have all
1829 three.

1830 Ms. {Castor.} I agree. I don't think they are mutually
1831 exclusive, and a lot of these examples prove that out.

1832 Thank you very much. I yield back.

1833 Mr. {Stearns.} The gentlelady's time has expired.

1834 The gentleman from California, Mr. Bilbray, is
1835 recognized for 5 minutes.

1836 Mr. {Bilbray.} Administrator Jackson, has there been an
1837 air district anywhere in the country, not in the world, that
1838 has reduced its total emissions more than the South Coast Air
1839 Basin in Los Angeles?

1840 Ms. {Jackson.} I can double-check that but they have
1841 made significant reductions, sir. They still have
1842 significant challenges but they have made reductions.

1843 Mr. {Bilbray.} Right. The question is, is there
1844 another nonattainment area anywhere in the country that has
1845 more regulatory control over emissions than Los Angeles, the
1846 South Coast Air Basin?

1847 Ms. {Jackson.} California, because of their specific
1848 challenges, I think has older and probably more well
1849 established air pollution regulations in general.

1850 Mr. {Bilbray.} And are you aware also too that
1851 California and the Air Resources Board and the air districts

1852 have been the leader not just nationally but worldwide in air
1853 pollution reduction and technology?

1854 Ms. {Jackson.} And technology and moving forward on
1855 trying to address public health issues.

1856 Mr. {Bilbray.} And you are aware that we have one of
1857 the highest, second only to Nevada, unemployment right now,
1858 12-point plus?

1859 Ms. {Jackson.} I am sorry, sir.

1860 Mr. {Bilbray.} Okay. Look, both sides can talk about
1861 denial of impacts, health-wise, economic. Let us be upfront.
1862 Anybody that straight-faced says we can do these regulations
1863 and they will help the environment and drive the economy is
1864 still playing in our 1970 illusion that there isn't an impact
1865 on both sides, and I don't think either side should be in
1866 denial that there is a cost to the economy and a benefit to
1867 the environment, and if you retreat on some of these
1868 environmental issues, there is going to be an impact on the
1869 environment and a health and a benefit to the economy. It
1870 goes back and forth. The concept that we can pull this off,
1871 we have been playing this game in California long enough. We
1872 have tried to do--we have done extraordinary things in
1873 California to try to make both work out. There is a cost,
1874 and there is a cost both ways, and I think that seriously we
1875 need to address that.

1876 Now, let me ask you--and that is why the dialog here
1877 gets polarized. I want to bring this back to, there is cost
1878 and benefit. Don't deny the cost; don't deny the benefit.
1879 Now, my question is, in the 1970s, isn't it true that through
1880 environmental regs and fuel efficiency regs, the federal
1881 government drove the private sector towards diesel operation
1882 for about 5 to 6 years? They converted their fleet largely
1883 over to diesel?

1884 Ms. {Jackson.} I can't confirm that, sir.

1885 Mr. {Bilbray.} Okay. Well, I will confirm it for you
1886 because I think those of us that are old enough to remember
1887 that will remember that hideous experiment. That was an
1888 environmental regulation that drove the private sector to
1889 diesel, which you and I know is a very, very toxic emission,
1890 a very big health issue, and it was a major economic and
1891 environmental mistake that we made, and there are impacts of
1892 that.

1893 I would like to shift over from the other side as
1894 somebody who has been on the rulemaking, actually been in the
1895 regulations. What is the responsibility or what is the
1896 participation of local and State and county government
1897 operations in the implementation of these rules, and I will
1898 point that out. You are the Environmental Protection Agency.
1899 You are not the EDA. You are not the Economic Destruction

1900 Agency. What is the local and State responsibility in
1901 addressing air pollution and toxic emissions and what is
1902 their major goal in participation in this project? And
1903 please make it short.

1904 Ms. {Jackson.} Okay. At a minimum, State governments
1905 are primarily responsible for implementation of most aspects
1906 of the federal Clean Air Act. Some States have their own
1907 laws, and in the case of California, local and county
1908 governments do--

1909 Mr. {Bilbray.} How much reduction have we had in
1910 government operations and procedures in emissions in a
1911 nonattainment area like the L.A. Air Basin in comparison to
1912 the private sector reduction? Wouldn't you agree that
1913 probably overwhelmingly in the 90 percent that the private
1914 sector has reduced their emissions proportionally that the
1915 reduction has been in the private sector and the public
1916 sector has been less than very aggressive at reducing our
1917 emissions and our operations to reduce our footprint?

1918 Ms. {Jackson.} Sir, I am not sure I understand the
1919 question, but the private sector has not done it voluntarily.

1920 Mr. {Bilbray.} Let me give you this. The EPA had a
1921 scientist coming out of Kansas that could tell you that you
1922 could reduce the emissions from autos by 20 percent with a
1923 single regulation. Don't you think the EPA would be very

1924 interested in looking at implementing those rules?

1925 Ms. {Jackson.} Of course. We are always looking for
1926 ways--

1927 Mr. {Bilbray.} What are you doing about indirect--the
1928 mobile sources caused by inappropriate traffic control by
1929 city, county and local and State government?

1930 Ms. {Jackson.} Sir, we are implementing the Clean Air
1931 Act and we allow States to come up with implementation plans
1932 to determine how best to reduce most forms of air pollution.
1933 The mercury and air toxic standards are different because
1934 they are under a different section of the Clean Air Act.

1935 Mr. {Bilbray.} I move right back over. In other words,
1936 local governments, State government get to--our job is to
1937 make the private sector clean up their act where you can get
1938 identified single mobile source that government controls that
1939 we have done nothing as a comprehensive approach to reduce it
1940 because we focus on cracking down on the private sector, who
1941 are the job generators, while we are given a free ride.

1942 And Mr. Chairman, I point this out because that 20
1943 percent that we could reduce in government is 20 percent that
1944 the private sector wouldn't have to do while they are laying
1945 off employees, and that is the kind of responsible
1946 environmental strategy I would like to see both sides of the
1947 aisle finally be brave enough to approach.

1948 Mr. {Stearns.} The gentleman's time is expired.

1949 The gentleman from Massachusetts is recognized for 5
1950 minutes.

1951 Mr. {Markey.} Thank you, Mr. Chairman.

1952 This week, the Republicans have stepped up their assault
1953 on clean air and clean energy. Both this committee and the
1954 full House have begun a legislative repeal-a-thon that denies
1955 the science, delays the regulations and deters efforts to
1956 protect the health and security of millions of Americans.
1957 Take today's Floor action. We are having 100-year floods
1958 every few years. We have had tornados rip through the
1959 country, killing people and destroying property. Hurricanes
1960 have caused floods, massive power outages and deaths. Texas
1961 is on fire. Forty-eight states have made emergency
1962 declarations so far this year. Now, we have set all-time
1963 records of 83 major disasters declared this year with 3
1964 months of the year still left to go.

1965 The planet is warming and the weather is worsening. We
1966 see it here with our hurricanes, floods, fires and tornados.
1967 We see it overseas where famine in Somalia threatens civil
1968 war, and how does the tea party respond? ``Maybe we can find
1969 the money,' ' they say, for disaster relief for people who are
1970 suffering, for people who are desperate, for people who have
1971 lives who have been altered permanently by these disasters,

1972 but we are going to make the taxpayer pay. Do the
1973 Republicans say we are going to pay by cutting the hundreds
1974 of billions of dollars we spend on our nuclear weapons
1975 program because we all know we don't need to build any more
1976 nuclear weapons? Oh, no. They wouldn't do that. Are we
1977 going to cut the tens of billions of dollars in subsidies we
1978 give to Big Oil and Coal as they report record profits? Oh,
1979 no, we can't touch those, they say. We can't even talk
1980 about cutting those programs. What can we talk about? We
1981 can talk about, they say, cutting the clean car factory
1982 funds. We can talk about cutting the incentives to make
1983 super-efficient cars that don't need the oil sold by
1984 potentates in Saudi Arabia and CEOs in Texas. We can talk
1985 about cutting the program that could remove the need for the
1986 very same oil that creates the greenhouse gases that are
1987 warming up the planet and causing the disasters that cost
1988 more and more money to remedy as each year goes by.

1989 And as if all this wasn't enough, the Republicans are
1990 also waging an all-out war on the Clean Air Act. This
1991 committee and the House has already passed legislation to
1992 prevent the EPA from doing anything to reduce the amount of
1993 oil used by our cars and trucks. And this week in this
1994 committee and on the Floor, we are considering bills to
1995 require endless study of the cumulative impacts of all EPA

1996 air regulations on all industries, and then just for good
1997 measure, we are going to pass legislation that repeals the
1998 regulations that have already been set, extend the deadlines
1999 for implementation of the rest and weaken the very
2000 underpinnings of the Clean Air Act.

2001 The Republicans are providing the American people with a
2002 false choice. We do not have to choose between air quality
2003 and air conditioning. We do not have to choose between
2004 concrete and cancer. We do not have to choose between
2005 manufacturing and mercury poisoning or asthma or cardiac
2006 arrest. We do not have to choose. In their insistence that
2007 we consider the cumulative impacts of all these regulations,
2008 there are some other cumulative impacts of their actions that
2009 Republicans refuse to acknowledge.

2010 Administrator Jackson, Republicans are cutting programs
2011 to incentivize the development of advanced technology
2012 vehicles that could run without using a single drop of oil.
2013 They also passed legislation preventing EPA from moving
2014 forward to require a 54.5-miles-per-gallon fuel economy
2015 standard by 2025. When you look at this cumulatively as
2016 Republicans say we must, do you think these actions would
2017 help or hurt our efforts to reduce our dependence on foreign
2018 oil and back out that which we take from OPEC and funds those
2019 countries' governments?

