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3 HEARING ON THE AMERICAN ENERGY INITIATIVE

4 THURSDAY, APRIL 7, 2011

5 House of Representatives,

6 Subcommittee on Energy and Power

7 Committee on Energy and Commerce

8 Washington, D.C.

9           The subcommittee met, pursuant to call, at 1:07 p.m., in  
10 Room 2322 of the Rayburn House Office Building, Hon. Ed  
11 Whitfield [Chairman of the Subcommittee] presiding.

12           Members present: Representatives Whitfield, Sullivan,  
13 Shimkus, Walden, Terry, Burgess, Bilbray, Olson, McKinley,  
14 Gardner, Griffith, Rush, Inslee, Matheson, Green, Capps and  
15 Waxman (ex officio).

16           Staff present: Allison Busbee, Legislative Clerk; Cory  
17 Hicks, Policy Coordinator, Energy and Power; Ben Lieberman,  
18 Counsel, Energy and Power; Heidi King; Mary Neumayr, Counsel,

19 Oversight/Energy; Jackie Cohen, Democratic Counsel; Greg  
20 Dotson, Democratic Energy and Environment Staff Director;  
21 Caitlin Haberman, Democratic Policy Analyst; and Alexandra  
22 Teitz, Democratic Senior Counsel, Environment and Energy.

|  
23           Mr. {Whitfield.} We will call today's hearing to order.  
24 The hearing is entitled ``The American Energy Initiative.''  
25 This is actually the third hearing in a series that we are  
26 having on the broad discussion examining the domestic energy  
27 resources in our diverse energy portfolio.

28           Our most recent hearing on Tuesday focused on China, and  
29 we noted China's economic progress during the past 30 years  
30 has been possible because of a lot of reasons but one reason  
31 that they have been really productive is that they are using  
32 an affordable, secure and abundant fuel source, and that is  
33 coal. It is not the only reason but one reason, and they are  
34 using a lot of coal. China has become the largest energy  
35 consumer in the world, and this has helped China to become  
36 the United States' chief economic competitor in the global  
37 marketplace.

38           Unfortunately, in the United States, the use of coal and  
39 other fossil fuel sources are being threatened by the  
40 Environmental Protection Agency. Recognizing that they do  
41 have a responsibility to protect health, I think we are very  
42 proud that in America we have the highest quality air  
43 anywhere in the world, but this EPA has been one of the most  
44 aggressive. They have many regulations in the pipeline and I  
45 think it is essential that we try to have a balanced approach

46 as we look at new regulations. It is likely that some of  
47 these rules that are coming down, whether it be the Utility  
48 MACT, the Boiler MACT, the greenhouse gas legislation, the  
49 air transport rules, whatever it will, we have talked to a  
50 lot of utilities, we have talked to a lot of businesses, and  
51 we know that there will be some shutdowns of some electricity  
52 and manufacturing facilities as a direct result of these  
53 rules. Others will be required to make costly upgrades to  
54 their units because they simply cannot comply on the  
55 aggressive timelines. And then another problem for many  
56 groups is just the uncertainty that is out there because of  
57 what will be required.

58 I will say that EPA, for example, the utility rule  
59 proposed by EPA last month, is estimated to cost the  
60 electricity-generating industry \$10.9 billion a year. EPA  
61 predicts that this rule alone will increase electricity  
62 prices as much as 7 percent in some parts of the Nation. The  
63 air transport rule, they are expecting that that will  
64 increase electricity costs in some areas up to 3 percent.  
65 And I could go on and on.

66 But one of the specific reasons that I am delighted we  
67 are here today is because of this uncertainty of the EPA and  
68 all the regulations that they are moving, my colleagues,  
69 Representative Sullivan of Oklahoma and Congressman Matheson,

70 have drafted a legislation called the Transparency in  
71 Regulatory Analysis of Impacts on the Nation Act. This  
72 requires a cumulative analysis of certain rules and actions  
73 that are either issued or planned by the Environmental  
74 Protection Agency and the forming of an interagency task  
75 force.

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

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

|

78 [The information follows:]

79 \*\*\*\*\* INSERT 8 \*\*\*\*\*

|  
80           Mr. {Whitfield.} At this time I would like to recognize  
81 for a minute and a half Mr. Sullivan, who is one of the  
82 authors of this legislation.

83           Mr. {Sullivan.} Thank you, Chairman Whitfield. Thank  
84 you for holding this important hearing on a bipartisan  
85 discussion draft legislation, the Transparency in Regulatory  
86 Analysis of Impacts on the Nation Act of 2011, which I will  
87 soon introduce along with my colleague, Jim Matheson, to  
88 address the cumulative costs of 10 economically significant  
89 EPA regulations and actions.

90           Many of the EPA's pending regulations and actions will  
91 cost our Nation billions, impacting everything from energy  
92 reliability, jobs, manufacturing and global economic  
93 competitiveness of the United States. The TRAIN Act will  
94 conduct an in-depth economic analysis so Congress and the  
95 American people can fully understand how the EPA's regulatory  
96 train wreck will impact our economy. In fact, eight of the  
97 EPA's proposed regulations cost a minimum of \$1 billion to  
98 the U.S. economy. The time to address the full economic  
99 burden of these regulations is now.

100           Specifically, the TRAIN Act would require a federal  
101 interagency analysis of the cumulative impact of certain  
102 rules and actions of the Environmental Protection Agency on

103 global economic competitiveness, energy and fuel prices, and  
104 the reliability of U.S. bulk power supply. It would also  
105 look at the impacts of these regulations on State and local  
106 governments, and jobs. Under this legislation, the  
107 interagency committee, not just EPA, will analyze the  
108 cumulative impacts of 10 economically significant rules and  
109 actions issued by the EPA. This analysis will help Congress  
110 and federal agencies develop a better understanding of how  
111 these regulatory policies are impacting America's economy as  
112 a whole.

113       What will these regulations cost? EPA doesn't know and  
114 has failed to conduct a study of the overall cumulative costs  
115 of many of their regulations together, which is why this  
116 legislation is so important. We desperately need an honest  
117 accounting of EPA's regulations, which this legislation will  
118 accomplish.

119       I look forward to hearing the testimony of our witnesses  
120 today and I yield back the balance of my time.

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

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

|  
123           Mr. {Whitfield.} Thank you, Mr. Sullivan. At this time  
124 I recognize the gentleman from Illinois, Mr. Rush, for his  
125 opening statement.

126           Mr. {Rush.} Thank you, Mr. Chairman, and I want to  
127 thank all the witnesses for being here this afternoon.

128           Mr. Chairman, we know that since the inception of the  
129 Clean Air Act, opponents of the bill have been exaggerating  
130 the cost of implementing the regulations associated with the  
131 bill while downplaying the benefits that the new rules would  
132 bring. I am afraid that today's hearing focus on the TRAIN  
133 Act may yet be another example of this type of shoddy  
134 accounting and shoddy performance.

135           This bill would highlight the costs of implementing  
136 certain EPA rules but does not take into account all of the  
137 benefits of these regulations including enhanced public  
138 health, increased job productivity or lives saved. This bill  
139 would also not take into account the positive impacts that  
140 EPA regulations have had on our economy including spurring  
141 additional research and development of clean energy  
142 technologies, instituting higher fuel efficiency standards  
143 and helping make the country less dependent on foreign oil.

144           Unfortunately, for many of my colleagues, if the  
145 benefits of a regulation cannot be monetized such as lives

146 saved or job loss prevented, then they are written off as  
147 having no economic value. At this point, I am not sure that  
148 this bill as written would really give an accurate cost-  
149 benefit analysis of EPA regulations. The Office of  
150 Management and Budget examined 10 Clean Air Act regulations  
151 finalized in 2008, 2009 and 2010 and concluded that all 10  
152 had benefits that exceeded cost by a ratio of seven to one on  
153 average.

154         During debate over the Clean Air Act, there were dire  
155 warnings that environmental regulations would kill jobs and  
156 lead to outsourcing overseas. Clean Air Act opponents  
157 falsely predicted that electricity prices would skyrocket if  
158 the 1990 Clean Air Act Amendments were passed when in fact  
159 electricity prices actually declined in the decade following  
160 1990 by approximately 18 percent. While today we will hear  
161 the EPA regulations will cripple our economy and destroy our  
162 manufacturing industry, the U.S. Census Bureau conducted an  
163 annual survey of the U.S. manufacturing sector and found that  
164 pollution abatement operating costs were only 0.4 percent on  
165 average of overall manufacturing costs including not just air  
166 pollution controls but all over abatement costs combined.

167         Peer-reviewed articles in top economics journal find  
168 little evidence that environmental regulations have dampened  
169 U.S. competitiveness or led to outsourcing. In fact, I must

170 point out that EPA implementation of the Clean Air Act and  
171 its accompanying amendments has been one of the most  
172 successful and bipartisan environmental laws in American  
173 history. Additionally, EPA implementation of the Clean Air  
174 Act has been a stimulus to our economy with estimates that it  
175 has generated as much as \$300 billion of revenue and \$44  
176 billion in exports while supporting close to 1.7 million  
177 American jobs by the year 2008. When both direct employment  
178 and indirect employment are taken into account, the  
179 environmental protection industry is estimated to have  
180 created a range of 3.8 million to 5 million new jobs.

181 Promoting cleaner technology through EPA regulations has  
182 the benefit of protecting our citizens with cleaner air while  
183 also creating jobs and investments for our economy.

184 So Mr. Chairman, I look forward to today's hearing and  
185 debate, and I would reserve judgment on this bill with hope  
186 that we are able to strengthen it moving forward. With that,  
187 I yield back the balance of my time.

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

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

|  
190 Mr. {Whitfield.} Thank you, Mr. Rush. At this time I  
191 would recognize the gentleman from Illinois, Mr. Shimkus, for  
192 5 minutes.

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

194 I think the basic premise of what we are trying to do is  
195 accept the premise that when you add regulations, you do  
196 affect jobs, and you need to balance those based upon the  
197 environmental impact but there will be a job impact, and for  
198 those who live in southern Illinois, we have yet to recover  
199 from the 1992 Clean Air Act Amendments.

200 Now, I have talked about this numerous times. We can  
201 debate the beneficial aspects of the Clean Air Act on toxic  
202 emittants. What our debate now is today is an overly  
203 aggressive EPA that is going further than is needed to  
204 protect public health and severely impacting jobs. I have a  
205 slide up here which is the impending train wreck, and so that  
206 is why I support the TRAIN Act to stop the impending train  
207 wreck. Now, this is just for electricity generation, and in  
208 8 years, here is what is coming down the track of new rules  
209 for ozone, new rules for nitrous oxide, a new transport rule,  
210 cooling tower or water, particulate matter, ash, mercury,  
211 carbon dioxide. Does anyone really believe that this does  
212 not impact jobs and does anyone really believe that when you

213 have the multitude of regulations that are coming down  
214 simultaneous--the President has now agreed that it does. In  
215 fact, his Executive Order which he submitted on January 18,  
216 2011, says that all agencies must take into consideration the  
217 cumulative regulations on cost and the effects on jobs.

218         We will submit to you that the EPA has not done that.  
219 We will submit to you that there hasn't been good interagency  
220 review on any of these things and we will continue to raise  
221 this debate that as you increase the regulatory burden--now,  
222 I will defer to some of my Democratic colleagues who will say  
223 yeah, we are going to create government jobs, we are going to  
224 create more inspectors, we are going to create--they are not  
225 going to create private sector jobs. And remember, it is the  
226 private sector that funds the public sector. So we can grow  
227 government jobs all we want but as the budget debate that we  
228 are having today is we can no longer grow government. We  
229 really have to inspire the private sector to invest capital,  
230 create jobs and create wealth in this country so we can solve  
231 the problems of this Nation.

232         This impending train wreck is real. This is not  
233 fictional. No one has made this up. These are all the regs  
234 that are coming down the pike right now, and if we are to  
235 believe the President of the United States, he is starting to  
236 understand that. And now we just have to get his agencies to

237 understand that. That is the importance of this bipartisan  
238 piece of legislation that I hope we continue to have hearings  
239 on and move to the Floor, because as I have said numerous  
240 times, and I didn't bring my placard of the coal miners who  
241 lost their jobs in the last round of the Clean Air Act  
242 Amendments, that one mine of 1,000 miners closed never to  
243 reopen, never to reopen. It is closed today and that rural  
244 community, small town, has never recovered from the Clean Air  
245 Act Amendments of 1992.

246         So I would say that it is very important to make sure  
247 that we continue to have this debate of the cost-benefit  
248 analysis and the importance about this debate in this hearing  
249 is the cumulative effect of all these aspects, this train  
250 wreck of eight different rules and regulations specifically  
251 targeting coal, electricity generation by coal, raising  
252 energy costs, killing our coalmines, making energy costs  
253 higher.

254         With that, I appreciate Mr. Whitfield giving me the time  
255 and I yield back the balance of my time.

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

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

|  
258           Mr. {Whitfield.} Thank you. At this time I recognize  
259 the gentleman from California, Ranking Member Mr. Waxman for  
260 5 minutes.

261           Mr. {Waxman.} Thank you very much, Mr. Chairman.

262           The legislation before us today has a worthwhile  
263 purpose. We should always try to understand as fully as  
264 possible the ramifications of federal laws and regulations.  
265 Where regulations have a cumulative impact, that should be  
266 understood as well.

267           But it is important that we recognize the potential  
268 costs of over-analysis. We can reach a point where the cost  
269 to the taxpayers of additional analysis exceeds its value.  
270 Our goal should be to strike the right balance. We must also  
271 ensure that any analysis we require can be credibly executed.  
272 Ideally, we may want to know the effect of a proposed rule  
273 far into the future, but that may simply be too speculative  
274 an exercise to add value to the decision-making. And we need  
275 to make sure any analysis is fair and objective. We can't  
276 look at just the costs of federal regulation without  
277 considering its benefits, just as we wouldn't look at only  
278 the benefits without considering the costs.

279           As we consider this proposal from these perspectives, I  
280 want to flag several issues. From a practical point of view,

281 we need to make sure this bill is workable. In its current  
282 form, the legislation asks 12 Administration officials and  
283 one industry representative to collect and analyze  
284 information about actions that may or may not be taken by  
285 State and local governments, including 110 State and local  
286 permitting agencies, and project the impacts of those actions  
287 20 years into the future. They are supposed to do this  
288 without staff, without the authority to collect information,  
289 and within 30 days.

290 Another issue to flag is balance. The draft requires an  
291 extensive analysis of regulatory costs, but we need to  
292 understand the benefits as well so Congress and the public  
293 get a balanced assessment of the value of the regulations.  
294 Further, we need to be mindful not to duplicate what is  
295 already being done. For every final rule covered by this  
296 act, the EPA has prepared a Regulatory Impact Analysis to  
297 satisfy the requirements of OMB policy, executive orders, and  
298 statutes including the Administrative Procedure Act, the  
299 Paperwork Reduction Act, the Regulatory Flexibility Act and  
300 the Small Business Regulatory Enforcement Fairness Act. We  
301 need to make sure we are not requiring a redundant analysis.

302 Finally, this legislation creates new requirements for  
303 the executive branch without providing a specific  
304 authorization. It also does not offset these new

305 requirements by relieving the agencies of other offsetting  
306 obligations.

307           These are some of the issues that will be on my mind as  
308 we consider this bill today and in the weeks ahead. I look  
309 forward to hearing from today's witnesses and I hope this  
310 legislation can be improved through the committee process.

311           Thank you, Mr. Chairman. I yield back my time.

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

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

|  
314           Mr. {Whitfield.} Thank you, Mr. Waxman. And at this  
315 time I am going to introduce the panel of witnesses and we  
316 are going to start with Mr. Cauley, who will be first. But  
317 before we do that, I do want to introduce the panel and thank  
318 you again for being with us to help us analyze where we are  
319 today.

320           First, we have Mr. Gary Cauley, President and CEO, North  
321 American Electric Reliability Administration. Second, Mr.  
322 Eric Schaeffer, Executive Director of the Environmental  
323 Integrity Project. Third, we have Mr. Mark Bailey, who is  
324 the President and CEO of Big Rivers Electric Corporation.  
325 Fourth, we have Mr. Timothy Hess, who is the Division Vice  
326 President of Glatfelter. We have Dr. Robin Ridgway, who is  
327 the Director of Environmental Health, Safety and Regulatory  
328 Compliance at Purdue University. Sixth, we have Ms. Rena  
329 Steinzor, who is the President of the Center for Progressive  
330 Reform, and then seventh, we have Mr. Scott Segal, who is the  
331 Director of the Electric Reliability Coordinating Council.

332           So thank you all for being with us. Each one of you  
333 will be introduced for a 5-minute statement, and there is a  
334 little panel on the table there which hopefully you can see.  
335 It will show you a yellow light when you have a minute left  
336 and red when your time is expired.

337           So Mr. Cauley, you are recognized for 5 minutes for your  
338 opening statement.

|  
339 ^STATEMENTS OF GERRY CAULEY, PRESIDENT AND CEO, NORTH  
340 AMERICAN ELECTRIC RELIABILITY ADMINISTRATION; ERIC SCHAEFFER,  
341 EXECUTIVE DIRECTOR, ENVIRONMENTAL INTEGRITY PROJECT; MARK A.  
342 BAILEY, PRESIDENT AND CEO, BIG RIVERS ELECTRIC CORPORATION;  
343 TIMOTHY R. HESS, DIVISION VICE PRESIDENT, GLATFELTER; ROBIN  
344 MILLS RIDGWAY, DIRECTOR OF ENVIRONMENTAL HEALTH, SAFETY AND  
345 REGULATORY COMPLIANCE, PURDUE UNIVERSITY; RENA STEINZOR,  
346 PRESIDENT, CENTER FOR PROGRESSIVE REFORM; AND SCOTT SEGAL,  
347 DIRECTOR, ELECTRIC RELIABILITY COORDINATING COUNCIL

|  
348 ^STATEMENT OF GERRY CAULEY

349 } Mr. {Cauley.} Thank you, and good afternoon, Chairman  
350 Whitfield, members of the subcommittee and fellow panelists.  
351 My name is Gerry Cauley. I am President and CEO of the North  
352 American Electric Reliability Corporation. I am a graduate  
353 of the U.S. Military Academy, former officer in the U.S. Army  
354 Corps of Engineers, and I have over 30 years' experience in  
355 the electric power industry.

356 I have with me today Vice President and Director of  
357 Reliability Assessments, Mark Lobby, and I would ask perhaps  
358 if there are technical questions on our report--he was the  
359 author of the report--I may request permission to call on him

360 as needed.

361       There are two words that resonate through everything  
362 that NERC does: reliability and accountability. Our mission  
363 is to ensure the reliability of the bulk power system through  
364 our mandatory standards, through our assessments and by  
365 promoting a culture of a learning industry. We are  
366 accountable to the government, to industry, and ultimately to  
367 consumers for ensuring a reliable bulk power system. By  
368 assessing and analyzing historic current and future  
369 conditions as well as emerging issues affecting the bulk  
370 power system reliability, NERC develops vital information for  
371 managing current and future reliability risks and for  
372 improving reliability performance.

373       In the nearly 5 years since NERC was certified as the  
374 Electric Reliability Organization by the Federal Energy  
375 Regulatory Commission, NERC has made significant progress,  
376 particularly in the area of reliability assessments. NERC  
377 produces a yearly long-term report with a 10-year horizon,  
378 two annual seasonal reports for the winter and summer  
379 seasons, and special assessments as needed. These  
380 reliability assessments are conducted to provide an  
381 independent evaluation of industry's plans to ensure future  
382 reliability of the bulk power system and to identify trends,  
383 emerging issues and potential concerns.

384           In October 2010, NERC released a report entitled ``2010  
385 Special Reliability Scenario Assessment: Resource Adequacy  
386 Impacts of Potential U.S. Environmental Regulations. The  
387 focus of this assessment was to quantify the potential  
388 impacts of pending and planned EPA regulations on future  
389 resource adequacy. The report was intended to inform NERC  
390 stakeholders, industry leaders, policymakers, regulators and  
391 the public so that sound and informed decisions can be made.  
392 It is NERC's responsibility as the ERO to assess and  
393 highlight bulk power system reliability considerations  
394 resulting from emerging system conditions or external events  
395 to ensure that suitable plans are put in place to ensure  
396 reliability.

397           NERC's scenarios addressed four rules under  
398 consideration at the time of our assessment: section 316(b),  
399 the MACT standard, CATR and CCR. We evaluated both strict  
400 and moderate cases for each rule to provide sensitivities to  
401 the assumptions that we used. Because more than one  
402 regulation pertains to any given power plant, NERC performed  
403 an economic assessment of these regulations both individually  
404 and cumulatively in the aggregate. Some of the findings of  
405 the assessment based on the rules under consideration during  
406 our study include for the strict case, for the strict  
407 scenario, up to a 78-gigawatt reduction in coal-, oil- and

408 gas-fired generation capacity could be seen based on resource  
409 plans existing at the time of the study. Section 316(b)  
410 would have had the greatest potential for impact on reserve  
411 margins.

412         The EPA regulations, if implemented as planned or  
413 proposed at the time we completed our assessment, would  
414 create a need for prompt industry response and action to  
415 address future resource requirements. Without attention to  
416 these findings, the study identified bulk power system  
417 reliability impacts resulting from reduced reserve margins in  
418 certain areas of the United States. We believe the potential  
419 reliability implications of these regulations can be managed  
420 through timing, tools and coordination. The timing of the  
421 industry's obligations for compliance with environmental  
422 regulations is the most important consideration. The  
423 industry needs both time and certainty of its obligations in  
424 order to act and make informed decisions.

425         NERC identified a number of tools the industry and  
426 regulators have for mitigating the potential reliability  
427 impacts such as advancing in-service dates of future  
428 generation and implementing more demand response and energy  
429 efficiency. The EPA, FERC, the Department of Energy and  
430 State regulators should employ the entire array of tools at  
431 their disposal to moderate reliability impacts including

432 granting extensions needed to install emissions controls and  
433 add additional supplier demand resources as needed.

434         Thirdly, industry coordination will be vital to ensure  
435 retrofits are completed in a way that addresses all of the  
436 operational challenges. Since our study, the EPA has issued  
437 proposed rules for Utility MACT and 316(b). NERC is  
438 reviewing the proposed rules, and if there are significant  
439 differences from our 2010 report, an assessment would likely  
440 be provided in our annual assessment released in November.  
441 NERC will continue to monitor the implications of the EPA  
442 regulations as greater certainty emerges around these  
443 industry obligations and our requirements.

444         I thank you for your interest in NERC's findings and its  
445 report, and I sincerely appreciate your interest in  
446 reliability and the opportunity to answer questions today.  
447 Thank you.

448         [The prepared statement of Mr. Cauley follows:]

449 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|

450 Mr. {Whitfield.} Thank you very much.

451 You are recognized, Mr. Schaeffer, for 5 minutes.

|  
452 ^STATEMENT OF ERIC SCHAEFFER

453 } Mr. {Schaeffer.} Thank you, Mr. Chairman and members of  
454 the committee. I am Eric Schaeffer, Director of the  
455 Environmental Integrity Project. We advocate for more  
456 effective enforcement of environmental law, and I also served  
457 with the EPA as head of the Office of Civil Enforcement until  
458 2002.

459 I would like to briefly summarize my testimony and then  
460 maybe cover a couple of points I have heard so far in the  
461 hearing. The regulations that are the subject of the bill,  
462 the object of the bill, have already been exhaustively  
463 analyzed. The Regulatory Impact Analyses are dense documents  
464 that are available for anybody to review, and if people want  
465 to aggregate those costs, the information is there.

466 You know, I do understand the importance of bringing  
467 jobs back to communities and holding on and hopefully  
468 rebuilding in the United States. That is obviously a very  
469 important goal. I have heard a lot of mention of balance,  
470 and I have to say that a bill that would require the  
471 government to consider the costs but not the benefits of  
472 regulations really doesn't seem to meet a balance test, at  
473 least on the face of it, so I hope you will consider that as

474 you proceed.

475         The second point I want to make is, we have heard about  
476 train wrecks. I would like to suggest that these rules are  
477 more like a set of creaky handcarts that are finally  
478 lumbering across the finish line, in some cases decades after  
479 they were supposed to have been put on the books, and I will  
480 give you some examples, and this gets to the issue of time,  
481 time, we need more time. Again, these laws have been on the  
482 books forever. We have very competent counsel for industry  
483 that can read the deadlines and understand what it is they  
484 have to do.

485         EPA made a decision to regulate hazardous air emissions  
486 from power plants in December of 2000. Under the Clean Air  
487 Act, those standards should have met no later than December  
488 of 2005. We are now looking at compliance in 2015, so that  
489 is 9 years later. Industrial boilers, deadline 2004, when  
490 the law was written by Congress. Emissions limits will have  
491 to be met in 2014, so that is about 10 years after the  
492 Congressional deadline. In 1984, you, the Congress, told EPA  
493 to do something about coal ash. We are still waiting for an  
494 answer 26 years later. The intake rule that we are talking  
495 about, when were those standards due? Nineteen seventy-  
496 seven, back when I still had hair on my head and was just  
497 getting out of school. So these are very old rules, and the

498 image of speeding trains, anybody who sort of ground away on  
499 these regulations over the decades just doesn't fit reality.  
500 The industry has had lots of time to plan.

501         The reason I think you are seeing them come back and ask  
502 for this reanalysis of what has already been analyzed is  
503 these rules have all gone to court or will go to a court, in  
504 a couple cases have gone to court, the industry has lost.  
505 The court has told the EPA what it has to do and EPA is doing  
506 it. So in the end, if you want to stop these actions, you  
507 need to change the laws because what EPA is doing is  
508 executing the laws that you gave them and doing just what the  
509 courts have told them to do. If anybody thinks that is  
510 incorrect, they can take the agency to court, as they do  
511 almost every day, and try their luck. And in several cases  
512 here, the industry has done that and lost.

513         I should add that some of these decisions have come from  
514 very conservative judges who believe in taking literally what  
515 Congress tells the agency to do. So if you think the balance  
516 is wrong, if you think there is too much emphasis on health  
517 and not enough on cost to industry, then those laws can be  
518 changed. In that case, we will have an open debate.  
519 Everybody can see what we are doing. You can decide whether  
520 approximately 9,000 to 23,000 premature deaths a year counts  
521 more or less than the economic cost of this legislation on

522 particular industries. And I respect that these are very  
523 difficult choices. They are very tough. Maybe they deserve  
524 to be debated and I hope they will be.

525         Last point on jobs. I hope you will consider the impact  
526 that cleaning up these plants on employment. We have had  
527 lots of public releases from the power industry bragging  
528 about the number of jobs created every time one of these  
529 plants is cleaned up. From Synergy, this will create more  
530 than 1,000 construction jobs in Indiana and Ohio to put a  
531 scrubber on. From DTE in Michigan, the \$600 million project  
532 will create 900 jobs and be one of the largest construction  
533 projects in Michigan over the next few years. So there is  
534 work involved in complying with these laws and not just  
535 government inspectors but people on the ground, and I hope  
536 you will consider that also.

537         Thank you for my time.

538         [The prepared statement of Mr. Schaeffer follows:]

539 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
540 Mr. {Whitfield.} Thank you, Mr. Schaeffer.