2020 Ms. {Jackson.} I think efforts to make us more
2021 dependent on gasoline hurt our Nation's energy independence,
2022 sir.

2023 Mr. {Markey.} Cumulatively, what are the benefits of
2024 cleaning up particulate matter? Does that help or hurt our
2025 efforts to battle cancer, to battle the impact that it has
2026 upon the health of people in our country?

2027 Ms. {Jackson.} Particulate matter causes premature
2028 deaths. It doesn't make you sick. It is directly causal to
2029 dying sooner than you should. So the impacts of delaying
2030 efforts, cost-effective efforts, I might add, to address
2031 particulate matter are more people dying sooner than they
2032 should.

2033 Mr. {Markey.} How would you compare it to the fight
2034 against cancer, reducing particulate matter?

2035 Ms. {Jackson.} Yes, I was briefed not long ago. If we
2036 could reduce particulate matter to healthy levels, it would
2037 have the same impact as finding a cure for cancer in our
2038 country.

2039 Mr. {Markey.} Can you say that sentence one more time?

2040 Ms. {Jackson.} Yes, sir. If we could reduce
2041 particulate matter to levels that are healthy, we would have
2042 an identical impact to finding a cure for cancer.

2043 Mr. {Markey.} That is a pretty good cumulative impact.

2044 Ms. {Jackson.} Well, and the difference is, we know how
2045 to do that.

2046 Mr. {Markey.} And the Republicans are also proposing to
2047 delay and weaken standards that would remove toxic chemicals
2048 like mercury, benzene, cancer-causing dioxin and lead from
2049 industrial polluters. Your regulations clean up cement
2050 plants. When you look at these health effects cumulatively
2051 as Republicans insist we must and the tea party insists we
2052 must, would we be avoiding the thousands of deaths that would
2053 otherwise occur--

2054 Mr. {Stearns.} The gentleman's time has expired.

2055 Ms. {Jackson.} And that is \$2 trillion in health
2056 benefits a year beginning in 2020, sir, and that is just some
2057 of the rules.

2058 Mr. {Stearns.} I thank the gentleman. I am glad he
2059 finally got to his question.

2060 Mr. {Markey.} Well, I was asking--well, let just say
2061 this for the sake of the discussion. Mr. Bilbray did not ask
2062 this question until 1:05 after the time, and Mr. Gingrey did
2063 not ask his question until 26 seconds after his time.

2064 Mr. {Stearns.} I am glad you noticed.

2065 Mr. {Markey.} But if you would have notified them as
2066 well, then I think I probably would have understood what the
2067 rules were.

2068 Mr. {Stearns.} And there is no rules. You can do what
2069 you want on your 5 minutes.

2070 Mr. {Markey.} I appreciate it. Thank you.

2071 Mr. {Stearns.} Mr. Griffith from Virginia is recognized
2072 for 5 minutes.

2073 Mr. {Griffith.} Thank you.

2074 When you say reduce particulate matter to levels that
2075 are healthy, what is that level?

2076 Ms. {Jackson.} I don't have it in my head right now but
2077 we will get it to you, sir.

2078 Mr. {Griffith.} And can you tell me when you are
2079 getting that information at what point in history we were at
2080 that level? Because isn't it not true that a lot of
2081 particulate matter exists from natural causes?

2082 Ms. {Jackson.} Some amount of fine particulate matter,
2083 but most of the natural causes of particulate matter are
2084 coarser and, you know, so dust, when you hear about dust
2085 storms. There is some particulate matter, of course, that is
2086 emitted naturally.

2087 Mr. {Griffith.} So if you could give me a date as to
2088 when the earth achieved that maximum healthy level, I would
2089 appreciate that, at some point back in the past. I am sure
2090 your scientists can help you with that.

2091 In regard to mercury, we have heard a lot about mercury

2092 today but the Department of Energy says when it goes back and
2093 looks at mercury, and this was just found on the Department
2094 of Energy's website, that even in 1995, coal-fired power
2095 plants in the United States contributed less than 1 percent
2096 of the world's mercury in the air, and that since that time
2097 we have actually dropped, and I guess my question is, because
2098 we hear this all the time in this committee, that we must be
2099 against clean air, that we must be--you know, because we
2100 don't support all the EPA proposals that we must be for dirty
2101 air. In fact, I believe Chairman Emeritus Waxman said
2102 yesterday this was Dirty Air Week, the Republicans had
2103 declared this Dirty Air Week in the legislature. And so I
2104 guess I have to ask, even though I know the answer in
2105 advance, you would not submit that being opposed to some of
2106 your regulations means that you are against clean air, would
2107 you?

2108 Ms. {Jackson.} It certainly depends on the regulation,
2109 sir.

2110 Mr. {Griffith.} You would not submit that the President
2111 is against clean air because he opposed your proposed Ozone
2112 Rule, would you?

2113 Ms. {Jackson.} No, sir.

2114 Mr. {Griffith.} I wouldn't think so. Or clean water.
2115 Wouldn't that be correct?

2116 Ms. {Jackson.} No.

2117 Mr. {Griffith.} All right. And so when people make
2118 blanket statements that because they oppose an EPA--some of
2119 us oppose an EPA regulation, that doesn't mean that we are
2120 necessarily in favor of dirty air, does it?

2121 Ms. {Jackson.} It depends on the regulation, sir.

2122 Mr. {Griffith.} All right. Clearly, on ozone, we
2123 wouldn't have been in that category.

2124 And in regard also, there was a comment earlier that
2125 somebody wanted to know, you know, we call these job-killing
2126 regulations, they want to know where the jobs are, and I can
2127 submit to you some jobs from the 9th district of Virginia
2128 that have been lost by virtue of some proposed regulations if
2129 they go into full effect, but isn't it true that your own
2130 analysis shows that the boiler MACT and cement MACT proposals
2131 will in fact cost jobs. Is that not correct? They create
2132 some clean energy jobs but they also have a certain--

2133 Ms. {Jackson.} That is not entirely correct, sir. The
2134 jobs analysis for the boiler MACT--

2135 Mr. {Griffith.} Well, either people are going to lose
2136 jobs or they aren't. Do they lose jobs or not?

2137 Ms. {Jackson.} Well, sir, we do an analysis. There is
2138 a range, and it ranges from a gain of 6,500 jobs to a loss of
2139 3,100. It is not a perfect science to look at this, but jobs

2140 analysis that we do, we try to be as precise as we can.

2141 Mr. {Griffith.} But you are aware that in regard to
2142 some of your rules that various power plants across the
2143 country have already announced shutdowns of power plants and
2144 a net loss of jobs? You are aware of that, are you not?

2145 Ms. {Jackson.} Many of those plants are making business
2146 decisions.

2147 Mr. {Griffith.} Are you aware that they are laying off
2148 people?

2149 Ms. {Jackson.} I am aware of the fact that plants need
2150 to make business decisions so that they can stop polluting
2151 the air.

2152 Mr. {Griffith.} Can I then assume that you are not--I
2153 mean, I am just asking a simple question. Either you are
2154 aware of--

2155 Ms. {Jackson.} I am aware of the announcements.

2156 Mr. {Griffith.} You are aware of the announcements.
2157 Thank you.

2158 Ms. {Jackson.} I don't necessarily believe their
2159 announcements are always fair or accurate.

2160 Mr. {Griffith.} Okay. But you are aware that they have
2161 announced layoffs and communities are concerned about the
2162 layoffs of high-paying jobs in my district, rural areas where
2163 high-paying jobs are not common? You would agree with that?

2164 Ms. {Jackson.} I am aware of their announcements, and I
2165 know that some of what is in their announcements isn't
2166 accurate or fair.

2167 Mr. {Griffith.} Do you think that the Department of
2168 Energy is accurate and fair when it says that only 1 percent
2169 of the mercury in the world's atmosphere is coming from coal-
2170 fired power plants in the United States of America? Are you
2171 aware of that?

2172 Ms. {Jackson.} I heard you say it. I would like to see
2173 their website before I agreed to it.

2174 Mr. {Griffith.} All right. But do you all have data
2175 that indicates similarly that since 1995 without these
2176 regulations going into effect the amounts of mercury in the
2177 air in the United States has actually diminished, and some
2178 other regulations--

2179 Ms. {Jackson.} It is a good point, sir. Almost half of
2180 the power plants in this country currently comply with the
2181 regulations that we are scheduled to adopt in November, so it
2182 can be done. It can be done cost-effectively. It is
2183 actually a matter of fairness. Some plants are emitting
2184 mercury and others have already addressed that pollution.

2185 Mr. {Griffith.} And in fairness, some of that deals
2186 with municipal waste incinerators, because I have never been
2187 one of those who says that the EPA doesn't have a purpose or

2188 does some good and that that is part of the reason that
2189 mercury has dropped in this country, but we are already at
2190 fairly low levels and the balance that we have to make as
2191 policymakers, as your President made on the Ozone Rule, is
2192 between deciding whether the gain is worth the cost and when
2193 the cost is people not having jobs and being in poverty as we
2194 have seen that rise in this country, you can understand why
2195 many of us are concerned about the rising poverty. You can
2196 agree that that is a negative, would you not?

2197 Ms. {Jackson.} In your considerations, I would ask you
2198 to look at benefits that are between \$59 billion and \$140
2199 billion for a rule that costs \$10 billion in the year 2016.
2200 That is what the benefits of the Mercury and Air Toxics Rules
2201 are estimated to be.

2202 Mr. {Stearns.} The gentleman's time has expired.

2203 The gentleman from Louisiana, Mr. Scalise, is recognized
2204 for 5 minutes.

2205 Mr. {Scalise.} Thank you, Mr. Chairman. Thank you,
2206 Administrator Jackson.

2207 Ms. {Jackson.} What did you do to your leg?

2208 Mr. {Scalise.} I tore my ACL playing basketball last
2209 week.

2210 Ms. {Jackson.} Did you kick the TV when the Saints lost
2211 to the Packers?

2212 Mr. {Scalise.} The Packers game was a little rough, but
2213 we had redemption against the Bears and we are going to do
2214 well this weekend too.

2215 Ms. {Jackson.} That is right.

2216 Mr. {Scalise.} I am glad we can agree on that. We
2217 definitely do.

2218 I wanted to ask you, you know, we have been talking
2219 about clean air, clean water, and all of us, I think it has
2220 been laid out very clearly, all of us support clean air and
2221 clean water. I think what we are trying to get at here is
2222 where is that balance and has there been a crossing of that
2223 balance as it relates to some of the rules and regulations we
2224 have seen coming out of EPA. I know I am equally concerned
2225 about clean air and clean water. I am also concerned about
2226 jobs, and during the break, a lot of us went back home, got
2227 to meet with a lot of our small business owners, talking to
2228 people who are there on the front line of job creation, and
2229 there was a recurring theme I heard from every single small
2230 business owner I talked to and, you know, you ask them, what
2231 kinds of things need to happen, what can we do to help you
2232 create jobs, and surprisingly, the recurring theme was, they
2233 said the regulations and laws coming out of Washington and
2234 this Administration are their biggest impediment to creating
2235 jobs, and so I think it is very important that we look at

2236 these regulations that are coming out and saying, you know,
2237 what is the justification. And it seems that a lot of times
2238 these numbers are attached and, you know, each rule and
2239 regulation is going to save lives and each rule and
2240 regulation is going to stop people from being sick, you know,
2241 and those are all lofty goals, but unfortunately, it seems
2242 like they are numbers that are being arbitrarily thrown out
2243 just to justify a radical regulation that really has nothing
2244 to do with improving health and safety and, you know, I will
2245 start with the ozone ruling. What were the justifications
2246 that you made when you came out and proposed that rule? How
2247 many lives was that going to save? How many sick days was
2248 that going to prevent?

2249 Ms. {Jackson.} The National Ambient Air Quality
2250 Standards are based on peer-reviewed data that look at the
2251 health impacts, so it is made based on determining what
2252 constitutes a safe level--

2253 Mr. {Scalise.} So for that ruling, did you have numbers
2254 assessed to how many, whether it was lives saved? Did you
2255 say how many people were not going to have to go to the
2256 emergency room? Did you have numbers like that for that
2257 rule?

2258 Ms. {Jackson.} As I recall, sir, but we will double-
2259 check and get you that data, what we look at trying to assess

2260 where, whether the number 75, 70, what have you, where in
2261 that spectrum you protect human health with an adequate
2262 margin of safety, so--

2263 Mr. {Scalise.} I would imagine when you came out with
2264 that rule and you proposed that rule, you said this is going
2265 to do some things to protect public health, right?

2266 Ms. {Jackson.} It is the implementation of the
2267 standards over time. So as we heard earlier, you pick the
2268 health-based standard and then over time you implement the
2269 standard to achieve that level.

2270 Mr. {Scalise.} And so I am using that as an example
2271 because, you know, for those of us that agree with it, before
2272 the President made his decision and came out with his
2273 Executive Order saying we are not going to go forward with
2274 that, there would have been people on the other side who
2275 said, oh, you know, you all just don't care about public
2276 health, look at all those lives we would have saved, you
2277 know, and you all are trying to block that rule from coming
2278 out, and then all of a sudden the President even says you
2279 went too far. That rule, that regulation would not have done
2280 those things. I have got to imagine--I am not going to speak
2281 for the President and you are not either, but I have got to
2282 imagine that the President had to disagree with your
2283 assessment that that would have saved lives or improved

2284 health because he wouldn't have rejected that rule if he
2285 thought rejecting that rule would make people more sick.

2286 And so I would just hope as the tone goes forward that
2287 as we are looking at these rules and regulations that we know
2288 are killing jobs, our job creators out there across the
2289 country are telling us how many jobs in each of their
2290 businesses these rules are killing. You know, you want to
2291 talk about health and safety, these are people that don't
2292 have jobs, they don't have health insurance, they don't have
2293 a lot of things because they don't have that job, and then
2294 you look at the assessments that are made by EPA, and even
2295 the President acknowledged clearly that the things that you
2296 are saying weren't accurate at least to his belief, our
2297 belief because he rescinded the rule. He wouldn't have
2298 rescinded the rule if he thought that was going to do
2299 something to improve health.

2300 So I hope as we are looking at these rules we can at
2301 least have an understanding that all these things should be
2302 put on the table, and just because somebody comes out and
2303 says we are going to save 20,000 hospital visits, that
2304 doesn't mean you are going to save 20,000 hospital visits.

2305 Mr. {Bilbray.} Would the gentleman yield?

2306 Mr. {Scalise.} You said that about other things.

2307 Mr. {Bilbray.} Would the gentleman yield?

2308 Mr. {Scalise.} I would be happy to.

2309 Mr. {Bilbray.} I think in all fairness, though, the
2310 President is saying, wouldn't you agree, that really was
2311 right now with the way the economy is, the way the jobs are,
2312 now is not the time to implement this, and in all fairness,
2313 he is not saying somewhere in the future you might--

2314 Mr. {Scalise.} Well, and I will reclaim my time,
2315 because what the President is saying, if the President really
2316 thought that implementing that rule would save lives or
2317 improve people's health and stop people from going to the
2318 emergency room, I really don't think he would have gone
2319 forward with it, you know, and he can correct me, you can
2320 correct me if you have heard differently.

2321 Ms. {Jackson.} I am not going to speak for the country.
2322 I will simply say that not every deregulatory push works out
2323 well for the country or the environment. In 2009, a company
2324 called another federal agency's rules an unnecessary burden.
2325 That agency wasn't EPA, it was the Minerals Management
2326 Service, and that company was Transocean, and we know what
2327 happened there.

2328 Mr. {Scalise.} We saw that they cut corners, and that
2329 had nothing to do with--

2330 Ms. {Jackson.} No, they--

2331 Mr. {Scalise.} They actually--

2332 Ms. {Jackson.} --protesting regulation of their work.

2333 Mr. {Scalise.} And there are companies that we all know
2334 have played by all of the rules and they are being shut down
2335 today even though they didn't do anything wrong. And so
2336 while you may want to carry out your agenda, even the
2337 President has acknowledged that you have gone too far, and we
2338 have got to be concerned about jobs.

2339 I just want to put this into the record and ask a final
2340 question as my time is running out, specifically to talk
2341 about the Spill Prevention Containment and Countermeasure
2342 Rule that has been extended to farms, and then your agency--
2343 it was going to be a 5-year implementation. Your agency
2344 rolled that back or expedited and said in 2 years they have
2345 got to comply, meaning November of this year. Our small
2346 farmers out there are going to have put containment. They
2347 don't even know how much it is going to cost them,
2348 containment measures. Our Commissioner of Agriculture has
2349 asked your agency over a month ago if you would review--the
2350 Commissioner sent you a letter--if you would review either
2351 rescinding the rule or giving them an extension. They
2352 haven't heard back. I would hope you would look at that, and
2353 I would be happy to get you a copy of the letter, but look at
2354 the rule in general, what this is going to do, what kind of
2355 impact that regulation is going to do to our local farmers.

2356 Ms. {Jackson.} I am happy to do that, and the reason
2357 that I think we are looking at it very hard is because with
2358 the flooding in the Midwest and in other parts of the
2359 country, a lot of folks have not had time to comply with it.
2360 But it is an oil spill prevention rule as well, so--

2361 Mr. {Scalise.} Right, but in a lot of--

2362 Mr. {Stearns.} The gentleman's time has expired.

2363 Mr. {Scalise.} The States do their own containment, and
2364 I would hope you would look at that letter, and I am sure
2365 others are out there too, and look at extending that or just
2366 rescinding it altogether.

2367 I appreciate it, and I yield back my time.

2368 Mr. {Stearns.} We will put your document in. I think
2369 the minority would like to look at your document first before
2370 we ask unanimous consent to do so.

2371 Ms. {DeGette.} Reserving the right to object.

2372 Mr. {Stearns.} Madam Administrator, we are going to do
2373 a second round. You have been kind enough to be here--oh,
2374 Mr. Gardner, the gentleman from Colorado--I thought you had
2375 spoken, I am sorry--is recognized for 5 minutes.

2376 Mr. {Gardner.} Thank you, Mr. Chairman, and thank you,
2377 Administrator Jackson, for your time today.

2378 I have been told that EPA's Office of Compliance and
2379 Enforcement Assurance is verbally asking active hard-rock

2380 mines to voluntarily grant blanket access to EPA personnel to
2381 conduct site investigations under CERCLA. They have been
2382 described--representatives of EPA have described the proposed
2383 inspections as part of an ongoing national enforcement
2384 initiative focused on hard-rock mining. Are these
2385 inspections related to EPA's stated intention under CERCLA
2386 108(b) to promulgate a rule imposing additional financial
2387 assurance requirements in hard-rock mines?

2388 Ms. {Jackson.} Not by your description, sir. It sounds
2389 more like this is as a result of a national enforcement
2390 initiative to reduce pollution from mineral processing, but I
2391 can double-check that for you.