541 Mr. Bailey, you are recognized for 5 minutes.

|  
542 ^STATEMENT OF MARK A. BAILEY

543 } Mr. {Bailey.} Thank you. Good afternoon, Mr. Chairman  
544 and members of the committee. My name is Mark Bailey and I  
545 am the President and CEO of Big Rivers Electric Corporation.  
546 I appreciate the opportunity to discuss Big Rivers'  
547 assessment of the impacts of the proposed EPA regulations on  
548 electric reliability, the cost of electricity and our  
549 customers.

550 Big Rivers is a not-for-profit cooperative, and we  
551 generate and transmit power, and we are located in western  
552 Kentucky. The three distribution cooperatives who own us  
553 serve collectively 113,000 customers, both residences and  
554 businesses. We are a small company. We own 1,500 megawatts  
555 of generating capacity, and 97 percent of the electricity we  
556 produce comes from coal-fired generators.

557 We believe that we have taken a proactive approach in  
558 meeting our environmental obligations by equipping  
559 essentially our entire fleet with SO2 and NOX controls.  
560 However, compliance with pending EPA regulations identified  
561 in section 3(e) of the legislation before this committee will  
562 be very difficult for us in the near term due to the  
563 piecemeal and staggered approach the EPA is using in issuing

564 these contemplated regulations. At this time affected  
565 electric utilities do not have all the information needed to  
566 make informed and cost-effective decisions.

567 While the proposed clean air transport rule and the  
568 hazardous air pollutants rules may enable electric generators  
569 to use some common control equipment to satisfy both of those  
570 rules, we will still be waiting for the coal combustion  
571 residual rule to come out a little later, and dependent on  
572 what is required there, whether ash is classified as  
573 hazardous or not, can tip the scales in one fashion or  
574 another so far as what we would do to comply with the two  
575 earlier rules that need to be complied with on an earlier  
576 date. So it is possible that you have to make a decision and  
577 gamble on doing the right thing to comply with the two  
578 earlier deadline rules and hope that doesn't change when the  
579 final rule comes out. Or you can gamble and wait and see  
580 what the entire rules look like but then you run the risk of  
581 not meeting the earlier deadline requirements.

582 In addition to this concern, compliance timelines are  
583 unreasonably short and virtually impossible to achieve.  
584 Because of this, many utilities will be racing simultaneously  
585 to comply, which will exacerbate the cost concerns as we  
586 compete for scarce resources to get all these facilities  
587 built in a very narrow window.

588           The cumulative effect of EPA's next series of  
589 regulations will result in significant financial and economic  
590 impacts to western Kentucky. A particular concern for our  
591 region and perhaps the entire Nation is the potential loss of  
592 aluminum smelters and other strategic electric-intensive  
593 industries due to electric rate increases. Seventy percent  
594 of the energy that Big Rivers produces is used by two of only  
595 four aluminum smelters still operating in this country at 100  
596 percent capacity. Not only do the smelters employ 1,400  
597 people and pay relatively high wages, the satellite  
598 industries in our region that serve them collectively employ  
599 all together 5,000 individuals and the annual payroll is  
600 about \$200 million, and there is an additional \$17 million in  
601 State and local taxes.

602           To help put this in context, over the past 5 years at  
603 least 12 U.S. aluminum smelters have shut down and five have  
604 curtailed their operations. These actions are largely  
605 attributable to rising electricity rates along with global  
606 competition. Any significant increase in rates will threaten  
607 the ability of these smelters to continue operating in  
608 Kentucky and perhaps the rest of the country as well. I  
609 believe the future impact of the EPA's proposed regulations  
610 will ultimately increase electric cost, could negatively  
611 affect reliability, at least in the short term, may reduce

612 employment and weaken the global competitiveness of the  
613 American manufacturing industry.

614         In closing, Big Rivers estimates compliance costs with  
615 the impending EPA regulations will increase our rates 40  
616 percent at the wholesale level by 2015. The piecemeal  
617 approach that EPA is taking in issuing its regulations and  
618 then the staggered and compressed time frame to comply could  
619 result in unnecessary and additional spending and suboptimal  
620 results. At a minimum, we respectfully request that the  
621 committee consider delaying implementation of EPA regulations  
622 until all planned regulations have been promulgated so that  
623 affected utilities can analyze them on a holistic and  
624 informed basis. Thank you.

625         [The prepared statement of Mr. Bailey follows:]

626 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
627           Mr. {Whitfield.} Thank you, Mr. Bailey.

628           We do have votes on the Floor, unfortunately. We like  
629 to have these hearings in the morning so we are not detaining  
630 everyone, but Mr. Hess, we are going to go on and get your 5-  
631 minute opening statement and then we are going to recess. I  
632 will find out how many votes we have. But you are recognized  
633 for 5 minutes.

|  
634 ^STATEMENT OF TIMOTHY R. HESS

635 } Mr. {Hess.} Thank you, Chairman. Chairman Whitfield,  
636 Ranking Member Rush, members of the subcommittee, my name is  
637 Tim Hess. I am the Vice President of Engineered and  
638 Converting Products with Glatfelter, a specialty paper  
639 company that has been in business since the Civil War. I am  
640 a graduate of the United States Military Academy, and I have  
641 been in the paper business for 16 years.

642 I am testifying today on behalf of the American Forest  
643 and Paper Association. Thank you for the opportunity to  
644 discuss the challenges presented by the cumulative impact of  
645 the EPA regulations on manufacturers. We applaud this  
646 subcommittee and others for taking seriously the oversight of  
647 the laws that have been enacted. The forest products  
648 manufacturing supply chain will continue to adapt to well-  
649 reasoned regulations that are affordable and achievable. We  
650 are proud of our environmental stewardship but we cannot  
651 respond to regulations in a vacuum. Businesses in our sector  
652 must consider the global competitive environment in which  
653 they operate. They must compete for capital globally and  
654 have the time needed to build new regulatory requirements  
655 into the capital planning process. They must also be able to

656 rely on the government so that once a regulation is in place,  
657 it will not be selectively enforced or changed within a short  
658 time frame.

659 Paper and wood products manufacturers are facing over 20  
660 major regulations from EPA's Clean Air Act program alone.  
661 The pace and volume of regulation is not sustainable for the  
662 agency, the States, the companies that are required to meet  
663 them, or the Congress whose obligation it is to provide  
664 oversight.

665 I would like to call your attention to the diagram that  
666 I included with my written testimony of the clean air  
667 regulations in the pipeline that will affect the forest  
668 products industry manufacturing facilities. It is similar to  
669 the train wreck picture that was previously shown. A picture  
670 is worth a thousand words, and this picture gives you an idea  
671 of the complicated maze of current EPA regulatory activity  
672 and doesn't even take into account the hundreds of other  
673 regulations that we comply with every day.

674 As detailed in my written statement, this type of  
675 regulatory environment increases our costs, makes us less  
676 competitive in a global basis, and ultimately results in lost  
677 jobs. The forest products industry, like so many other  
678 manufacturing industries, has been hard hit by the economic  
679 crisis. Since 2006, when the housing downturn began, the

680 forest products industry has lost 31 percent of its  
681 workforce, nearly 400,000 high-paying jobs, largely in small  
682 rural communities that can least afford to lose them. The  
683 closure of a mill in a small town has a significant ripple  
684 effect when that mill is the largest employer and a major  
685 contributor to the local taxes and community programs.

686         Here are a few of the many regulations we are concerned  
687 about: Boiler MACT. EPA's recently finalized Boiler MACT  
688 rule will cost our industry alone well over \$3 billion and  
689 continues to ignore what real-worst best-performing boilers  
690 can achieve over the range of normal operating conditions,  
691 and while Congress authorized EPA to adopt a health-based  
692 performance approach to target controls for certain emissions  
693 below the level of concern, EPA decided not to use this  
694 authority and reversed its previous precedent. EPA is also  
695 considering redoing the pulp and paper MACTs issued a decade  
696 ago, even though MACT is supposed to be a one-time program,  
697 and we are concerned that this could add an additional \$4  
698 billion in capital costs beyond boiler MACT.

699         The National Ambient Air Quality Standards, known as  
700 NAAQS, program has greatly reduced emissions of criteria  
701 pollutants. Yet further tightening is underway. Even before  
702 the latest ozone standard has been fully implemented, EPA is  
703 tightening it further, 2 years ahead of the usual statutory

704 schedule. Collectively, the revisions of all the NAAQS rules  
705 could cost the forest products industry over \$8 billion in  
706 capital costs. These constantly changing air quality  
707 regulations do not allow me and my management team to make  
708 rational, long-term decisions about capital spending,  
709 particularly for projects that do not return profits to the  
710 bottom line.

711         We applaud this subcommittee's efforts to shine a light  
712 on the impacts of the EPA regulations. As recognized in the  
713 TRAIN Act, agencies typically look at any given regulation in  
714 a stovepipe and fail to consider the cumulative regulatory  
715 impact on competitiveness and jobs. Accordingly, the  
716 subcommittee may want to consider the impacts of regulation  
717 on the loss of human capital such as when workers' skills are  
718 no longer marketable because manufacturing are lost in the  
719 United States. This could include real costs such as lost  
720 wages and the cost of new job training, and they could be  
721 added to the compliance costs in the analysis.

722         In summary, we know that the current wave of pending new  
723 regulations is unsustainable. Living with such an uncertain  
724 regulatory environment not only costs current jobs but also  
725 prevents new jobs from being created. Companies frequently  
726 find themselves tangled in a web of rules that result in a  
727 decision not to make an investment because of uncertainty

728 about the regulatory process or they decide to invest  
729 overseas. Others rule the decide hoping that the rule they  
730 are making decisions under today will still be in place when  
731 the project is complete. Investments in energy efficiency  
732 projects, mill modernization programs and new biomass boilers  
733 have already been impacted by Boiler MACT and NAAQS.  
734 Unfortunately, it is easier to see the jobs that are lost  
735 after the fact but the greatest damage may be the unknowable:  
736 the projects never built, the products never made, the jobs  
737 never created or the entrepreneur ideas drowned in a sea of  
738 red tape.

739 Thank you for taking the time to listen to some of the  
740 many regulatory challenges the forest products industry is  
741 facing.

742 [The prepared statement of Mr. Hess follows:]

743 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
744           Mr. {Whitfield.} Mr. Hess, thank you, and I apologize  
745 once again. We do have five votes, and I expect it will  
746 probably take 45, 50 minutes at a minimum. So there is a  
747 deli downstairs, there is a restaurant, so I hope that you  
748 all can find something to entertain yourselves until we get  
749 back.

750           But once again, thank you. It is 10 to 2:00, so we will  
751 certainly try to be back at about 15 to 3:00.

752           [Recess.]

753           Mr. {Whitfield.} We will call the meeting back to  
754 order, and Dr. Ridgway, you are recognized for 5 minutes for  
755 your opening statement.

|  
756 ^STATEMENT OF ROBIN MILLS RIDGWAY

757 } Ms. {Ridgway.} Chairman Whitfield, Ranking Member Rush,  
758 members of the committee, good morning, or good afternoon,  
759 rather. Thank you for inviting me here to testify today. My  
760 name is Robin Mills Ridgway. I am Director of Environmental  
761 Health and Safety Regulatory Compliance with physical  
762 facilities at Purdue University in West Lafayette, Indiana.  
763 I hold a Ph.D. in environmental engineering from Purdue, and  
764 I am a licensed professional engineer in Indiana. I serve as  
765 a resource for environment regulatory compliance at Purdue,  
766 and in particular I analyze the impacts of current and  
767 upcoming regulations on Purdue operations and proposed  
768 projects. I also participate in rulemaking activities at the  
769 State and federal level to assist the university with  
770 planning.

771 Purdue University in West Lafayette is like a small  
772 city. With 47,000 students and an expansive research  
773 infrastructure, the university has many support and research  
774 activities that are covered by EPA regulations. Just a quick  
775 list of some of the peripheral areas that I also oversee, we  
776 have a 1,600-acre multi-species confined-animal feed  
777 operation, which is covered by EPA regulations. We have a

778 federally permitted hazardous waste treatment, storage and  
779 disposal facility that handles 188,000 pounds of hazardous  
780 waste annually. We have a campus stormwater permit that  
781 covers runoff from campus as well as we own and operate a  
782 public water supply on campus.

783         One of the other facilities on campus that I am very  
784 involved in is our combined heat and power facility. It is a  
785 41-megawatt combined heat and power facility that is  
786 primarily coal-fired and it supplies nearly all of the campus  
787 heating steam, chilled water, and on average 60 percent of  
788 the campus's electricity needs. This highly efficient  
789 facility holds a point source MPDS permit and we also have  
790 several, many Clean Air Act regulations that apply to us, and  
791 I will just list these off. The New Source Performance  
792 Standards, the Boiler MACT, both of them, the one that came  
793 and then was vacated and then came again, the Rice MACT that  
794 covers emergency generators, greenhouse gas reporting,  
795 greenhouse gas permitting as part of the PSD program, and  
796 Purdue's utility plant boilers are also regulated as non-  
797 electric utility generating units, non-EGUs, under the NOX  
798 budget trading program, which is now the vacated CARE, which  
799 will soon be the transport program, so it has sort of  
800 evolved.

801         EPA has also just recently proposed a coal ash

802 regulation, and although they say quite clearly in the  
803 regulation that is targeted at electric utilities, I think we  
804 all know that industrial facilities will also be pulled under  
805 this regulation as the States move to implement the program.  
806 I don't believe that they will differentiate from source.

807         A core part of my position is monitoring regulatory  
808 developments and apprising the university administration of  
809 impacts or more often projected impacts for planning  
810 purposes. Because of our long planning timelines, I am  
811 frequently asked to look out 5 and sometimes 10 years. I try  
812 to predict with as much certainty as possible to make sure  
813 the administration understands the full spectrum of potential  
814 impact. As uncertainty increases, the impact spectrum  
815 broadens. The projected impact of layered regulations then  
816 becomes a driving factor in decision-making, potentially  
817 causing our administration to delay a decision until  
818 certainty is reached.

819         We recently canceled a clean coal boiler project that is  
820 a good example of this potential outcome. The project  
821 followed a multiple-year planning timeline, which is typical  
822 of large capital projects at a State university. By the time  
823 the project was to be commenced, the regulatory landscape had  
824 changed and the likelihood of future regulations caused the  
825 board of trustees to actually cancel the project in February

826 of 2011.

827           The piling on of regulations impacts continuance and  
828 expansion of highly efficient district energy, whether it be  
829 biomass, clean coal or natural gas, combined heat and power.  
830 Protection of the environment and enhancement of energy  
831 supply takes a menu of approaches. Each facility and  
832 location is different.

833           The planning challenges associated with a rapidly  
834 changing regulatory landscape are not unique to a university.  
835 However, universities cannot relocate or consolidate  
836 operations like a for-profit manufacturer might be able to  
837 nor are we able to pass the costs on to a customer. Our  
838 students are our customers, so the added costs of compliance  
839 or additional purchased utilities fall back on the taxpayers.  
840 We are committed to providing an educational foundation for  
841 our students as economically as possible, and the key to good  
842 fiscal stewardship is careful long-term planning.

843           Mr. Chairman, I thank you for this opportunity to  
844 testify and would be pleased to answer any questions that the  
845 committee may have.

846           [The prepared statement of Ms. Ridgway follows:]

847 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|

848 Mr. {Whitfield.} Thank you, Dr. Ridgway.

849 Ms. Steinzor, you are recognized for 5 minutes.

|  
850 ^STATEMENT OF RENA STEINZOR

851 } Ms. {Steinzor.} Mr. Chairman, Ranking Member Rush and  
852 members of the subcommittee, I appreciate the opportunity to  
853 testify today on the discussion draft of the Transparency in  
854 Regulatory Analysis of Impacts on the Nation Act of 2011,  
855 known as the TRAIN Act. This legislation would convene a  
856 Cabinet-level committee to conduct a breathtakingly ambitious  
857 analysis of how regulations required by Congress might affect  
858 energy prices in the United States in 2030. A crystal ball  
859 might well prove more effective in driving these estimates.

860 For reasons that are left a mystery but seem amazingly  
861 misguided, the legislation ignores the benefits that would be  
862 achieved by the targeted regulations. Rules to protect  
863 public health and the environment most definitely do not have  
864 the effect of sweeping money into a pile and setting it on  
865 fire. Rather, they save the lives of millions of people,  
866 prevent many more millions from getting sick or becoming  
867 sicker, and preserve the irreplaceable natural resources  
868 without which human life would be impossible. Omitting  
869 benefits is akin to assessing our country's wellbeing by  
870 carefully counting its GDP in dollars while ignoring whether  
871 Americans have a life expectancy over 50, are well enough to

872 go to work or school, are able to take care of each other,  
873 enjoy our leisure or leave a sustainable for our children.  
874 The Clean Air Act Amendments targeted by TRAIN are uniformly  
875 recognized as a wonderful economic bargain by experts from  
876 the right to the left of the political spectrum. According  
877 to EPA's very conservative numbers, clean air rules saved  
878 164,300 adult lives in 2010 and will save 237,000 lives  
879 annually by 2020.

880         Last but not least, the TRAIN Act targets proposed Coal  
881 Ash Rule. My testimony includes a chart showing the coal ash  
882 disposal sites in the districts of the members of this  
883 subcommittee, and I urge you to take a look at it. Some of  
884 you have coal sites that are high hazard.

885         It is very ironic that most of the witnesses on this  
886 panel today have been talking so much about uncertainty. The  
887 TRAIN Act is funded on uncertainty and unknowability. Most  
888 of the calculations must be completed by August 2012, a date  
889 preceding by a few weeks the national Presidential elections.  
890 The studies are so ridden with uncertainty that their numbers  
891 would be not just meaningless but deceptive. The only silver  
892 lining in this quixotic effort this that it should remain  
893 Americans of the hard lesson we learned when Wall Street  
894 crash alleging large number derived from complex calculations  
895 as facts, then wrapping them up in a glossy binder to make

896 the numbers or the facts either true or reliable. Imagine  
897 for a moment that you could muster a meeting of the most  
898 sophisticated and knowledgeable experts on global oil prices.  
899 Throw in climate scientists, military experts, geologists and  
900 the leaders of the 10 countries with the largest deposits of  
901 oil, natural gas and coal in the world. Now ask what the  
902 wholesale and retail costs of these fuels will be in 2030.  
903 You would get laughter, shrugs and protestations of disbelief  
904 that you are serious. Over the last several weeks we have  
905 seen popular uprisings course across the Middle East sending  
906 gas prices through the roof. No one knows how these deeply  
907 rooted social cataclysms will play out, and they are likely  
908 to play a far more significant role in determining energy  
909 prices 10 or 20 years hence than the projected costs of an  
910 EPA regulation that has not even been proposed yet, and this  
911 legislation would cover rules that have not even been  
912 proposed yet.

913       The legislation makes the job of knowing the unknowable  
914 impossible, and it is also likely to result in exceptionally  
915 burdensome requirements on the private sector and State and  
916 local governments. In fact, I would call it in some ways the  
917 great grandmother of all unfunded mandates. Only private  
918 corporations have the information that is needed under this  
919 regulation to determine what projects have been organized and

920 are proposed that will be affected by changes in energy  
921 prices, and the studies that are required cannot be completed  
922 without their help. Thank you.

923 [The prepared statement of Ms. Steinzor follows:]

924 \*\*\*\*\* INSERT 6 \*\*\*\*\*

|

925 Mr. {Whitfield.} Thank you.

926 Mr. Segal, you are recognized for 5 minutes.

|  
927 ^STATEMENT OF SCOTT SEGAL

928 } Mr. {Segal.} Thank you, Mr. Chairman, members of the  
929 subcommittee. I am Scott Segal, and I am Director of the  
930 Electric Reliability Coordinating Council. I am also a  
931 partner at the law firm of Bracewell & Giuliani. It is my  
932 pleasure to be with you. I believe it is still this  
933 afternoon.

934 The power sector on whose behalf I am here today faces a  
935 wave of overlapping regulations. Even EPA admits that the  
936 Utility MACT, for one example, costs at least \$10 billion  
937 annually, making it one of the most expensive rules in the  
938 history of the agency. Credible analyses have found cost  
939 estimates literally an order of magnitude higher but of  
940 interest to this subcommittee, while Utility MACT is quite  
941 serious, is that EPA also has or will promulgate a broad  
942 series of new rules in the immediate future with compliance  
943 deadlines on or before 2015. These rules includes greenhouse  
944 gas limitations, ash and other residual limitations, National  
945 Ambient Air Quality Standards for SO<sub>2</sub>, NO<sub>X</sub>, SO<sub>X</sub>, ozone,  
946 particulate matter, a new transport rule, cooling water  
947 intake rule under 316(b), and discharge-limiting effluent  
948 standards under the Clean Water Act. Most Administrations

949 feel like it is a good day at the job when they seek to  
950 change one National Ambient Air Quality Standard or maybe two  
951 over the course of a 4- or 8-year Administration, and that is  
952 regardless of whether we are talking Democratic or Republican  
953 Administrations. This Administration thinks it is a good day  
954 at the job to do five simultaneously. So it is very  
955 important that we take a look at overlapping impacts.

956         A recent ICF International analysis of pending and  
957 promulgated EPA regulations for the power sector, which I  
958 have asked to have placed in the record, shows that when a  
959 complete environmental future is analyzed, over 150 gigawatts  
960 of coal, half of the U.S. fleet, are at risk of being  
961 unavailable in 2015 for needed energy and required  
962 reliability due to insufficient time to install controls or  
963 replace generation. The ICF data when subjected to further  
964 economic analysis and controlled for appropriate  
965 sensitivities yields substantial net impacts on job creation  
966 in the United States. U.S. employment income is estimated to  
967 drop by an amount equivalent to the earnings of 2 million to  
968 2.5 million full-time workers. This estimate includes an  
969 estimated increase in offsetting compliance-related  
970 employment equivalent to about 200,000 to a million full-time  
971 jobs in the early years of implementation. Without the  
972 offsets, the estimated reduction in worker income would be as

973 high as 3.5 million jobs from the overlapping regulations.

974         As further frame of reference for what these overlapping  
975 regulations place at risk, we looked at Penn State's estimate  
976 of the total economic footprint of coal-fueled electric  
977 generation by 2015, they found that would be about \$1  
978 trillion, \$362 billion in annual household incomes, and about  
979 6.8 million jobs.

980         The impact of increased costs on retail and businesses  
981 is particularly troubling. Again, referencing the ICF data,  
982 particularly in certain regions, retail electricity price is  
983 estimated to increase by 20 to 25 percent. The average U.S.  
984 household is estimated to lose buying power of up to \$500 per  
985 year. Consumer energy cost impacts are likely to be  
986 regressive with one-quarter of Americans already reporting  
987 that they had trouble paying for power, and for minority  
988 communities and for the elderly, the situation is even worse.

989         Certain sectors of the economy have become increasingly  
990 sensitive even to minor changes in the cost of electricity.  
991 You heard from the university a moment ago but the health  
992 care sector also finds that provisions of almost services are  
993 related to energy costs with hospitals using twice as much  
994 electricity per square foot than comparable office space, and  
995 this is not a highly hypothetical EPA air model. This is the  
996 bills that our health care sector actually pays.

997           Some have claimed that the suite of power sector  
998 regulations will stimulate new investment in technology of  
999 various descriptions, so-called green jobs. However, the  
1000 data cited above demonstrates these are temporary job gains  
1001 and still create a deficit of up to 2.5 million jobs. But in  
1002 any event, it would be foolish in the extreme to believe that  
1003 heavy regulatory burdens have ever been truly conducive to  
1004 business confidence, investment or job creation. Recent  
1005 experience in Europe demonstrates that for every four green  
1006 jobs, nine higher-paying industrial jobs are lost.

1007           By 2015, the coal-fired power plants in the United  
1008 States will have invested as much as \$125 billion in advanced  
1009 emission control technologies and success to date has been  
1010 clear. The U.S. electric power sector has reduced its  
1011 emissions of NOX, SOX and a 40 percent reduction in mercury.  
1012 However, as in 1998, the agency still can find no direct  
1013 additional or incremental health benefits associated with  
1014 reduction of non-mercury HAPs, which is the major cost driver  
1015 within the Utility MACT proposal.

1016           What can be done? President Obama himself in his  
1017 January Executive Order called upon agencies to take into  
1018 account the costs of cumulative regulations, which is  
1019 precisely what the TRAIN Act does. It will be an excellent  
1020 tool to prevent EPA from hastily adopting guidelines and

1021 regulations without careful consideration of their actual  
1022 benefits and economic impacts. If it is true that these  
1023 rules are such a great bargain, then nobody on this panel  
1024 should have anything to fear from looking at their cumulative  
1025 economic impact. To the extent people oppose looking at  
1026 cumulative economic impact, I would suspect they believe the  
1027 number will be quite high. Thank you very much.

1028 [The prepared statement of Mr. Segal follows:]

1029 \*\*\*\*\* INSERT 7 \*\*\*\*\*

1030           Mr. {Whitfield.} Thank you, Mr. Segal, and I thank all  
1031 of you for your opening statements.

1032           First question I would just ask all of you across the  
1033 board, you can give me a yes or no, recognizing that EPA does  
1034 a very thorough job in its analysis looking at health care  
1035 benefits, I would ask each one of you, do you think it would  
1036 beneficial to have an analysis made by some independent  
1037 agency of the cumulative economic impact of regulations  
1038 coming out of EPA that are identified in this legislation.  
1039 Mr. Cauley?

1040           Mr. {Cauley.} Chairman Whitfield, I do believe the  
1041 electric power industry would benefit from comprehensive  
1042 review. One of the challenges of maintaining a long-term  
1043 reliable bulk power supply is having some amount of certainty  
1044 to commit resources. It takes sometimes 4, 6, 8 years to  
1045 site and build generation--

1046           Mr. {Whitfield.} But you believe it would be a benefit?

1047           Mr. {Cauley.} Yes.

1048           Mr. {Whitfield.} Okay. Mr. Schaeffer?

1049           Mr. {Schaeffer.} I can't object to the concept. You  
1050 know, intuitively it makes sense. The question is whether it  
1051 will delay issue of rules that have been overdue for so many  
1052 years, and whether the cumulative benefits will also be

1053 considered.

1054 Mr. {Whitfield.} Thank you. Mr. Bailey?

1055 Mr. {Bailey.} Yes, I do, sir.

1056 Mr. {Whitfield.} Mr. Hess?

1057 Mr. {Hess.} Yes, sir, I do.

1058 Mr. {Whitfield.} Dr. Ridgway?

1059 Ms. {Ridgway.} Yes, I do.

1060 Mr. {Whitfield.} Ms. Steinzor?

1061 Ms. {Steinzor.} No, sir.

1062 Mr. {Whitfield.} Mr. Segal?

1063 Mr. {Segal.} Yes, and I just wanted to say one thing  
1064 about whether or not it can be done and whether it would be  
1065 too hard to do. I have talked to former EPA air  
1066 administrators and former general counsels of the agency who  
1067 assure me this type of work is available to them, could be  
1068 done and we could proceed and do this work, but we don't do  
1069 it.