2392 Mr. {Gardner.} So they are not a part of the financial
2393 assurance?

2394 Ms. {Jackson.} Not to my knowledge but I can certainly
2395 confirm that for you.

2396 Mr. {Gardner.} And then could you clear up confusion
2397 about the reason for these inspections? Are they part of the
2398 national enforcement initiative or are they to support EPA's
2399 CERCLA 108(b) rulemaking?

2400 Ms. {Jackson.} I believe they are the former, sir, but
2401 I will confirm that.

2402 Mr. {Gardner.} Is there any link between the two?

2403 Ms. {Jackson.} Not to my knowledge, sir, but I am happy

2404 to check on that for you.

2405 Mr. {Gardner.} I would appreciate that. How do these
2406 inspections relate to EPA's CERCLA Section 108(b) rulemaking?

2407 Ms. {Jackson.} I don't believe they are related but I
2408 will double-check that for you.

2409 Mr. {Gardner.} And would you provide for the record
2410 copies of policies, guidance or other documents or records
2411 related to development by EPA of any program or initiative to
2412 identify hard-rock mining or mineral process sites that may
2413 be inspected or visited by EPA representatives and/or any
2414 contractors of the EPA under CERCLA Section 104(b) or as part
2415 of development of a rule pursuant to CERCLA that would impose
2416 financial assurance requirements on facilities in the hard-
2417 rock mining industry?

2418 Ms. {Jackson.} Certainly, sir.

2419 Mr. {Gardner.} Thank you. And do you happen to have
2420 any of that material with you today?

2421 Ms. {Jackson.} No, sir.

2422 Mr. {Gardner.} And I know the committee had called the
2423 office and warned that this question was coming. Will any of
2424 the data or information gathered during these inspections be
2425 used in the rulemaking process under CERCLA Section 108(b)?

2426 Ms. {Jackson.} I am sorry. Could you repeat the
2427 question?

2428 Mr. {Gardner.} Will any of the data or information that
2429 is gathered during these inspections be used in the
2430 rulemaking process under CERCLA Section 108(b)?

2431 Ms. {Jackson.} I don't believe so but that is the same
2432 question. I will double-check.

2433 Mr. {Gardner.} Okay. And then how much money right now
2434 has been budgeted for this national hard-rock mining
2435 enforcement initiative for fiscal year 2012?

2436 Ms. {Jackson.} Let us see if I have it in any of the
2437 background I have. I don't know that I have a line item for
2438 that. If it is possible to get it, we are happy to get it
2439 for you. It is budged under our Office of Enforcement.

2440 Mr. {Gardner.} If you could get that, that would be
2441 great. And do you have any idea what is budgeted for CERCLA
2442 108(b) rulemaking?

2443 Ms. {Jackson.} We will get you that as well.

2444 Mr. {Gardner.} Thank you. And I have been told as well
2445 that these companies obviously may be facing some costs of
2446 these inspections and the companies inspected will spend
2447 considerable time working with EPA, their contractors and
2448 others showing them onsite resources necessary to gather the
2449 information, reports, meetings, EPA personnel et cetera, and
2450 will these inspected companies be expected to bear any of the
2451 costs, the direct costs for EPA personnel and EPA contractors

2452 to visit the sites inspected under this initiative?

2453 Ms. {Jackson.} Enforcement cases are generally brought
2454 for violations of the law, and when they are, the penalties
2455 are generally assessed as penalties but not necessarily
2456 unless there are court cases is reimbursement sought.

2457 Mr. {Gardner.} So these just seem to be inspections.
2458 Are you aware of this initiative at all?

2459 Ms. {Jackson.} Certainly, generally, every year the EPA
2460 acknowledges what its federal priorities are for reducing
2461 pollution and for enforcement, and this is one of our
2462 priorities.

2463 Mr. {Gardner.} So is this just an inspection or an
2464 enforcement action?

2465 Ms. {Jackson.} Well, you do an inspection, and if
2466 nothing is wrong, there is no need for enforcement.

2467 Mr. {Gardner.} So is this a plan then to go into a
2468 number of these mines in different regions just to go in and
2469 inspect?

2470 Ms. {Jackson.} Certainly. Part of our authority allows
2471 us to go in and determine compliance with federal laws.

2472 Mr. {Gardner.} And is this part of CERCLA? This
2473 initiative, is it part of your CERCLA efforts?

2474 Ms. {Jackson.} I believe they would look for violations
2475 of all environmental laws including potentially violations of

2476 CERCLA law, but it would not be limited necessarily to that.
2477 It could be the Clean Water Act, it could be the Clean Air
2478 Act.

2479 Mr. {Gardner.} So are these--do you have a listing of
2480 the mines that you intend to inspect?

2481 Ms. {Jackson.} I don't know if such a list exists, but
2482 if it does, it may well be enforcement confidential since
2483 telling someone you are coming is a good way of assuring that
2484 you may not get a true picture of what they are really doing.

2485 Mr. {Gardner.} And then just a couple questions on
2486 energy prices. Do your regulations have an impact on
2487 electricity price?

2488 Ms. {Jackson.} Yes, sir.

2489 Mr. {Gardner.} What is an acceptable price increase for
2490 electricity?

2491 Ms. {Jackson.} Well, what we generally do is look at a
2492 price increase to determine impacts on the economy and also
2493 on reliability issues, and so what we know--I can't answer
2494 your question, but what we know is that the rules that have
2495 been discussed this morning, both final and proposed, have
2496 very low impacts on electricity prices.

2497 Mr. {Gardner.} But when a rule increases electricity
2498 prices 5 percent, would that be acceptable?

2499 Ms. {Jackson.} Sir, it would depend on the rule. We

2500 look at costs and benefits and we also look at how those
2501 costs and benefits roll out over time, and often--

2502 Mr. {Gardner.} So it might be acceptable? A 5 percent
2503 increase might be acceptable?

2504 Ms. {Jackson.} It could potentially be.

2505 Mr. {Gardner.} What about 10 percent? Could a 10
2506 percent price increase be acceptable?

2507 Ms. {Jackson.} That is a hypothetical that I simply
2508 cannot answer.

2509 Mr. {Gardner.} Who bears the burden most in our society
2510 with increased electricity prices?

2511 Ms. {Jackson.} Who bears the burden?

2512 Mr. {Gardner.} Yes, who do you think it hurts the most?

2513 Ms. {Jackson.} The ratepayers pay for electricity.

2514 Mr. {Gardner.} Does it hurt poor more than a
2515 disproportionate share of our population?

2516 Ms. {Jackson.} Of course, for people for whom energy is
2517 a large section of what they spend, then--

2518 Mr. {Gardner.} The answer is yes, increased electricity
2519 prices impact poor more than--

2520 Mr. {Stearns.} The gentleman's time has expired.

2521 Mr. {Gardner.} --the rest of the population.

2522 Mr. {Stearns.} You are welcome to answer that.

2523 Ms. {Jackson.} Yes, it can if a greater portion of

2524 their disposable income is used for energy, then they can be
2525 hurt more, certainly.

2526 Mr. {Stearns.} We are now finished the first round. We
2527 are going to have another round. As you can see, there are
2528 fewer members so it will go quicker, and I will start with my
2529 questions.

2530 A small businessperson came up to me and talked to me
2531 about the EPA rule called the mud rule. I am not sure you or
2532 anybody else knows about it. In the event of construction of
2533 a site, there is stormwater that washes off or may wash off.
2534 EPA has stipulated exactly how construction of the site
2535 including the layout of the mud has to be, and of course,
2536 this increases the cost of construction and creates
2537 liability, particularly in light of the fact that EPA says if
2538 you don't comply, it is \$37,500 every day for every
2539 infraction. Don't you think those kind of penalties are
2540 deterring business operations and it is important with a
2541 struggling economy that you don't put that fear that you
2542 could have \$37,000, almost \$40,000-a-day fee for how you
2543 structure mud when you are doing construction for a
2544 stormwater washout that may or may not occur?

2545 Ms. {Jackson.} Sir, the majority of water pollution in
2546 this country is caused by stormwater runoff and so the
2547 Nation's Clean Water Act asked EPA to develop national

2548 standards. It is important to note a couple of things--

2549 Mr. {Stearns.} Do you know about the mud rule?

2550 Ms. {Jackson.} Well, I know that States implement

2551 stormwater rules--

2552 Mr. {Stearns.} I mean, if you don't--I would be

2553 surprised if you do know about it. Do you know about it?

2554 Ms. {Jackson.} Of course I know about stormwater

2555 regulations.

2556 Mr. {Stearns.} No, no, but the mud rule. Have you ever

2557 heard of it?

2558 Ms. {Jackson.} Well, he may call it the mud rule but--

2559 Mr. {Stearns.} But you think it is stormwater rule?

2560 Okay.

2561 Ms. {Jackson.} Sure, because when you mix water with

2562 dirt, some people call that mud, I guess.

2563 Mr. {Stearns.} But in light of the fact you just said

2564 yourself here that we have had 40 years of impact of the

2565 clean air bill and it has worked pretty good, and yet you

2566 seem to be pretty strong on increasing more regulation even

2567 with your own admission that the Clean Air Act has been

2568 working for over 40 years. I mean, it is just--but I am

2569 trying to give you an example, a specific example where the

2570 stormwater act is really creating problems and scary for

2571 small people that are in construction.