1070 Mr. {Whitfield.} Thank you. Now, Mr. Bailey, we have  
1071 heard some comments today which is understandable that any  
1072 time industry hears about a regulation they are going to be  
1073 impacted by, they immediately start complaining about the  
1074 cost of this new regulation and the jobs that will be lost,  
1075 and paint a very sad scenario. You are out there every day  
1076 dealing with this issue. It is your responsibility to run

1077 this electricity company producing electricity. With the  
1078 unprecedented activity of this EPA, one regulation right  
1079 after the other, why is it so difficult for you as a CEO  
1080 responsible to comply with these kinds of regulations? Why  
1081 is it so difficult?

1082 Mr. {Bailey.} Well, clearly we want to keep the rates  
1083 low for all our customers. We are not profit, so we are not  
1084 trying to make profits on increasing rates. But we are rate-  
1085 regulated in Kentucky, cooperatives are. We are regulated by  
1086 the Public Service Commission and rates are not adjusted  
1087 until after you make the investment, and if you make  
1088 investments based on what you know at one point in time and  
1089 it is later found as different rules have come out that that  
1090 was an imprudent decision, it is impossible to recover all  
1091 that investment, if any of it. So clearly that would be  
1092 money that was not well spent from that standpoint.

1093 Mr. {Whitfield.} So one of your big concerns is you  
1094 invest money and then you realize that the regulation has  
1095 been changed again or it is changed again and then you invest  
1096 again. Is that what you are saying?

1097 Mr. {Bailey.} Yes. It would be difficult to go to a  
1098 board of directors and say we need to invest hundreds of  
1099 millions of dollars and say we are quite sure whether this  
1100 will solve the requirement or not.

1101           Mr. {Whitfield.} And do you view the Air Transport Rule  
1102 more of an obstacle for you than, say, the Utility MACT, or  
1103 how do you look at those two?

1104           Mr. {Bailey.} Well, the transport rule as it appears  
1105 now, and of course the rules are finally promulgated but it  
1106 appears that we will be required to comply beginning in 2012  
1107 and 2014. The time just does not permit us to make the  
1108 capital additions. So basically we will have to reduce  
1109 generation.

1110           Mr. {Whitfield.} And how serious is your concern that  
1111 your biggest customer, those aluminum smelters--they are your  
1112 biggest customer?

1113           Mr. {Bailey.} Yes, sir, they are.

1114           Mr. {Whitfield.} How concerned are you that because of  
1115 the increase in price of electricity that they may actually  
1116 close up and leave?

1117           Mr. {Bailey.} I am very concerned. As you look at  
1118 statistics over the years, I think there were 34 smelters in  
1119 this country in 1978, now we are down to about 9, and our  
1120 customers are telling us the time they are worried about rate  
1121 increases. So you look at the magnitudes of 40 percent, you  
1122 look at the prices that smelters pay, ours are in the top 20  
1123 percent right now.

1124           Mr. {Whitfield.} you know, one of the things that

1125 concerns me is that I think this Administration is  
1126 overselling green energy, and I say that because green energy  
1127 may be available in the long-out future but for right now  
1128 when we expect our energy demands to increase by 40 percent,  
1129 Mr. Segal said that one-half of coal fleet availability may  
1130 not be there, how in the world can we meet our electricity  
1131 demands? Windmills, solar panels, hydropower are simply not  
1132 going to be able to do it.

1133 My time is expired. Mr. Rush, you are recognized for 5  
1134 minutes.

1135 Mr. {Rush.} Thank you, Mr. Chairman.

1136 The whole premise behind today's hearing on the TRAIN  
1137 Act is that there is a train wreck of EPA regulations coming  
1138 down the pike that will cripple the nuclear industry. And  
1139 Ms. Steinzor, you kind of characterized this as being the  
1140 great grandmother for all federally unfunded mandates. I  
1141 thought that was pretty creative. And then I heard Mr. Segal  
1142 say that for every one green job created, that nine current  
1143 industrial jobs would be lost. I think I heard him say that.  
1144 What do you think about his conclusion that for every one  
1145 green job that is created, there will be nine current  
1146 industrial jobs eliminated?

1147 Ms. {Steinzor.} I have no knowledge of what study he is  
1148 talking about, and perhaps he could enlighten us. I will say

1149 that we have done a very close examination of a study known  
1150 as Crane and Crane, which is cited a lot by the Small  
1151 Business Administration, and claims that there will be about  
1152 \$3 trillion regulations will cost, and among other things,  
1153 that study includes the time people spend filling out their  
1154 tax returns. It is based on an opinion poll in countries  
1155 that rated whether they were a favorable environment from a  
1156 regulatory perspective. It was never intended to be used as  
1157 a foundation for mathematical characterization like that.

1158         So I would say that every time we have looked at a study  
1159 that gives numbers with that kind of pinpointed precision  
1160 when you look a little bit beneath the assumptions that go  
1161 into those numbers, you find that they are dramatically  
1162 overstated, and I would be happy to look at the study that  
1163 Mr. Segal was referring to.

1164         Mr. {Rush.} Would there be any financial costs, in your  
1165 opinion, associated with implementing this act and creating  
1166 yet another committee to study these rules that EPA is  
1167 already studying and mandated by law? And maybe you can  
1168 answer this: what is the cost financially and is it paid for  
1169 as mandated by the new rules of the House?

1170         Ms. {Steinzor.} I actually think that it would not  
1171 satisfy. There has been no analysis of what the unfunded  
1172 mandate would be on State governments but also private

1173 sector, everybody sitting at this table. One of the things  
1174 the legislation does is to require this committee to analyze  
1175 what a potential permitting action, how that would affect  
1176 electricity prices, and to analyze that, you need to know  
1177 everybody who is thinking of a project and might get a permit  
1178 out to 2030, and the only way to do that is to ask them. So  
1179 I would expect everyone at this table to be receiving, except  
1180 for me of course and Mr. Schaeffer, to be receiving an  
1181 information request for this committee, and if they don't,  
1182 then the number is going to be a stab in the dark, which is  
1183 really the problem with it, very expensive and yet won't be  
1184 accurate.

1185         Mr. {Rush.} Mr. Schaeffer, are there any costs to  
1186 business associated with delaying industry-wide rules and  
1187 regulations and pushing regulatory reform further down the  
1188 road for some future date? Is there any cost to businesses  
1189 that you could think of?

1190         Mr. {Schaeffer.} Is that directed to me?

1191         Mr. {Rush.} Yes.

1192         Mr. {Schaeffer.} My apologies.

1193         Mr. {Rush.} Why don't I ask you again. Mr. Schaeffer,  
1194 are there any costs to business associated with delaying  
1195 industry-wide rules and pushing regulatory reform further  
1196 down the road for some future date?

1197           Mr. {Schaeffer.}   Congressman Rush, I think that  
1198 generally is--I think the delay of game is a major tactic in  
1199 Washington.  If you can push the rules off to the future, you  
1200 save money, and that is fair enough if that is what people  
1201 want to do.  I tried to make the point earlier in my  
1202 testimony, these regulations had statutory deadlines, were  
1203 supposed to have been met many years ago.  They were not.  
1204 They will now be met more or less around 2015 instead of a  
1205 decade or more earlier, in some cases 20 to 30 years earlier.  
1206 In all that time, the industry has been able to save money  
1207 that they otherwise would have had to spend meeting the  
1208 deadlines that Congress set out for these regulations.

1209           Mr. {Rush.}   Yield back.

1210           Mr. {Whitfield.}   The gentleman from Oklahoma for 5  
1211 minutes.

1212           Mr. {Sullivan.}   Thank you, Mr. Chairman.

1213           Mr. Segal, could you comment on the statements of Ms.  
1214 Steinzor, please?

1215           Mr. {Segal.}   Sure.  Well, with respect to green jobs,  
1216 the study that I quoted actually deals with experience in  
1217 Europe, specifically in Spain, which found that for every  
1218 four so-called green jobs that were created, nine industrial  
1219 jobs were lost.  And I will tell you, it comes from a country  
1220 that was very skeptical about that conclusion.  In fact,

1221 Spain, Italy, a number of countries in Western Europe are  
1222 very proactive when it comes to encouraging investment in  
1223 green jobs. Imagine how disappointed they were to learn that  
1224 the so-called green jobs tend to pay substantially less in  
1225 salary, is more temporary in duration, i.e., operating a coal  
1226 plant versus constructing a wind farm, and has a whole lot  
1227 less as far as actual numbers of jobs are concerned. Since  
1228 that study came out, it has been supplemented with data, not  
1229 just from the Spain study but also from Denmark and from  
1230 Scotland and from Germany, again, countries that really were  
1231 dedicated to promotion of green jobs. So we have got a  
1232 situation where this is somewhat illusory.

1233 Bottom line for the train wreck, if you will, or the  
1234 overlapping regulations in the power sector, there is only  
1235 one study to date, and I include the Environmental Protection  
1236 Agency, that has actually netted out offsetting near-term  
1237 construction jobs from putting on a new whiz-bang at a power  
1238 plant versus actual loss from being capacity offline. That  
1239 is the study that this committee has heard today performed by  
1240 ICF International released in January of 2011 using the same  
1241 contractor and the same proprietary model that the  
1242 Environmental Protection Agency uses but using more realistic  
1243 assumptions about the actual technology that will be required  
1244 to implement these rules, one study, and it shows a deficit

1245 of 2.5 million jobs if we have the simultaneity of adoption  
1246 that is proposed and warmly welcome by the Environmental  
1247 Protection Agency.

1248 Mr. {Sullivan.} Thank you, sir.

1249 Mr. Cauley, what could people expect to happen when the  
1250 reliability of electricity supply is low?

1251 Mr. {Cauley.} In the worst case, Congressman Sullivan,  
1252 when we have a shortage of supply we end up with rolling  
1253 blackouts and those sorts of things. Usually the industry is  
1254 planning ahead to make sure that there is adequate supply but  
1255 things like extreme weather and conditions can create  
1256 shortages.

1257 Mr. {Sullivan.} In your opinion, is it possible to  
1258 perform a robust forecast of electricity reliability without  
1259 doing some kind of cumulative analysis of the potential  
1260 impacts of regulations?

1261 Mr. {Cauley.} I think a cumulative analysis is  
1262 essential, and that is why we as an independent organization  
1263 have taken that responsibility on and produced our report  
1264 last October and will continue doing assessments in the  
1265 future.

1266 Mr. {Sullivan.} Also, given the responsibility that has  
1267 been given to the NERC to ensure the reliability of the bulk  
1268 power system in North America, would NERC consider it

1269 sufficient to look at the impact of regulations one by one  
1270 instead of in a cumulative analysis? If not, why not?

1271 Mr. {Cauley.} The challenge is that the real decisions  
1272 for investing in new plants, new facilities is a long-term  
1273 investment decision. It requires siting. It requires  
1274 significant investment resources and it is not a year-by-  
1275 year, month-by-month decision process. So to make effective  
1276 decisions that are good for customers, a comprehensive look  
1277 is essential.

1278 Mr. {Sullivan.} Also, of the major EPA rules NERC  
1279 analyzed in its assessment, which regulations have the  
1280 greatest potential reliability implications?

1281 Mr. {Cauley.} The greatest impact was the cooling water  
1282 regulation, according to our report completed last October.

1283 Mr. {Sullivan.} Thank you, sir. I appreciate it. I  
1284 yield back. Oh, I have some more time? Okay.

1285 I would like to say that in region 6, the EPA, just to  
1286 show you how these regulations cost people, cost States is,  
1287 we did a State implementation plan, required to do that, to  
1288 achieve a goal the EPA wanted us to achieve, and they came  
1289 back and did a federal implementation plan, which cost  
1290 hundreds of millions which just get passed onto the consumer.  
1291 I just think that that does have an impact on our economy,  
1292 does have an impact on jobs, and certainly none of that was

1293 done before--they didn't analyze anything before they did  
1294 that, and I think that you are seeing this hurting the  
1295 economy, hurting the jobs. You see these EPA rules. I heard  
1296 there is more coming down the pike that are hundreds of  
1297 millions of dollars each, and I think that having analysis of  
1298 it is not something that is bad. Thank you.

1299       Mr. {Whitfield.} Mr. Green, you are recognized for 5  
1300 minutes.

1301       Mr. {Green.} Thank you, Mr. Chairman, for holding the  
1302 hearing, and while I am sympathetic to the argument we face  
1303 in the regulatory landscape we do because of serial delays in  
1304 rulemaking over the last couple of decades, that doesn't mean  
1305 we can ignore the fact that companies are faced with  
1306 complying with several rules all at the same time. As such,  
1307 I do think it is appropriate to study the cumulative impact  
1308 of multiple regulations on competitiveness and sustainability  
1309 of businesses and other regulated entities and the related  
1310 impacts on jobs.

1311       Concerning the discussion draft before us, though, I  
1312 think there are some drafting issues that need to be  
1313 addressed, and I also think we should look at or least  
1314 acknowledge the public health effects of such rules in order  
1315 to be fair, and hopefully I can get to be a yes on the bill,  
1316 Mr. Chairman, but I would like to look at the drafting. I am

1317 glad this is a draft and I would like to work with you on it,  
1318 and I think I share that with our ranking member, Congressman  
1319 Rush.

1320 Now for my questions. Are any of you able to comment on  
1321 how the EPA is complying with President Obama's July 18th  
1322 Executive Order stating agencies must consider cost and how  
1323 best to reduce the burdens of American business and  
1324 consumers? Do we know what the status is? Scott?

1325 Mr. {Segal.} Well, I will tell you this much. The  
1326 agency has asked for folks to file comments, and so there is  
1327 an open process there, which is good, and people will file  
1328 comments on it. That said, you know, the Executive Order was  
1329 released in January and we have a raft of rulemaking  
1330 proposals that come out, particularly in March, and it seems  
1331 as though these rulemakings, that was a golden opportunity to  
1332 comply with the Executive Order would have been to  
1333 acknowledge cumulative impact or at least, how about this, to  
1334 acknowledge the Executive Order in these new proposals that  
1335 came out and of course, none of them, they just barreled on  
1336 down the path full steam ahead.

1337 So I don't think they have taken it to heart, the spirit  
1338 of the Executive Order, which is what makes the TRAIN Act so  
1339 interesting because it actually gives teeth to the Executive  
1340 Order, assuming it is drafted appropriately.

1341           Mr. {Green.} Mr. Schaeffer, I understand you argue that  
1342 the industry should not complain because these rules should  
1343 have been implemented years ago, and how do you respond to  
1344 the fact that these rules now are all coming down the pike at  
1345 once? Take Mr. Bailey's statement, for example, that the  
1346 expense of installing control equipment on coal-fired  
1347 generator units to comply with two of the rules may be wasted  
1348 effort if it is later found that conversion of natural gas is  
1349 the best solution to meet the later issued deadline. How do  
1350 you respond? Of course, coming from Texas, I think  
1351 everything ought to be natural gas, but how do you respond to  
1352 it?

1353           Mr. {Schaeffer.} Congressman Green, that is a good  
1354 question. I am confused by what I have heard in the  
1355 discussion because on the one hand, I hear it is all coming  
1356 together, it is too much, and on the other hand, I hear,  
1357 well, we kind of need it all to come together so we can plan  
1358 and be rational about it, and in fact, we have heard the  
1359 industry testify to that effect for years. They would like  
1360 to see it all at once. So I am not sure if that is an  
1361 answer.

1362           I will quickly say that some companies have already done  
1363 the work needed to comply with these rules and if they are  
1364 put off, we are not going to have a level playing field. In

1365 my State of Maryland, we have big coal plants, coal supplies  
1366 more than half the electricity, mercury down by nearly 90  
1367 percent, sulfur dioxide virtually eliminated at the Brandon  
1368 Shores facility, baghouses put on, millions of hours of work  
1369 created for people. Those plants are ready. They  
1370 anticipated these rules. They didn't bank on being able to  
1371 delay compliance. Then on the other hand, we have some  
1372 plants that have done very little, and for those, yes, they  
1373 are going to have some costs but I don't want to leave the  
1374 impression that we have got all the coal plants in the same  
1375 situation because they are in very different places.

1376 Mr. {Green.} I am almost out of time. I have a  
1377 question for Mr. Cauley, but Mr. Segal, thank you for  
1378 testifying, and we worked together a lot of years on energy  
1379 and I appreciate it. I would like to ask you, though, about  
1380 timing and the implementation of the Utility MACT Rule. I  
1381 have heard that 3 years is just not feasible for compliance,  
1382 and Mr. Cauley, feel free to respond also. How much time  
1383 would these facilities need to comply with this rule,  
1384 assuming there is no delay in the rule or changes made to it?

1385 Mr. {Segal.} There are two elements that we need to  
1386 keep in mind. One is timing, and 3 years, you know, to begin  
1387 the process in 2015 is not even 3 years when you consider the  
1388 planning process. A minimum of 5 years is needed in order to

1389 really plan it out, and even that is pushing it, but there  
1390 are also substantive issues because it is not just a timing  
1391 question. It is a question of how you establish the MACT  
1392 floor. It is a question of whether there is adequate, what  
1393 is called subcategorization within the rule that will make  
1394 the difference between whether this rule is workable or not,  
1395 even if given a significant amount of time. So there is a  
1396 time issue and a substance issue.

1397 Mr. {Green.} I know I am out of time, but Mr. Chairman,  
1398 could Mr. Cauley respond? Is there anything different than  
1399 from what Mr. Segal said?

1400 Mr. {Cauley.} I would just defer to Mr. Segal as  
1401 representing the owners and operators.

1402 Mr. {Green.} Okay. Thank you, Mr. Chairman.

1403 Mr. {Whitfield.} Mr. Shimkus, you are recognized for 5  
1404 minutes.

1405 Mr. {Shimkus.} Thank you, Mr. Chairman, and thank you  
1406 all for coming. If they put up the Edison Electric analysis  
1407 of the train wreck real quick, I said that in my opening  
1408 statement. Does anyone disagree that these regs are coming  
1409 down in this timeline? No. So everyone agrees that these  
1410 eight regulations are coming down between 2008 and 2016. You  
1411 disagree?

1412 Mr. {Schaeffer.} I don't have it in front of me and I

1413 can't see it here.

1414 Mr. {Shimkus.} All right. Well, I will give this to  
1415 you and then you can confer, but I think the answer is, no  
1416 one disagrees that this is the train wreck. This is what we  
1417 are referring to. Ozone, SOX, NOX, transport, water,  
1418 particulate matter, ash, mercury, carbon dioxide. Now, we  
1419 tried to address carbon dioxide today on the Floor to deny  
1420 EPA the ability to regulate greenhouse gases. We are going  
1421 to continue to do that. We will probably work on some of  
1422 these other ones like the water, especially particulate  
1423 matter. I mean, these are ludicrous. They are crazy as the  
1424 carbon dioxide regulations, so I hope, Mr. Chairman, we move  
1425 on some of these easier ones to address like we did on the  
1426 Floor today.

1427 The question was asked, has the EPA complied with the  
1428 Presidential Executive Order. Mr. Segal is the only one who  
1429 responded. The order came out in January. Regulations came  
1430 out in March. I would submit no. No one else responded to  
1431 that question by Mr. Green. Yes, quickly

1432 Ms. {Steinzor.} Can I just ask if you are concerned  
1433 about the schedule, wouldn't it be more straightforward to  
1434 try and amend the Clean Air Act?

1435 Mr. {Shimkus.} Well, I think through the court rulings,  
1436 the court rulings already said, which we disagree with, that

1437 the Clean Air Act was designed for criteria pollutants. We  
1438 disagree with the court ruling that CO<sub>2</sub>, which is a non-toxic  
1439 emittant, is a criteria pollutant.

1440 Let me move on. I don't have enough time to debate you.  
1441 You are always welcome to come visit with me in the office.

1442 Mr. Bailey, tell me about this big slush funds that you  
1443 have developed in your co-op over the last 10 years or 30  
1444 years because you haven't complied with some futuristic view  
1445 of rules that are coming down? Do you have one?

1446 Mr. {Bailey.} Well, as I said, we are nonprofit.

1447 Mr. {Shimkus.} So you don't have a slush funds? You  
1448 haven't built up all this capital money?

1449 Mr. {Bailey.} Well, actually our net book value right  
1450 now is around \$980 million.

1451 Mr. {Shimkus.} So to comply with \$1 million of capital  
1452 development and equipment, what are you going to have to do?

1453 Mr. {Bailey.} Well, we are going to have to first get  
1454 some clarity to know exactly what the requirements are, and  
1455 then once you have that, you have to construct that.

1456 Mr. {Shimkus.} And the problem with the train wreck is,  
1457 there is no clarity.

1458 Mr. {Bailey.} That is right. I might point out,  
1459 though, of that \$980 net value, \$360 million of it is for  
1460 environmental equipment.

1461 Mr. {Shimkus.} Thank you.

1462 Dr. Ridgway, I wish I had more time to ask you more  
1463 questions. I also have Purdue boilermaker, Big 10, all that  
1464 good stuff, but Southern University at Carbondale has a power  
1465 plant. So what are you all going to do to pay for the  
1466 capital expense to meet the train wreck?

1467 Ms. {Ridgway.} The current mode that we have to do is  
1468 request fund from the States for capital improvements.

1469 Mr. {Shimkus.} And that is readily available in this  
1470 environment, right?

1471 Ms. {Ridgway.} Not so much.

1472 Mr. {Shimkus.} Tuition, tax increases, it is really  
1473 going to affect the bottom line of universities that operate  
1474 this.

1475 Ms. {Ridgway.} Absolutely, and I think our campuses are  
1476 expanding and these facilities are designed to supply heating  
1477 and cooling and electricity to all the campus buildings.

1478 Mr. {Shimkus.} Thank you. I am going to cut you off  
1479 because I want to get to this.

1480 Mr. Schaeffer, Ms. Claudia Rogers testified in the Small  
1481 Businesses Administration yesterday on the House Committee on  
1482 Oversight, and she says EPA now has the complete--it is right  
1483 here--`EPA now has completed the regulatory process which  
1484 has or will soon subject small businesses to the burden of

1485 Clean Air Act permitting, a burden that the tailoring rule  
1486 has failed to address for some and is only delayed by a few  
1487 years. Throughout the rulemaking process, our office has  
1488 informed EPA that it should adequately consider the impacts  
1489 of this program on small business.' I would like to submit  
1490 this for the record. You have testified that the  
1491 Administration has exhaustively reviewed this, did you not?

1492 Mr. {Schaeffer.} Yes, I did.

1493 Mr. {Shimkus.} Isn't the Small Business Administration  
1494 part of the Administration?

1495 Mr. {Schaeffer.} You know--

1496 Mr. {Shimkus.} My point is, I reject your premise.

1497 Mr. {Schaeffer.} Would you like an answer?

1498 Mr. {Shimkus.} Well, no, I am going to answer it  
1499 because the Small Business Administration is part of the  
1500 Administration. They testified yesterday this is disastrous,  
1501 and I will end up with Ms. Steinzor.

1502 You have been before us before. Just briefly, I will  
1503 just say you say it is a crystal ball to be able to project  
1504 cost, although you testified that the health benefits that go  
1505 out to 2025 can be made. So which is it? Is economic cost  
1506 projected out 25 years a crystal ball or are the health  
1507 savings projected out to 2020, 2025? Can you project health  
1508 benefits but not project economic costs?

1509 Ms. {Steinzor.} The health--

1510 Mr. {Shimkus.} Which is the real crystal ball?

1511 Ms. {Steinzor.} The health benefits have to do with  
1512 rules that have already been promulgated. Your legislation  
1513 deals with rules that haven't--

1514 Mr. {Shimkus.} You say we can't project economic costs  
1515 20 to 25 years out?

1516 Ms. {Steinzor.} When you have a final rule, you can,  
1517 but your legislation covers--

1518 Mr. {Shimkus.} You can't have it both ways. You can  
1519 project out to 2025.

1520 Mr. {Whitfield.} Mr. Matheson, who is the author of the  
1521 legislation with Mr. Sullivan, you are recognized for 5  
1522 minutes.

1523 Mr. {Matheson.} Thank you, Mr. Chairman. I appreciate  
1524 the time and appreciate the witnesses coming here today.

1525 You know, I think the goal behind this legislation, and  
1526 we are here to have a hearing to figure out if there are ways  
1527 to perfect it and make it better, but the goal as you look at  
1528 the situation where EPA right now has the ability to look at  
1529 costs and benefits of rules individually, and that is  
1530 important. The goal here is, maybe we ought to take a look  
1531 at how these things work when you put them all together, and  
1532 we want to harmonize that process, and I think that really is

1533 the goal. The goal is not necessarily to delay things. The  
1534 goal is to have some credible information where instead of  
1535 everyone working in their own little stovepipe, we are all  
1536 working together and looking at the cumulative impact, and if  
1537 there are suggestions among the witnesses, any of them, about  
1538 how to refine this legislation to meet those goals better  
1539 than the way it is written now, as one of the authors of the  
1540 legislation with Mr. Sullivan, we are open to that, and so  
1541 beyond the testimony today, if people want to submit other  
1542 ideas to us, I ask you to do that because that is where we  
1543 really coming from. We are not talking about focusing only  
1544 on costs. Mr. Schaeffer, I noticed from your testimony you  
1545 indicated you felt concern that the study would only focus on  
1546 study, but there is nothing in the legislation that mentions  
1547 specifically costs or benefits. The legislation talks about  
1548 effects and impacts across a variety of sectors, and I think  
1549 that is what we are looking for. So I don't think our intent  
1550 was to not include other considerations when we talk about  
1551 effects and impacts. There is a quick statement and I wanted  
1552 to ask a couple questions.

1553 First of all, Mr. Cauley, as you know, NERC is one of  
1554 the participants that is included in the study, and you have  
1555 already studied aggregate effects of four of EPA's pending  
1556 rules--cooling water intake structures, Utility Maximum

1557 Available Control Technology, Clean Air Transport Rule and  
1558 coal combustion residuals. Can you elaborate on the  
1559 recommendations NERC provided to manage the implications of  
1560 implementing those four rules to ensure power supply is not  
1561 disrupted?

1562 Mr. {Cauley.} Our study looked at plans that were in  
1563 place with existing resources and planned resources, and our  
1564 assessment determined that as much in the worst case if 78  
1565 gigawatts of generation would be impacted would become no  
1566 longer cost-effective to operate. So our concern as a  
1567 reliability organization is ensuring that if those rules were  
1568 put in place that we would have sufficient time and planning  
1569 to have alternative resources put in place, and that is our  
1570 job, is to look out into the future and see if there is  
1571 something bad going to happen for reliability.

1572 Mr. {Matheson.} Do you think it is possible to expand  
1573 that study for all of the rules that are listed in the draft  
1574 legislation?

1575 Mr. {Cauley.} I think as long as there is good  
1576 definition around the expected rules and obligations, I think  
1577 that kind of study can be done.

1578 Mr. {Matheson.} Mr. Bailey, you mentioned in your  
1579 testimony like a lot of electric utilities around the country  
1580 and in my district that because the rules from the EPA have

1581 not been coordinated, you are facing a lot of uncertainty  
1582 over how to plan for upgrades and comply with various  
1583 different deadlines. How do you think this act will help Big  
1584 Rivers with investment decisions and planning for your  
1585 facilities as you go forward?

1586 Mr. {Bailey.} Well, certainly if there is a coordinated  
1587 effort, it could lead to answers at least at the same time  
1588 and then presumably there will be a reasonable time to  
1589 implement, and certainly you have got certainty at that point  
1590 and feel much more comfortable proceeding.