2572 Ms. {Jackson.} Well, and the \$37,000 or whatever figure
2573 he cited per day, sir, I would be happy to talk to him, but
2574 those are probably the statutory maximum penalties under the
2575 Clean Water Act, and I am not aware of any specific incident
2576 where that has been levied and certainly I am happy to look
2577 into your constituents' concerns.

2578 Mr. {Stearns.} How many employees do you have?

2579 Ms. {Jackson.} We have somewhere over 17,000. I think
2580 we may be as high as 18,000.

2581 Mr. {Stearns.} I think it is almost 18,000. And what
2582 is your yearly budget?

2583 Ms. {Jackson.} It depends on you, but I believe our
2584 budget this year is \$8.4 billion or \$8.5 billion.

2585 Mr. {Stearns.} In those 18,000 employees, do you do
2586 town meetings? Do you ever get around to see those 18,000
2587 employees? I mean, do you have a strong feeling that those
2588 18,000 people are needed? I mean, we just had an admission
2589 that the Clean Air Act is working, it has worked over 40
2590 years. Do you think we need to continue to have 18,000
2591 employees at the EPA?

2592 Ms. {Jackson.} I think we should operate as a--

2593 Mr. {Stearns.} Do you think you should have more?

2594 Ms. {Jackson.} No, sir, I am not advocating for more
2595 employees, and in fact, I am sure as you will see in budget

2596 discussions, EPA has been losing employees.

2597 Mr. {Stearns.} Would you agree that the EPA has a
2598 responsibility to communicate with the appropriate experts
2599 when assessing the impact of its rules? I think you would
2600 agree with that.

2601 Ms. {Jackson.} Yes, sir.

2602 Mr. {Stearns.} Would you agree that the Federal Energy
2603 Regulatory Commission, FERC, is the authority on electric
2604 reliability in the federal government? Would you agree with
2605 that?

2606 Ms. {Jackson.} I think that is a fair statement.

2607 Mr. {Stearns.} Do you believe that the EPA with respect
2608 to electric reliability has the same level of expertise,
2609 engineering skills and knowledge of electricity markets and
2610 systems as FERC staff?

2611 Ms. {Jackson.} No, but I do think we know our rules
2612 better than FERC staff, so it requires us to work together to
2613 look at--

2614 Mr. {Stearns.} So you don't think FERC knows the rules
2615 better than you do?

2616 Ms. {Jackson.} No, no, I said our rules. I think they
2617 know their rules and I think we know our rules and I think we
2618 have to work together to--

2619 Mr. {Stearns.} Well, what about with respect to

2620 electric reliability?

2621 Ms. {Jackson.} Well, that is their domain and so--

2622 Mr. {Stearns.} And so you would agree. I think have a
2623 slide here. I think it is slide number 5. If you look at
2624 the estimates--do you have a copy there? She does. I think
2625 we just gave you a copy. Look at the estimates from FERC
2626 assessing the cumulative impacts of the EPA Power Sector
2627 Rules compared to EPA's analysis. Which should the public
2628 trust?

2629 Ms. {Jackson.} Well, sir, I am familiar with that
2630 particular FERC study and I know that the chairman has
2631 already testified that it is based on bad information. It
2632 looks as proposed rules that were never adopted and it looks
2633 at worst-case scenarios that aren't accurate, so I don't
2634 think that it should look at this data as being as accurate
2635 as EPA's in this case.

2636 Ms. {DeGette.} Mr. Chairman, where did this chart come
2637 from? It doesn't have an attribution.

2638 Mr. {Stearns.} Is there an attribution for the chart?
2639 I think it is FERC staff that gave us this.

2640 Let me just, before I finish here, just make an
2641 observation. On this side of the aisle, the Democrats keep
2642 saying the Republicans don't care about clean air and clean
2643 water because we oppose some EPA regulations, but I have

2644 given you the mud rule, for example, where the Republicans do
2645 object to that. You know, but the President himself has come
2646 out against these proposed ozone rules, and could you say
2647 under that scenario what the Democrats are saying, just
2648 because the President came out against the ozone rules that
2649 the President is against clean air? Is the President against
2650 clean water? Of course not. Of course not. So I think it
2651 is hyperboloid for the Democrats here to indicate that the
2652 Republicans don't care about clean air.

2653 But the question is, that the President and I think that
2654 the Republicans agree, is the continued fading in this
2655 economy that EPA regulations are continuing to hurt this
2656 economy and costing us jobs and there has to be a balance,
2657 and I think the Republicans drink the same water, we breathe
2658 the same air as Democrats, and so does the President. We
2659 don't accuse him of the things that the Democrats are
2660 accusing us of, and frankly, the President recognized as
2661 Republicans do that we need to throttle some of these
2662 regulations so we can get this economy going again, and with
2663 that, my time is expired.

2664 Ms. {Jackson.} Mr. Chairman, the President supports the
2665 mercury and air toxic standards and he supports the Cross-
2666 State Air Pollution Rule strongly.

2667 Mr. {Stearns.} Well, I understand, but this Ozone Rule

2668 that you wanted to propose, which he has asked you to stop,
2669 is an indication to me that he can't be--because of this, you
2670 can't accuse him of being against clean air or clean water is
2671 what my point is, and the Democrats are just saying because
2672 we are against some of these regulations including something
2673 like the mud rule that, you know--I mean, it just doesn't
2674 make sense.

2675 With that, I recognize the gentlelady from Colorado.

2676 Ms. {DeGette.} Sorry, Mr. Chairman, we are trying to
2677 figure out the genesis of these slides that you guys have
2678 been using today. We will keep working on that.

2679 Mr. {Stearns.} I think there is attribution in all of
2680 them.

2681 Ms. {DeGette.} Well, no, there is not, but we will
2682 figure it out.

2683 Mr. {Stearns.} Well, most of them.

2684 Ms. {DeGette.} I don't want to take my time to niggle
2685 about the slides.

2686 I want to ask you, Ms. Jackson, my friend from northern
2687 Colorado was asking you about, do utility rates, if they go
2688 up, do they disproportionately affect the poor, and obviously
2689 that is true if they are paying a larger percent of their
2690 income. I wonder if you could talk very briefly about the
2691 effect of pollution on the health of poor people. Does in

2692 particular particulate pollution but other types of pollution
2693 disproportionately affect the poor, and if so, why?

2694 Ms. {Jackson.} Well, you mean their budgets of course,
2695 and so for the same reason for those who are poor who don't
2696 have as much money to spend on health care, on either
2697 prevention or dealing with the health effects of pollution--
2698 asthma, bronchitis, of course premature death. It has a huge
2699 toll in lives and in sickness and in missed days of work,
2700 missed days of school, missed opportunities to learn.

2701 Ms. {DeGette.} But also, as you know, I represent a
2702 very urban district, and there are large pockets of poor
2703 people in my district and I see numerous studies over the
2704 year that indicate poor people are disproportionately
2705 affected by pollution because they live in areas that tend to
2706 have more factories. In fact, we have several Superfund
2707 sites in my district, neighborhoods that have been
2708 contaminated by factories, and the children have higher
2709 incidences of asthma and other kinds of illnesses because
2710 they are closer to industrial areas. Are you aware of those
2711 studies, Ms. Jackson?

2712 Ms. {Jackson.} I am, and I agree that they show that
2713 poor people are disproportionately impacted by pollution
2714 because of where they live and because of sources of
2715 pollution in their communities.

2716 Ms. {DeGette.} Now, Mr. Gingrey had asked you--I have
2717 noticed a trend today of sort of the seminal question gets
2718 asked after the time has expired, thereby limiting your
2719 response to that question, and Mr. Gingrey asked you a
2720 question about the health effects of particulate pollution
2721 but then he didn't let you answer the question. So I want to
2722 ask you if you can tell us right now what your answer to that
2723 question is about the health effects of lowering the amount
2724 of particulates in the air?

2725 Ms. {Jackson.} Without a doubt, it is a fact. It has
2726 been proven by independent peer-reviewed science that
2727 particulate pollution kills. It causes premature death, and
2728 that has been--that is not EPA scientists, those are
2729 independent scientists. It is subject to peer review, which
2730 is the standard by which good science is judged and it is
2731 backed up by public health officials.

2732 Ms. {DeGette.} Now, when your agency promulgates rules,
2733 do you make up the scientific studies to support those rules
2734 or do you rely in promulgating rules on independent
2735 scientific analyses?

2736 Ms. {Jackson.} We rely on independent, peer-reviewed,
2737 often re-reviewed scientific analysis.

2738 Ms. {DeGette.} And in my initial set of questions, I
2739 think I asked you, you also do make a cost-benefit analysis,

2740 correct?

2741 Ms. {Jackson.} That is right. All of our rules go with
2742 information on costs and benefits, and we are very proud of
2743 the fact that under this Administration, we also do jobs
2744 analysis.

2745 Ms. {DeGette.} Now, the rules that you have
2746 promulgated, do the cost-benefit analyses seem to indicate
2747 that a large number, many more jobs would be lost than the
2748 health benefits to Americans?

2749 Ms. {Jackson.} No. In fact, the job losses when they
2750 occur or estimated in these rules are minimal, and in some
2751 cases, for example, the mercury rule, the proposal, there was
2752 a 31,000 short-term construction job estimate and a 9,000 net
2753 long-term utility job increases, so those are actual job
2754 increases.

2755 Ms. {DeGette.} Now, when you do these cost-benefit
2756 analyses, do you also account for the number of jobs that
2757 would be created in the industries that develop and
2758 manufacture the technologies to comply with the rules or are
2759 those just additional jobs that come outside of that cost-
2760 benefit analysis?

2761 Ms. {Jackson.} No. When we do the jobs analysis, we
2762 look at that, but in the benefits analysis, I don't believe
2763 we look at jobs benefits. We look at public health benefits

2764 in our benefits. I will double-check that.

2765 Ms. {DeGette.} That would be helpful.

2766 One last question. Mr. Bilbray seemed to imply that
2767 because unemployment is high in California right now, it is
2768 because of the environmental standards that were enacted by
2769 the State of California some 20 or 30 years ago. Has the EPA
2770 seen any connection to current unemployment in California to
2771 the California environmental standards?

2772 Ms. {Jackson.} I am unaware of any--I am not aware of
2773 any economic study or any economist who is trying to link the
2774 current unemployment status in California or anywhere in this
2775 country to EPA regulatory action.

2776 Ms. {DeGette.} Thank you very much.

2777 Mr. {Stearns.} The gentlelady's time has expired.

2778 The gentleman from Texas, Mr. Barton, is recognized for
2779 5 minutes.

2780 Mr. {Barton.} Thank you, and thank, Madam
2781 Administrator, for still being here. We appreciate that.

2782 I want to rephrase a question that I asked you in the
2783 first round. In your opinion, is it better to have a plant
2784 in compliance with existing regulations continue to operate
2785 or to shut that plant down because it cannot comply because
2786 of the cost of a proposed regulation?

2787 Ms. {Jackson.} In my opinion, that is rarely a choice

2788 that needs to be made either with time or through a market-
2789 based mechanism.

2790 Mr. {Barton.} Well, answer the question. Which is
2791 better? Because that is the question that hundreds, if not
2792 thousands, of individuals in the private sector are going to
2793 be deciding in the coming years if all these proposed EPA
2794 regulations go into effect.

2795 Ms. {Jackson.} Well, our job analysis doesn't show
2796 that, sir. I mean, that--

2797 Mr. {Barton.} Well, in my home State of Texas just last
2798 week, one company, one company announced the closure of two
2799 lignite coalmines and probably two coal-fired power plants in
2800 or near my Congressional district just last week.

2801 Ms. {Jackson.} I realize that and I realize what the
2802 company said, and I know the company is Luminant and, you
2803 know, I would quote the headline from the Houston Chronicle
2804 which says ``Don't blame EPA over Luminant woes.''
2805 Luminant has financial issues that date back far beyond the EPA public
2806 health standards.

2807 Mr. {Barton.} That is the \$64 question, Madam
2808 Administrator. Is there any evidence of any criteria
2809 pollutant that is currently regulated by the Clean Air Act
2810 that is increasing in frequency in the United States?

2811 Ms. {Jackson.} Is there any--could you--I am sorry.

2812 Could you repeat it?

2813 Mr. {Barton.} Is there any evidence, monitored data
2814 evidence, of any criteria pollutant under the Clean Air Act
2815 that is increasing in density, in other words, that the air
2816 is getting dirtier anywhere in the United States?

2817 Ms. {Jackson.} No, but there are--

2818 Mr. {Barton.} No.

2819 Ms. {Jackson.} --places where--

2820 Mr. {Barton.} No.

2821 Ms. {Jackson.} --there is nonattainment with criteria
2822 pollutant standards in the United States, Houston being a
2823 great example, Dallas another one, sir.

2824 Mr. {Barton.} In both of those cases, if the EPA had
2825 not strengthened the ozone standard in the last several
2826 years, those would be in compliance, and in any event, they
2827 are coming into compliance. So, you know, this Republican
2828 initiative in this Congress is not to roll back regulation.
2829 We are not lowering standards. We are not reducing
2830 standards. We are basically saying let us take a timeout
2831 until the economy can regain its footing, and that is what
2832 the President acknowledged when he pulled back on the ozone
2833 standard that you had announced. On that standard, Madam
2834 Administrator, did you support the President's decision to
2835 pull it back or did you oppose it?

2836 Ms. {Jackson.} I respected the decision when he made
2837 it, and we are implementing--

2838 Mr. {Barton.} I know that, but before it was made, you
2839 had some input into his decision. Did you support him
2840 rolling it back or did you oppose him rolling it back?

2841 Ms. {Jackson.} That is not the accurate question.

2842 Mr. {Barton.} It is the question I am asking.

2843 Ms. {Jackson.} I recommended something differently. He
2844 made a decision. I respect his decision.

2845 Mr. {Barton.} So you opposed his decision?

2846 Ms. {Jackson.} No, no, no. That is not right. I am
2847 implementing the decision the President made.

2848 Mr. {Barton.} I understand that. Your job is to
2849 implement--

2850 Ms. {Jackson.} I made a different recommendation. That
2851 is no secret. But I am implementing it.

2852 Mr. {Barton.} What was your recommendation?

2853 Ms. {Jackson.} I recommended a level lower than the
2854 current level of 75, sir, and it was--

2855 Mr. {Barton.} I am sorry?

2856 Ms. {Jackson.} It was 70.

2857 Mr. {Barton.} You recommended a different level?

2858 Ms. {Jackson.} That is right, sir.

2859 Mr. {Barton.} Now, I want to comment on something that

2860 Chairman Waxman said about the amendment, the Whitfield
2861 amendment. We have a requirement in that that as regulations
2862 are proposed, they use monitored data when available. Why
2863 would you oppose using monitored data when it is available as
2864 opposed to modeled data, which is not based on the real
2865 world?

2866 Ms. {Jackson.} It is not whether I oppose it if it is
2867 available. It is saying only monitoring data. In that case,
2868 you set a standard for rulemaking--

2869 Mr. {Barton.} Well, you have--

2870 Ms. {Jackson.} Let me just answer the question, Mr.
2871 Barton. That is impossible to meet and so you would forego
2872 all the health benefits--

2873 Mr. {Barton.} That is not true.

2874 Ms. {Jackson.} --for the eastern third of the country.
2875 You would indeed.

2876 Mr. {Barton.} There is not a power plant--

2877 Ms. {Jackson.} It is my expert belief--

2878 Mr. {Barton.} --or a chemical plant--

2879 Ms. {Jackson.} --as head of the EPA is that you--

2880 Mr. {Barton.} --in this country that--

2881 Ms. {Jackson.} --would not have a cross-state rule.

2882 Mr. {Barton.} --isn't monitored 24/7.

2883 Ms. {Jackson.} Yes, but to determine whether or not the

2884 sulfur dioxide emissions coming from plants in Texas are
2885 affecting Illinois or affecting Louisiana, we do modeling,
2886 and that modeling is reviewed--

2887 Mr. {Barton.} That is not what the amendment says. You
2888 can use a model but you input monitored data. You input real
2889 data into the model. You don't use modeled data. That is
2890 what we are trying to get at. And in the case of this Cross-
2891 State Air Pollution Rule for Texas, it is the EPA modeled
2892 data, not the monitored data in the State of Texas or in
2893 Illinois or Michigan. The monitored data says they are in
2894 compliance. The EPA modeled data says in two cases they may
2895 not be.

2896 Ms. {Jackson.} The modeled data show that the transport
2897 from the plants in Texas are affecting and causing, will
2898 cause noncompliance downwind. Air blows across the country
2899 from west to east and the emissions in Texas, the second
2900 highest source of SO₂ in the country--

2901 Mr. {Barton.} And most of the time--

2902 Ms. {Jackson.} --affect places other than Texas.

2903 Mr. {Barton.} Most of the time in Texas, the prevailing
2904 winds are from the north to the south, Madam Administrator,
2905 not from the south to the north.

2906 Ms. {Jackson.} Okay. Then you take my home area of New
2907 Orleans. I mean, yes, but it does blow. The wind blows

2908 pollution across and around the country.

2909 Mr. {Barton.} My time is expired.

2910 Mr. {Stearns.} I thank the gentleman.

2911 The gentlelady from Illinois, Ms. Schakowsky, is
2912 recognized for 5 minutes.

2913 Ms. {Schakowsky.} I wanted first to correct what I
2914 think was implicit, Mr. Chairman, in what you were saying,
2915 that somehow FERC opposed the rules that are affecting power
2916 plants, and I just want to quote some of the testimony at a
2917 September 14th hearing of our Energy and Commerce Committee.
2918 The experts did set the record straight. The Federal Energy
2919 Regulatory Commission Chairman, Jon Wellinghoff, told the
2920 committee: ``We do not need to stop these rules from going
2921 forward. I think these rules are appropriate. These rules
2922 in fact do what needs to be done in this country.'' And FERC
2923 Commissioner John Norris testified: ``I believe that the EPA
2924 has adequately addressed reliability concerns and its
2925 statutory obligations with the rules established to date and
2926 I have no reason to believe that it cannot continue to so as
2927 it finalizes proposed rules.'' We had former DOE Assistant
2928 Secretary for Policy saying there is no reason to delay the
2929 implementation of the Clean Air Transport Rule or Utility
2930 Toxics Rule. So we had actually heard testimony that I think
2931 counters the implication that you were making.

2932 But here is what I want to ask you, Madam Administrator.
2933 You identified 35 regulations that will be subject to a near-
2934 term review process designed to streamline and update the
2935 rules administered by the EPA. Is that right?

2936 Ms. {Jackson.} That is right.

2937 Ms. {Schakowsky.} And I am wondering if you might be
2938 able to highlight a few of the rules that you intend to
2939 update.

2940 Ms. {Jackson.} We have 16 short-term reviews that we
2941 are taking work on this calendar year, 2011. Those include
2942 equipment leak detection and repair rules to reduce the
2943 burden; that suggestion came from API, the American Petroleum
2944 Institute; increasing regulatory certainty for farmers, that
2945 is working with USDA and States; electronic reporting, which
2946 I believe came in from the regulated sector under a variety
2947 of statutes, vehicle regulations, harmonizing requirements
2948 and the list goes on. I could certainly submit it.