1591 Mr. {Matheson.} Mr. Chairman, at this point that is all  
1592 the questions I have. I just want to reiterate, if people  
1593 have suggestions to meet the goals I talked about, we are  
1594 open. That is why we have hearings on draft legislation to  
1595 look for ideas, and we welcome suggestions. Thanks so much.  
1596 I yield back.

1597 Mr. {Whitfield.} Thank you, Mr. Matheson. Mr.  
1598 McKinley, you are recognized for 5 minutes.

1599 Mr. {McKinley.} Thank you, Mr. Chairman.

1600 I have got a series of observations, as I say. One was,  
1601 and I am sorry that the Congressman from California is not  
1602 here right now because he made the statement earlier, he said  
1603 that we should--his quote, ``We should consider the costs  
1604 when we are evaluating the benefits,' ' but yet we have had

1605 come before our committee members of the EPA that said that  
1606 is not their responsibility. I am not sure, there is a  
1607 contradiction there. If we should, then why aren't we doing  
1608 it? And I think that Dr. Ridgway has really hit on this,  
1609 this whole subject of uncertainty. As engineers, we deal in  
1610 certainty, and there was an issue, I think Mr. Schaeffer  
1611 talked about, we should follow the studies. The train wreck  
1612 was a known entity. We know when it was going to happen. We  
1613 could see it on a chart. But yet here are two reports that  
1614 show the uncertainty with this is that--I would like to enter  
1615 these in the record if I could get unanimous consent to admit  
1616 these. These are reports that were done in 1993 and 2000  
1617 that said, for example, fly ash is not a hazardous material  
1618 but yet the EPA is going to impose that. That is the  
1619 uncertainty we are talking about. You can have a schedule,  
1620 but when you are dealing in the real world where the EPA  
1621 rejects its own studies and does this, I just find that  
1622 unconscionable. It is no wonder that Purdue and other  
1623 universities and other coal-fired generating houses are  
1624 scared to death of what is going to happen as it relates to  
1625 the fly ash.

1626 I am just curious, if I could ask a question of you, Dr.  
1627 Ridgway, how much money is that going to cost Purdue by not  
1628 being able to implement their project?

1629 Ms. {Ridgway.} The boiler project or for the coal ash?

1630 Mr. {McKinley.} Coal ash.

1631 Ms. {Ridgway.} From the coal ash standpoint, and we  
1632 generate coal ash right now, but our current cost for  
1633 handling for that material right now is about \$300,000 a  
1634 year. If EPA goes and classifies that material as hazardous  
1635 waste, it increases out cost to \$25 million a year to dispose  
1636 of that material.

1637 Mr. {McKinley.} But yet that is the frustrating part  
1638 here is to sit here as a new member and hear these people  
1639 come up and say that we are not supposed to consider the  
1640 cost. Where is that \$25 million going to come from? Is it  
1641 student fees? Is it going to be increased taxes? I am just  
1642 amazed at the insensitivity to people about these cost issues  
1643 of what they would be.

1644 But go to the boiler issue. How much more is the--by  
1645 not being able to--you were going to put a new boiler in, a  
1646 new high-efficiency unit in?

1647 Ms. {Ridgway.} Yes, we were going to add capacity to  
1648 our existing combined heat and power facility. It was a  
1649 clean coal technology boiler, and because of regulatory  
1650 uncertainty, we have not moved ahead with that project. So  
1651 we still have to provide steam to campus and we still have to  
1652 provide chilled water, and we will be purchasing more

1653 electricity because we will be unable to generate that power  
1654 in-house, which is what we historically have been able to do,  
1655 and I don't have the specific numbers but I can certainly get  
1656 that to you later.

1657         Mr. {McKinley.} Thank you. I think you have gone right  
1658 to the core of this train wreck, the uncertainty that is  
1659 swirling around. We are seeing companies who use fly ash,  
1660 that use fly ash in concrete as an additive. They use fly  
1661 ash in drywall manufacturing and they are scared right now.  
1662 They don't know what to do. Everyone is frozen in place  
1663 because of the uncertainty of this regulatory activism from  
1664 the EPA. Companies are afraid to do anything with it. So  
1665 what we are going to wind up doing is we are either going to  
1666 lose jobs, we are going to spend a lot more money and we are  
1667 just going to cause people concern, and I don't think that is  
1668 our mission here in Washington to do that.

1669         A major powerhouse that was going to burn Ohio has  
1670 switched over to gas because of the uncertainty that you have  
1671 dealt with at Purdue. That means thousands of jobs have been  
1672 lost in the coal industry of West Virginia and all through  
1673 Appalachia because of the uncertainty of the EPA. I have got  
1674 a chemical plant in my district that is seriously  
1675 considering, they are taking designs right now to switch from  
1676 coal over to gas. That is going to cost West Virginia and

1677 Appalachia thousands of jobs over a period of years. I can't  
1678 thank you enough for coming here, Ms. Ridgway, to be able to  
1679 talk about this issue. You have an exact example of why we  
1680 should be more concerned about reining in this rogue agency.  
1681 Thank you very much for coming.

1682 Ms. {Ridgway.} Thank you.

1683 Mr. {Whitfield.} Thank you, Mr. McKinley, and Ms.  
1684 Capps, you are recognized for 5 minutes.

1685 Mrs. {Capps.} Thank you very much, Mr. Chairman, and I  
1686 want to express my thanks to each one of our witnesses for  
1687 their presence here today and your testimony.

1688 Mr. Schaeffer, we have heard a lot of concern today  
1689 about the notion that EPA has decided to impose multiple  
1690 regulations in the upcoming years, but as you point out,  
1691 these regulations are long overdue and industry has had years  
1692 to plan to meet and there are no surprises here. There has  
1693 been a lot of time to plan to meet these requirements. Would  
1694 you discuss the impacts of this delay on industry and on the  
1695 public? I know you brought it up in your testimony but just  
1696 so we get this clear in the record.

1697 Mr. {Schaeffer.} Congresswoman Capps, as I was trying  
1698 to explain earlier, that we do have some power companies that  
1699 have gotten ahead of the curve and, yes, in some cases have  
1700 made the decision to switch to gas. In, you know, a market

1701 economy, we are going to see those decisions, and some of  
1702 that is driven by regulation. A lot of it is driven by the  
1703 fact that gas is a cheaper fuel now, and I thought I had read  
1704 that Purdue had switched a boiler to gas that they were  
1705 planning to build for that reason. In the State of Maryland,  
1706 we have got very strict requirements that haven't seemed to  
1707 affect the use of coal in the State. We still have big coal  
1708 plants. It is just that they are well scrubbed and well  
1709 controlled. So if you have a company that has banked on  
1710 delay and waited until the last minute, hasn't looked at the  
1711 deadlines, hasn't followed the litigation, hasn't anticipated  
1712 these rules, yes, they are going to face some significant  
1713 cost but you have others that have gotten far ahead of it.

1714       The point I was also trying to make earlier is, if you  
1715 have not spent much to comply with requirements that are  
1716 coming, if you haven't scrubbed your plant, for example, and  
1717 you have got a 60-year-old coal plant designed to last 30  
1718 years, you are going to have to pay for some pollution  
1719 controls, and to be shocked that that is arriving now I think  
1720 is--I don't understand that. I don't see how anybody could  
1721 not see that coming.

1722       Mrs. {Capps.} Thank you.

1723       Given the importance of these regulations to public  
1724 health, I would hope that any desire to understand the

1725 cumulative impacts of regulations would not in themselves  
1726 become obstacles to their implementation. A cumulative  
1727 estimate of regulatory impact can only have value if it is  
1728 credible. I am concerned that the report envisioned by this  
1729 bill will be rife with uncertainties and will be attacked by  
1730 all the stakeholders, as one example, which has come up  
1731 before, coal ash. The committee would be asked to analyze  
1732 the impact of coal ash regulations along with other rules,  
1733 even if that regulation is not finalized. We have heard  
1734 conflicting testimony today about the potential impacts of  
1735 regulating coal combustion waste because there are still a  
1736 number of unknowns with regard to the rule. It is not known  
1737 whether regulation will occur under subtitle C or D, as one  
1738 example. It is not known whether regulation under subtitle  
1739 D, which would create no federally enforceable requirements,  
1740 would have a significant impact. And it is not known whether  
1741 regulation under subtitle C would impact beneficial reuse  
1742 because of stigma effects.

1743         So in order to form the analysis required by this bill,  
1744 the committee would need to fill in those unknowns with  
1745 assumptions, no choice that will be supported by all  
1746 stakeholders, and we can illustrate that right here today. I  
1747 could ask three of you a question, which I will now, to  
1748 demonstrate.

1749 Dr. Ridgway, if the committee assumes subtitle C  
1750 regulation and little impact on beneficial reuse, would you  
1751 view the resulting analysis as credible?

1752 Ms. {Ridgway.} I am not sure I can speak to that  
1753 because I don't know what information goes into that  
1754 analysis.

1755 Mrs. {Capps.} That is exactly the point. So really, to  
1756 be honest, then you would have to say, no, I couldn't just  
1757 for all the reasons you said.

1758 Ms. Steinzor, on the other hand, if the committee  
1759 assumes subtitle C regulation and a halt to beneficial  
1760 refuse, would you view the resulting analysis as credible?

1761 Ms. {Steinzor.} No.

1762 Mrs. {Capps.} And Mr. Schaeffer, if the committee  
1763 assumes subtitle D regulation and nationwide compliance with  
1764 the resulting guidelines, would you view the resulting  
1765 analysis as credible? Well, there you have it. There shows  
1766 where we are. Our panel of seven stakeholders can't agree on  
1767 the impact of one rule, let alone the cumulative impact of  
1768 the rule and Clean Air Act regulation. I cannot imagine how  
1769 a committee of Cabinet Secretaries and Mr. Cauley is going to  
1770 produce a credible estimate of the impact of these listed  
1771 rules, let alone the additional rules that aren't listed, and  
1772 that would be with all the time in the world, not within the

1773 one month that they appear to have under this bill, and I  
1774 have used as much time as I have.

1775 I appreciate the opportunity. Thank you, Mr. Chairman.  
1776 I will yield back.

1777 Mr. {Whitfield.} Mr. Olson, you are recognized for 5  
1778 minutes.

1779 Mr. {Olson.} I thank the chair, and before I get  
1780 started, I would like to identify myself with the comments  
1781 from my colleague from Texas, Mr. Green, who said that we  
1782 like gas in Texas. We like it a lot.

1783 Welcome to the witnesses. I am grateful for your  
1784 expertise and your patience today.

1785 My dad spent his entire career in the paper industry,  
1786 over 35 years, mostly in the white mills across our country.  
1787 I know firsthand knowledge that the industry is committed to  
1788 clean air and clean water. So my first question is for you,  
1789 Mr. Hess. The proposed Cooling Water Intake Rule, 316(b),  
1790 subjects facilities beyond electric generation facilities to  
1791 regulation including paper manufacturers and oil refineries.  
1792 Will these facilities be able to comply with the criteria in  
1793 the proposed rule and what are the economic impacts? Put  
1794 another way, is the technology there and what is it going to  
1795 cost?

1796 Mr. {Hess.} I can't speak to the details of that

1797 regulation because I have a staff, just as you have a staff,  
1798 that advises me on environmental regulations, but I can tell  
1799 you it is going to cost a lot because the environmental  
1800 regulations that we have implemented at Spring Grove to  
1801 address the EPA MACT and other rules have cost \$50 million at  
1802 the end of the 1990s and we are looking at \$10 million to \$20  
1803 million for Boiler MACT currently, and if the original MACT  
1804 program is revised, we are looking at another \$10 million to  
1805 \$20 million. I don't have the specifics on the regulation  
1806 you referenced but I am just giving you a taste of the impact  
1807 that we have had at the Spring Grove mill.

1808         Mr. {Olson.} Thank you, sir. So I assume that is a  
1809 pretty negative impact on our ability to compete in the  
1810 global market?

1811         Mr. {Hess.} Yes, sir, that is the major concern that I  
1812 have is that we do compete in the global marketplace and  
1813 that all these costs, the cumulative costs have to get passed  
1814 through the supply chain, which makes us less competitive in  
1815 the marketplace, makes imports and other countries have lower  
1816 cost products, and at the end of the day he who has the best  
1817 product at the lowest cost wins. We can compete in the  
1818 global marketplace if we are playing on a fair playing field  
1819 but today we are not because no other country plans to  
1820 regulate as the train wreck is coming.

1821           Mr. {Olson.} Yes, sir, and that is something we are  
1822 here to stop.

1823           Mr. Segal, my next question is for you, sir. In your  
1824 opinion, do you think EPA has been proactive during the  
1825 rulemaking process and explaining to stakeholders and the  
1826 public the reasons for certain regulations and potential jobs  
1827 and economic impacts of those regulations?

1828           Mr. {Segal.} Well, the best thing to point to to answer  
1829 that question, Mr. Olson, is to look at the Regulatory Impact  
1830 Analysis that the EPA released when it advanced its rule, and  
1831 it is a very, very curious document. I don't commend it to  
1832 you. It is north of 500 pages and it will cure any insomnia,  
1833 but the good part about it is, it really lays bare a lot of  
1834 what is going on here. One of the critical assumptions the  
1835 agency made and that explains why they say the cost of that  
1836 rule is much less than everybody else who is taking a look at  
1837 this rule is they make an assumption about certain  
1838 technologies that could be used so that you wouldn't have to  
1839 install scrubbers necessarily. So we thought this was very  
1840 curious because, you know, my clients actually make power.  
1841 You know, we know a thing or two about that technology so we  
1842 thought we would take a look. And we followed, like with so  
1843 many things, you had to follow the footnotes, and when you  
1844 do, you find, you know, there is no study on the technology

1845 they cited. There is a 5-page PowerPoint presentation that  
1846 says as one of its recommendations hey, we did a 2-week study  
1847 here, we ought to see if it scalable and could actually be  
1848 used on a power plant, and the EPA accepted that with 100  
1849 percent confidence in order to lower their cost assessment of  
1850 the rule. If we had done that in a rulemaking comment or  
1851 worse yet, in our of our corporate reports on our earnings,  
1852 can you imagine the hue and cry that would have been raised?  
1853 But apparently for EPA, you know, when it comes in their  
1854 favor making untransparent assumptions is a great way to  
1855 reduce costs in your Regulatory Impact Analysis, and that is  
1856 just one example. We have many other examples that would  
1857 illustrate the point.