2949 Ms. {Schakowsky.} And actually, I would like to make
2950 sure that part of the record does include, Mr. Chairman, a
2951 list of the 35 regulations that will be subject to near-term
2952 review.

2953 Mr. {Stearns.} Does the gentlelady have a copy of
2954 those?

2955 Ms. {Schakowsky.} Can we get those?

2956 Ms. {Jackson.} I can certainly--can I just keep them
2957 until the hearing is over and give them to you?

2958 Mr. {Stearns.} Sure. You can certainly send them in to
2959 us.

2960 Ms. {Schakowsky.} So I guess the point I wanted to make
2961 is that regulatory efficiency and effectiveness is a part of
2962 your agency's processes, always has been, if I am right, a
2963 part of your processes. Is that correct?

2964 Ms. {Jackson.} It has been, but we are also complying
2965 with the President's order to do a retrospective look back
2966 and that will be done every 5 years.

2967 Ms. {Schakowsky.} So can you discuss how that
2968 retrospective makes the regulatory process more efficient?

2969 Ms. {Jackson.} Well, as the President said, regulations
2970 are on the books and it makes good sense for agencies to
2971 constantly be scrubbing through them to ensure that as
2972 technology changes, as we moved into a computer age, for
2973 example, or as a great example, cars that now have secondary
2974 vapor recovery on their gas tank, having it on the actual
2975 pump, it just becomes redundant. So there is clearly
2976 opportunities which we found in our 20 public meetings and
2977 two public comment periods for places to make our rules more
2978 efficient and less burdensome.

2979 Ms. {Schakowsky.} So there was some question about

2980 whether industry has that kind of input, and you actually
2981 went out and solicited that not just in the comment periods
2982 but beforehand?

2983 Ms. {Jackson.} Yes, we had 20 different meetings around
2984 the country to solicit input. We also had a website that
2985 went up very early on and we had two public comment periods.

2986 Ms. {Schakowsky.} I also just wanted to point out that
2987 in your testimony, you report that agency reforms proposed or
2988 finalized prior to the President's Executive Order are going
2989 to save \$1.5 billion over the next 5 years. So I want to
2990 congratulate you on an impressive record, and again, any
2991 implication that the EPA is looking just to maintain in place
2992 or even propose regulations that are redundant and any way
2993 not necessary to your mission is just not true. Thank you
2994 very much.

2995 Mr. {Stearns.} The gentlelady's time has expired.

2996 The gentleman from Texas, Dr. Burgess, is recognized for
2997 5 minutes.

2998 Dr. {Burgess.} Thank you, Mr. Chairman, and again,
2999 Administrator Jackson, let me thank you for your indulging us
3000 a second round of questions today.

3001 You may be familiar that members of the Texas delegation
3002 on a bipartisan basis on this committee met with Mr. Sunstein
3003 of Office of Management and Budget right before the August

3004 recess concerning the Cross-State Air Pollution Rule and the
3005 seeming insensitivity to the problems that are going to exist
3006 in our State, so have you communicated with Mr. Sunstein in
3007 the Office of Management and Budget about these regulations
3008 and the burden that they impose?

3009 Ms. {Jackson.} I am aware that the meeting happened and
3010 I believe we had staff from the relevant program at the
3011 meeting.

3012 Dr. {Burgess.} And so what should members of the Texas
3013 delegation expect as a result of your discussions with Mr.
3014 Sunstein?

3015 Ms. {Jackson.} Well, we have also, not me personally
3016 but my deputy met with, I believe, members of the delegation,
3017 I believe that is right, last week but I know he also met
3018 with TCQ, ERCOT. We have several meetings, I have been in
3019 two, with Luminant itself, and we also of course have
3020 companies like NRG in Texas who say they can comply. So we
3021 are in discussions with a number of entities in Texas on
3022 that--

3023 Dr. {Burgess.} Will you provide us, the committee
3024 staff, with the minutes and memos and emails concerning those
3025 meetings between yourself and the Office of Management and
3026 Budget?

3027 Ms. {Jackson.} I didn't say I had--personal meeting? I

3028 did not have any, but is there anything with my staff,
3029 absolutely.

3030 Dr. {Burgess.} But your staff has, the agency has, and
3031 can we have the access to that information, the committee
3032 staff here?

3033 Ms. {Jackson.} I believe so, as long as it exists, we
3034 can get it to you.

3035 Dr. {Burgess.} Let me--you testified in response to an
3036 earlier question about, I think Mr. Stearns asked you about--

3037 Ms. {Jackson.} Oh, and to be clear, you mean minutes of
3038 the meeting with the Texas delegation?

3039 Dr. {Burgess.} No, minutes of meetings or
3040 communications between--

3041 Ms. {Jackson.} Oh, between us and the White House?
3042 That I am not sure we can provide, but we can certainly look
3043 and see. If we get a request--

3044 Dr. {Burgess.} I mean, it seems that if the White House
3045 is serious about regulatory reform, this is something where
3046 all parties should be anxious to work together, and it
3047 shouldn't be this adversarial relationship to try to get a
3048 problem solved. So people ask us to work together. I am
3049 asking you if we can work together to get this information so
3050 we can see how to solve a problem that is going to exist in
3051 my State. We were faced with several afternoons of possible

3052 blackouts last month. I don't want us to face real blackouts
3053 next summer because of the closure of coal-fired power plants
3054 to comply with the Cross-State Air Pollution Rule. Does that
3055 seem unreasonable?

3056 Ms. {Jackson.} No, not at all, sir.

3057 Dr. {Burgess.} Very well.

3058 Ms. {Jackson.} But I cannot promise you documents that
3059 may exist that are White House documents. They may be
3060 privileged. We can get you information regarding meetings we
3061 have had with delegation, ERCOT, TCQ and the company to the
3062 extent they are not privileged because we are in negotiations
3063 with them.

3064 Dr. {Burgess.} I would appreciate that. Of course, the
3065 White House should be anxious be they are the ones who issued
3066 the rules for regulatory relief earlier this year. So it
3067 seems like they should be anxious to work with us.

3068 Now, you testified in answer to Chairman Stearns'
3069 question about the number of employees at EPA, and I believe
3070 the number is somewhere between 17,000 and 18,000. Can you
3071 tell us how many employees have been hired under Title 42
3072 provisions?

3073 Ms. {Jackson.} I don't have the number directly with me
3074 but we will get it to you. I think we already have gotten it
3075 to you before, so--

3076 Dr. {Burgess.} Will you provide us that information?

3077 Actually, the information was provided to a member of the

3078 National Treasury Union in response to a Freedom of

3079 Information Act request.

3080 The follow-up question to that is, can you provide us

3081 with a forward-looking statement as to how many Title 42

3082 employees you are going to require in the future? How many

3083 do you anticipate having to hire within the next fiscal year?

3084 Ms. {Jackson.} Well, some of that will depend on, you

3085 know, when people decide to leave, which we can't know until

3086 they make those announcements. But from a general

3087 standpoint, Title 42, which allows us to pay certain rates to

3088 very highly qualified scientists, is very closely controlled

3089 in our agency and it goes through a process of approval to

3090 ensure that we are justified.

3091 Dr. {Burgess.} And we as the Oversight Committee would

3092 like to ensure that those rules are being--that their

3093 compliance is in existence, and some of the job descriptions

3094 or job titles don't suggest that they are highly qualified

3095 scientists. They may be, forgive me, but relatively run-of-

3096 the-mill scientists. So if we are paying top dollar for

3097 biologists in this employment environment, maybe we ought to

3098 have an additional look at that.

3099 Mr. Chairman, I am going to ask, I have a couple of

3100 unanimous consent requests. The first is to have the letter
3101 from the Southwest Power Pool to Administrator Jackson made
3102 part of the record.

3103 Ms. {DeGette.} Mr. Chairman, perhaps Mr. Burgess could
3104 provide us with copies of those letters to review? And so
3105 pending that, I will reserve my right to object.

3106 Dr. {Burgess.} Very well. And also, the letter to a
3107 member of the National Treasury Employee Union, Chapter 280,
3108 from the Environmental Protection Agency about the Title 42
3109 question. I would also like to have that made--

3110 Ms. {DeGette.} Once again, I will reserve the right to
3111 object.

3112 Dr. {Burgess.} --part of the record. Thank you, Mr.
3113 Chairman. I will reserve the right to submit additional
3114 questions in writing, and I will yield back the balance of my
3115 time.

3116 Mr. {Stearns.} The gentleman yields back. Time is
3117 expired.

3118 The gentleman from Virginia, Mr. Griffith, is recognized
3119 for 5 minutes.

3120 Mr. {Griffith.} Thank you, Mr. Chairman.

3121 Administrator Jackson, aren't you concerned that the EPA
3122 rule published on March 21, 2011, that defines secondary
3123 materials that are solid waste rather than fuels when burned

3124 is going to create a disincentive to burn alternative fuels
3125 in boilers or cement kilns?

3126 Ms. {Jackson.} I have had discussions with my staff
3127 about potential unintended consequences with that rule, and
3128 we are discussing it as recently as this week.

3129 Mr. {Griffith.} And so you would agree that it is
3130 probably not the best environmental result to suddenly throw
3131 lots of landfill material like tires and tons of biomass that
3132 could have been used at paper mills into the solid waste-
3133 system or into the landfills?