1858 I do want to make one other point, though, sir. We have  
1859 heard over and over again these companies have known for 20  
1860 or 30 years what the rules would be, they have been living on  
1861 the hog by simply not complying for the intervening 20 years.  
1862 The trouble is, there is a fundamental disagreement between  
1863 Professor Steinzor and Mr. Schaeffer. See, Mr. Schaeffer  
1864 says that 20 years in advance you ought to know what all the  
1865 details of the rule are just by looking at what the statutory  
1866 obligation is. Ms. Steinzor says you can't possibly do an  
1867 assessment, an economic assessment of a rule until you have  
1868 the final rule, which, by the way, strikes me as reasonable.

1869 And it therefore strikes me that Mr. Schaeffer is perhaps not  
1870 so reasonable in suggesting that people have known for 20  
1871 years what their obligation was. I think he knows that and I  
1872 know that. I think all of you should know it to.

1873 Mr. {Olson.} Thank you, and that is why I have  
1874 introduced a bill to make sure that EPA puts in a study the  
1875 numbers of job gains or losses from any regulation, and  
1876 again, ``curious,`` that is not a word we want to use in a  
1877 regulatory environment. Thank you for your time.

1878 Mr. {Whitfield.} Thank you, Mr. Olson. Mr. Inslee, you  
1879 are recognized for 5 minutes.

1880 Mr. {Inslee.} Thank you, Mr. Segal. You represent  
1881 something called the Electric Reliability Coordinating  
1882 Council. How many companies are members of that coalition?

1883 Mr. {Segal.} I think eight.

1884 Mr. {Inslee.} And could you give us their names,  
1885 please?

1886 Mr. {Segal.} Sure.

1887 Mr. {Inslee.} Thank you. You don't have to right now  
1888 but if you could just give it to us for the record, I would  
1889 appreciate that.

1890 Mr. Schaeffer, my understanding of this proposed  
1891 legislation would basically assess some of the costs  
1892 associated with some regulatory compliance, particularly for

1893 things adopted to try to improve the environment and  
1894 therefore improve the health of Americans. My understanding  
1895 of the legislation is, it does not attempt to assess the  
1896 value to health of Americans that would be associated with  
1897 compliance with those rules nor does it assess the  
1898 improvement in economic performance associated with that  
1899 corresponding health improvement of Americans, nor does it  
1900 represent the economic growth associated with a lot of the  
1901 technologies associated with compliance with these rules. I  
1902 have to tell you, I just can't understand why we would on any  
1903 of these issues look at just cost and not benefits, unless  
1904 you would assume there is never a benefit of anything the  
1905 government has ever done in human history. So I guess the  
1906 question is, is my assessment of the legislation correct in  
1907 that regard, and can you fathom any reason why we wouldn't  
1908 want to look at benefits as well as cost?

1909       Mr. {Schaeffer.} I haven't, Congressman, and I heard  
1910 earlier that balance was the goal. I have a copy of the  
1911 draft and now I am concerned that I may not have the right  
1912 copy because I am looking at the list of the things that the  
1913 agencies would be required to study. I see no mention of  
1914 health. I see no mention of the economic issues you just  
1915 mentioned on the other side of the ledger, and it is possible  
1916 I have the wrong copy or an earlier draft.

1917 Mr. {Inslee.} So let me ask the panel--

1918 Mr. {Whitfield.} I think you have the right draft.

1919 Mr. {Schaeffer.} Well, I have the list in front of me  
1920 and I heard Congressman Matheson suggest that health was in  
1921 here, and I don't see it.

1922 Mr. {Inslee.} So let me ask the panel, do any of the  
1923 panelists--I am trying to figure why we would ever embrace  
1924 this idea of looking at just costs and not benefits of  
1925 proposals. That just doesn't make sense to me, unless you  
1926 hold certain perceptions. So let me ask you this. Do any of  
1927 the panel members believe that there has never been a benefit  
1928 to human health that came from EPA regulations? Do any  
1929 members believe that on the panel? So we are all on board  
1930 that at least in some instances the EPA helps Americans'  
1931 health. So that is not a reason for not looking at the  
1932 benefits.

1933 I would be open to any of you suggesting why if we are  
1934 trying to make intelligent decisions about hard regulatory  
1935 decisions here, can anyone advance a reason to ignore an  
1936 evaluation by the U.S. government of the benefits associated  
1937 with any of these regulatory activities? Can anybody suggest  
1938 a reason why we would only look at the costs? Mr. Segal has  
1939 raised his hand.

1940 Mr. {Segal.} Well, you are not going to like me for

1941 suggesting this but I will say this.

1942 Mr. {Inslee.} I haven't formed an opinion yet.

1943 Mr. {Segal.} That is right, and that is why I fear that  
1944 we will be moving in that direction. I am going to suggest  
1945 that it is hard to accumulate benefits in environmental  
1946 rules, and let me explain why. You know, since I have come  
1947 to Washington, almost every clean air rule claims particulate  
1948 matter benefits as a reason to adopt that rule. Now, I have  
1949 come to the conclusion, sir, that some of these benefits are  
1950 the same benefits that are being claimed for multiple rule  
1951 after multiple rule, even though the costs, because they are  
1952 requiring new pieces technology, are not the same cost. So I  
1953 would be okay with accumulating, doing a cumulative analysis  
1954 of benefits if we back out--and I cover this in my statement--  
1955 -if we back out double counting of benefits that goes on when  
1956 rule after rule after rule uses the same homework. EPA's  
1957 own analysis on Utility MACT said we didn't do any effort to  
1958 estimate the benefits of actually reducing hazardous air  
1959 pollutants. All we did was plug in the old PM numbers that  
1960 we used last time around. That is bad homework.

1961 Mr. {Inslee.} I think I understand what you are saying.  
1962 So you wouldn't have an objection then if this committee  
1963 amended this bill to say let us look at the health benefits  
1964 and subsequent economic benefits of some of these rules and

1965 because cautious not to allow double benefits to be counted?

1966 But the general idea is--

1967 Mr. {Segal.} I would like to work on something like  
1968 that and really focus in on that double counting.

1969 Mr. {Inslee.} Well, let me just ask you, don't you  
1970 agree we ought to look at the benefits of these rules in this  
1971 legislation as well as the cost, Mr. Segal? Would you agree  
1972 as a general principle we ought to do that?

1973 Mr. {Segal.} I was curious about Mr. Matheson's  
1974 statement too, and I looked at the bill, and it says that you  
1975 are supposed to look at cumulative impact and then it says  
1976 ``impact is supposed to include'' and it lists all these  
1977 economic factors. But, I mean, I guess cumulative impact  
1978 could other things too. It is not exclusive of that list, so  
1979 maybe that is what Mr. Matheson meant. I don't know. I  
1980 haven't talked to Mr. Matheson about it.

1981 Mr. {Inslee.} Thank you.

1982 Mr. {Whitfield.} Thank you, Mr. Inslee. At this time,  
1983 Mr. Griffith, you are recognized for 5 minutes.

1984 Mr. {Griffith.} Thank you, Mr. Chairman.

1985 Mr. Segal, going back to this report, I was very  
1986 interested in your comments in regard to how the EPA lowered  
1987 their costs by using a slide deck that they then extrapolated  
1988 from in order to lower the cost. Am I not correct that if

1989 this was a corporation doing that, that the people who knew  
1990 they were lowering that to make it look like there was less  
1991 cost would suffer criminal penalties?

1992 Mr. {Segal.} I tell you, if it was a corporation and we  
1993 based representations in our quarterly filings on something  
1994 like that, we would be in a world of trouble. If it were a  
1995 law firm basing legal analysis on that, we would be in a  
1996 world of trouble but the EPA felt pretty comfortable with it.

1997 Mr. {Griffith.} A world of trouble includes criminal  
1998 penalties, does it not?

1999 Mr. {Segal.} That is not my field of practice but I  
2000 wouldn't call you a liar.

2001 Mr. {Griffith.} All right. Thank you. And I am not  
2002 sure on each case but it was my area of practice.

2003 Mr. {Segal.} All right.

2004 Mr. {Griffith.} Let me shift gears. Mr. Hess, thank  
2005 you very much for being here. Some of the folks on this  
2006 committee who are getting to know me think that all we do in  
2007 south West Virginia is coal because I talk about it all the  
2008 time, but we also have textiles and cellulose production and  
2009 paper production, and most of the pressure on our industry in  
2010 our area, and I want to know if this is true nationally, is  
2011 from Scandinavia and South America. Would that be true  
2012 nationally, or is that just my particular area?

2013 Mr. {Hess.} That is part of the pressure. There is  
2014 also pressure from Asia, I mean, and from China as well.

2015 Mr. {Griffith.} All right. And the plant in my  
2016 district that employs a lot of the folks in the Allegheny  
2017 highlands indicated that they had a chart similar to the one  
2018 that we have got here from Edison with all the different  
2019 things coming at them in the next few years, and if they get  
2020 to a certain point they are just not going to be able to  
2021 survive the market pressures and that they would probably  
2022 have to move to properties in another country. Is that true  
2023 nationally, you are finding that to be the same situation,  
2024 that most of these companies, if all of these hit them at one  
2025 time they are just going to have no choice but to go  
2026 somewhere else?

2027 Mr. {Hess.} I can guarantee you that as part of the  
2028 options analysis that companies are going through, they are  
2029 looking at whether they can maintain their operation within  
2030 the United States, and because of the confusion that is  
2031 associated with the rules and the uncertainty and the  
2032 magnitude of change that is coming at the pace it is coming,  
2033 it is impossible to plan appropriately in the business, and I  
2034 can tell you right now, we are looking at the possibility of  
2035 boiler shutdown as well because of these type of rules.

2036 Mr. {Griffith.} And not every plant can switch over to

2037 natural gas, can they?

2038           Mr. {Hess.} No, not every plant can switch over to  
2039 natural gas, and clearly the boiler MACT rules are pushing  
2040 plants towards natural gas. We are doing a natural gas  
2041 study. But not every plant has the infrastructure to burn  
2042 natural gas. In addition, you know, part of what makes a  
2043 paper company successful is being able to burn biomass  
2044 residuals, and there is a whole sister act with regard to  
2045 biomass residuals being classified as solid waste.

2046           Mr. {Griffith.} Let me underline also that few of our  
2047 furniture manufacturers have survived, and they do the same  
2048 thing. They burn off the leftover biomass, the wood pieces  
2049 that they don't use.

2050           Mr. {Hess.} And that is what the President himself has  
2051 encouraged business to do. It is a renewable resource,  
2052 biomass, and with the regulations coming down, with the  
2053 sister regs about the biomass being classified as solid  
2054 waste, it will trigger incinerator MACT for some of these  
2055 plants and encourage them not to burn biomass but instead  
2056 convert to fossil fuel, which is exactly opposite of what the  
2057 Administration is pursuing.

2058           Mr. {Griffith.} Let me switch to you, Dr. Ridgway. We  
2059 have some public universities in the same plight that Purdue  
2060 is in, but I am wondering if you can tell me, because I think

2061 it is true, that there are a lot of independent, non-public  
2062 universities and colleges, maybe not as big as Purdue but who  
2063 are in a similar plight, but they don't have anybody but the  
2064 students to go to to pay for this. Isn't that true? Because  
2065 they don't have taxpayers that they can ask for increased  
2066 money to pay for some of these things.

2067 Ms. {Ridgway.} I honestly can't speak to the funding  
2068 mechanisms of other institutions. I just know our own  
2069 process.

2070 Mr. {Griffith.} But you said earlier that you would  
2071 have to go and ask the State for more money. If you don't  
2072 have the State and all you have are the parents and the  
2073 students who are going to the school, it would make sense,  
2074 would it not, that they would end up having to bear the cost  
2075 through higher tuition?

2076 Ms. {Ridgway.} It is possible, but I won't commit to  
2077 that.

2078 Mr. {Griffith.} All right. And it is possible that if  
2079 the State doesn't have the money, that the trustees of any  
2080 public institution including Purdue might be forced to ask  
2081 the students for a tuition increase. Isn't that true?

2082 Ms. {Ridgway.} It is an avenue that is available.

2083 Mr. {Griffith.} And so in essence, one thing that could  
2084 be the result of this is higher tuition and making it more

2085 difficult for middle-class and lower-income families to be  
2086 able for their children to get an education and thus damage  
2087 America's future. Isn't that also true?

2088         Ms. {Ridgway.} You have got to get the money from  
2089 somewhere.

2090         Mr. {Whitfield.} Mr. Griffith, thank you very much, and  
2091 that will conclude today's hearing. We appreciate all of you  
2092 taking time to be with us. We do intend to continue to look  
2093 at this legislation. I anticipate that we will try to move  
2094 this legislative and look forward to working with all the  
2095 members of the committee to make it the most effective that  
2096 we can. And once again, I apologize to you all for the delay  
2097 that we had during the votes but we look forward to working  
2098 with you on this issue and others as we move forward.

2099         The record will remain open for 10 business days for  
2100 additional material to be inserted.

2101         With that, the meeting is adjourned. Thank you.

2102         [Whereupon, at 4:37 p.m., the Subcommittee was  
2103 adjourned.]