3134 Ms. {Jackson.} Sir, we are still discussing it. I
3135 would agree that we need to be careful that there are no
3136 unintended consequences like those you may be describing, but
3137 I also want to make sure that air pollution--that air quality
3138 is protected.

3139 Mr. {Griffith.} Yes, ma'am. And let me stretch out a
3140 little bit and let me ask you this. Did the Solyndra plant
3141 in California have to comply with any EPA regulations that
3142 you are aware of?

3143 Ms. {Jackson.} Sir, I am happy to look but I don't know
3144 off the top of my head.

3145 Mr. {Griffith.} If you would look at that and also look
3146 to see if there are any delayed implementations or
3147 modifications of any EPA regulations, I would appreciate

3148 that, if you would.

3149 Ms. {Jackson.} I am happy to get that information for
3150 you.

3151 Mr. {Griffith.} And along those lines, were you
3152 involved in any of the discussions at the White House or the
3153 DOE in regard to Solyndra prior to 2011?

3154 Ms. {Jackson.} None, sir.

3155 Mr. {Griffith.} All right. I appreciate that. And I
3156 am just wondering if you had an opportunity to see the
3157 Commerce Department's analysis in regard to some of the EPA
3158 rules and regulations because while it is not available to
3159 the public, apparently there is a Commerce Department
3160 analysis that is being circulated that would indicate,
3161 particularly in regard to boiler MACT, that job losses could
3162 be between 40,000 and 60,000. Have you seen that document?

3163 Ms. {Jackson.} I have seen references to unfounded
3164 studies but I can tell you, our range is 6,500 jobs created
3165 to 3,000 jobs lost.

3166 Mr. {Griffith.} And most of the jobs if there is
3167 creation of jobs are going to be jobs in retrofitting the
3168 boilers. They are not going to be new manufacturing jobs.
3169 Isn't that correct?

3170 Ms. {Jackson.} Well, there are boilermakers, but there
3171 could be manufacturing of the pollution control equipment,

3172 baghouses, scrubbers. I actually met yesterday with a
3173 company that is building a factory. They make baghouses, and
3174 that is one of the technologies that would be put in place.
3175 They are hiring thousands of people I think in North
3176 Carolina.

3177 Mr. {Griffith.} And did I gather from your answer
3178 earlier that you all are still working on the situation with
3179 the definition of materials that are solid wastes in regard
3180 to boiler MACT and incinerators?

3181 Ms. {Jackson.} I have nothing to tell you today but you
3182 asked whether I had concern, and we are still continuing
3183 those discussions.

3184 Mr. {Griffith.} Okay. And have you all acquired all
3185 the relevant data that you need to make those decisions?

3186 Ms. {Jackson.} If you have any, we are happy to take
3187 it, sir, especially from you, but I believe the staff have
3188 lots of data from the industry and have heard their concerns.

3189 Mr. {Griffith.} All right. I appreciate that and yield
3190 back my time, Mr. Chairman.

3191 Mr. {Stearns.} All right. The gentleman yields back
3192 the balance of his time.

3193 I think we have finished. We just have some concluding
3194 remarks by the ranking member and myself, but we have a
3195 number of documents that we want to put in the record by

3196 unanimous consent. I will allow the gentlelady from Colorado
3197 to indicate which ones she has approved, and we will put them
3198 in by unanimous consent.

3199 Ms. {DeGette.} Thank you, Mr. Chairman. Just to make a
3200 record, we have got the documents that Mr. Burgess had just
3201 referred to. One of them is a letter dated September 20,
3202 2011, from the Southwest Power Pool. The other one is a
3203 document, Title 42 hiring practices at the U.S. EPA, that was
3204 apparently produced as the result of a FOIA request. So we
3205 won't object to those documents. There is a letter from the
3206 Louisiana Department of Agriculture and Forestry dated August
3207 11, 2001, that Mr. Scalise had requested, and we don't object
3208 to that. There is, it looks like a page from the DOE website
3209 about mercury emission control R&D. We don't object to that.

3210 Then we have what appear to be three portions of EPA
3211 documents. We have got a cover sheet on each one, and then
3212 we have got portions of the documents. I must say that I was
3213 tempted to object to these on the basis that they are just
3214 incomplete, they are just portions of it, but as long as it
3215 is with the caveat that we all understand that they are just
3216 select portions of these documents, I won't object to those.

3217 And then finally, we have a little packet that was given
3218 to me and they are kind of different things, so I am going to
3219 reference each one. The first one is a chart. It says

3220 figure 614, percent of total PM-related mortalities avoided
3221 by baseline air quality level. This appears to be one slide--

3222 Mr. {Stearns.} Is it possible you could approve these
3223 without--

3224 Ms. {DeGette.} No, sir.

3225 Mr. {Stearns.} --giving your interpretation of each
3226 one?

3227 Mr. {DeGette.} No, I want to give a record as to what
3228 they are because some of them are subjective--

3229 Mr. {Stearns.} I mean, just list them, but you are now
3230 giving your interpretation of each one.

3231 Ms. {DeGette.} Well, in that case, I will just object
3232 to having it put in the record.

3233 Mr. {Stearns.} Well, I don't see you would object.

3234 These are all--

3235 Mr. {DeGette.} Because I will tell you why, because
3236 they are from different places and I don't want people to
3237 give an inaccurate view of where they are from. The first
3238 document is one slide from a larger document on the EPA. The
3239 second page of that is a graph that was prepared by the
3240 majority committee staff. The third and fourth pages of this
3241 document are just charts or just quotes taken out of other
3242 documents prepared by the majority committee staff, and the
3243 final page 5 of that document is apparently a chart that was

3244 provided to the committee by FERC. So they are all from
3245 different sources. I just want to make that record, and with
3246 that caveat, I won't object to those, to that document.

3247 And then I have got a couple of documents as well.
3248 There is the document August 2011 by the U.S. Environmental
3249 Protection Agency Improving our Regulations, Final Plan for
3250 Periodic Retrospective Reviews of Existing Regulations. This
3251 contains all of the different regulations that someone had
3252 asked the Administrator to provide to this committee, so I
3253 would ask unanimous consent that that be placed in the
3254 record.

3255 Mr. {Stearns.} By unanimous consent, all the documents
3256 you have mentioned will be placed into the record.

3257 [The information follows:]

3258 ***** COMMITTEE INSERT *****

|
3259 Ms. {DeGette.} Then I have two final documents, Mr.
3260 Chairman. These are both the studies that I mentioned in my
3261 opening statement about the positive job effect that
3262 environmental regulations can have, and I would ask--we have
3263 showed those to your staff and I would ask unanimous consent
3264 that those be entered into the record.

3265 Mr. {Stearns.} And they all have sources, right?

3266 Ms. {DeGette.} Yes, sir.

3267 Mr. {Stearns.} By unanimous consent, so ordered.

3268 [The information follows:]

3269 ***** COMMITTEE INSERT *****

|
3270 Mr. {Stearns.} We have concluded our questioning. We
3271 are going to adjourn shortly. Does the gentlelady from
3272 Colorado have any concluding remarks?

3273 Ms. {DeGette.} Yes, sir, I do. I just want to
3274 reiterate our thanks to the Administrator for coming today,
3275 and I would also like to note after having sat here for now
3276 almost 3 hours, I haven't heard any evidence that the EPA
3277 regulations that are being proposed are actually having a
3278 detrimental effect on jobs in this country, and in fact, as
3279 the studies I just entered into the record indicate,
3280 thousands of new jobs in the clean energy environment will be
3281 created in addition to the thousands and thousands of lives
3282 that will be saved because of better environment, and the
3283 millions of people whose other respiratory illnesses and so
3284 on will be diminished because of these.

3285 So I just want to say it is easy to talk about
3286 regulatory reform, and nobody in this room including
3287 Administrator Jackson believes that we should have overly
3288 burdensome regulations. On the other hand, we need to look
3289 clearly at science when determining what those regulations
3290 should be and we need to balance in a scientific and careful
3291 way job creation and the preservation of public health. I
3292 think that is what the EPA is trying to do. I commend them

3293 for a very difficult, difficult evaluation and I urge them to
3294 keep it up because we need to protect the health of Americans
3295 while at the same time preserving our economy and creating
3296 jobs. Thank you.

3297 Mr. {Stearns.} I thank the gentlelady.

3298 I would just say in conclusion that the fact that the
3299 President opposed the EPA's proposed Ozone Rule would
3300 demonstrate that what the gentlelady indicated earlier, that
3301 the President also is worried about over-regulations coming
3302 from EPA and he had to step in, and I think Republicans are
3303 glad that he shares our same opinion.

3304 I think it was clearly demonstrated by Mr. Barton from
3305 Texas that the EPA has hurt jobs in Texas. He cited a couple
3306 power plants. The EPA Administrator thinks that is not true
3307 but the evidence is that it has killed two large companies
3308 over there and he also talked about plants in his
3309 Congressional district.

3310 I think the third point we pointed out is that no one is
3311 accusing anyone of trying to dirty America, whether it water
3312 or air. We are all on the same team. But we believe that
3313 over-regulation by the EPA's 18,000-plus employees could
3314 damage the economy, and obviously the President agrees. What
3315 we worry about is the EPA must be justifying regulation by
3316 claiming benefits much, much larger than the science

3317 advisors' estimates of public health risk, and that violates
3318 the Executive Order and kills jobs. The President issued an
3319 edict from the White House saying he wants to roll back
3320 regulations. EPA is making an effort. I ask them to
3321 continue to do so.

3322 And with that, the subcommittee is adjourned.

3323 [Whereupon, at 12:00 p.m., the subcommittee was
3324 adjourned.]