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3 HEARING ON H.R. _____, THE ENERGY TAX PREVENTION ACT OF 2011

4 WEDNESDAY, FEBRUARY 9, 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 9:38 a.m., in
10 Room 2123 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, Scalise, McMorris Rodgers,
14 Olson, McKinley, Gardner, Pompeo, Griffith, Barton, Upton (ex
15 officio), Rush, Inslee, Matheson, Dingell, Markey, Engel,
16 Green, Capps, Doyle and Waxman (ex officio).

17 Staff present: Mary Neumayr, Senior Energy Counsel;
18 Peter Spencer, Professional Staff Member; Maryam Brown, Chief

19 Counsel, Energy and Power; Elizabeth Lowell, Legislative
20 Clerk;, Ben Lieberman, Counsel; Cory Hicks, Policy
21 Coordinator, Energy and Power; Phil Barnett, Democratic Staff
22 Director; Greg Dotson, Democratic Chief Counsel, Subcommittee
23 on Energy and Power; Alexandra Teitz, Senior Democratic
24 Counsel; and Caitlin Haberman, Democratic Policy Analyst.

|

25 Mr. {Whitfield.} I would like to call this hearing to
26 order this morning. The topic of our hearing, it is a
27 legislative hearing on the Energy Tax Prevention Act of 2011.
28 I certainly want to welcome the members of the subcommittee.
29 I look forward to working with all of you as we seek to craft
30 an energy and environmental strategy and policy that will be
31 in the best interest of the American people, and I believe
32 that can best be accomplished by Congress and the EPA working
33 together. Congress intends to reassert itself in the
34 statutory and regulatory process at EPA.

35 I am pleased to be serving again with my friend and
36 colleague, the ranking member, Mr. Rush. We served on the
37 CTCP Subcommittee in the last Congress, and I look forward to
38 working with him as well as all members of the subcommittee.

39 I also want to thank our witnesses today and thank them
40 for being here to help us look at this very important issue.
41 We are going to have four panels of witnesses today, and all
42 of them are going to provide us with information that is
43 going to be helpful as we move forward.

44 Today's hearing is going to focus on greenhouse gas
45 rulemaking within the Environmental Protection Agency that
46 many of us believe attempts to address an issue properly
47 within the purview of the Congress, and then we are also

48 going to be talking about legislation that has been
49 introduced that would restore the proper balance to decision-
50 making affecting greenhouse gases.

51 The Obama Administration has been the most aggressive in
52 recent memory. As a matter of fact, six rules were issued on
53 Christmas Eve and there is a pipeline full of regulations
54 waiting to be issued, and States frequently are not being
55 given adequate time to reexamine and rewrite State
56 implementation plans to respond to this aggressive pace. I,
57 like others, have been besieged with calls from entities all
58 over the country complaining about EPA's attempt to regulate
59 greenhouse gases. Congress has made its will crystal clear
60 on this issue. Our esteemed colleague, Chairman Emeritus
61 John Dingell on the Democratic side, who led the negotiations
62 on the 1990 Clean Air Act Amendments, wrote, ``I would have
63 difficulty concluding the House-Senate conferees who rejected
64 the Senate greenhouse gas regulatory provisions contemplated
65 regulating greenhouse gas emissions or addressing global
66 warming under the Clean Air Act.'' As recently as 2008, Mr.
67 Dingell warned that regulating greenhouse gases under the
68 Clean Air Act rather than new legislation would lead to, as
69 he said, glorious mess. And then on July 25, 1997, Senate
70 Resolution 98 expressing the sense of the Senate that the
71 United States not be a signatory to the Kyoto Protocol that

72 would have required the United States to reduce greenhouse
73 gas emissions was approved by the Senate by a vote of 95 to
74 nothing. And when the 111th Congress revisited this issue
75 last year, it responded with a resounding no to regulating
76 greenhouse gases by not passing the so-called cap-and-trade
77 bill.

78 Although Congress has made its position abundantly clear
79 not to regulate greenhouse gases, we now have a bureaucracy,
80 unelected staff at EPA and the courts pushing the United
81 States down a path that in my opinion will cost jobs and make
82 us less competitive in the global marketplace. Furthermore,
83 what is worse about this is that technology is not available
84 to capture greenhouse gases, and we do not have any idea what
85 the cost versus the benefits will be. And if the tailoring
86 rule is determined to be a violation of the Clean Air Act,
87 which is certainly possible, EPA applying the statutes
88 permitting these thresholds has estimated that over 6 million
89 sources in our country would need to obtain Title V operating
90 permits and also it would lead to 82,000 permitting actions
91 annually under the preventing significant deterioration
92 formula, and it has also been estimated at EPA that doing
93 that would estimate a cost of \$22.5 billion it would cost
94 permitting authorities in the United States.

95 So good energy policy is about expanding choices. All

96 of us know that our energy demands are going to basically
97 double by the year 2035 and we are going to need energy from
98 all sources to meet the demands of this country. We are
99 going to renewables, we are going to need natural gas, coal,
100 nuclear, everything, and I do get the sense that sometimes
101 those people who are pushing this country down a quick
102 pathway to green energy are more interested in putting fossil
103 fuels out of business than they are working to solve this
104 problem. We recognize that we have to have energy from all
105 sources.

106 So I am delighted that you are here today. We look
107 forward to the testimony of all of you.

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

109 ***** COMMITTEE INSERT *****

|
110 Mr. {Whitfield.} At this time I would like to recognize
111 the gentleman from Illinois, the ranking member of the
112 subcommittee, Mr. Rush, for 5 minutes for his opening
113 statement.

114 Mr. {Rush.} Thank you, Mr. Chairman, and I want to
115 thank you very much for this opportunity. I want to
116 congratulate you on your selection to become chairman of the
117 Energy and Power Subcommittee. As you have indicated, I too
118 enjoyed very much working with you when you were the ranking
119 member of the Subcommittee on Commerce, Trade and Consumer
120 Protection. You and I worked together hand and hand to move
121 a lot of legislation through the subcommittee in the 111th
122 Congress, and I look forward to the same outcomes in the
123 112th Congress.

124 Unfortunately, I can't say that the discussion draft
125 that we are taking up today exemplifies good legislation.
126 Before delivering my opening statement, Mr. Chairman, I want
127 to get a few things off my chest. I really have a bone to
128 pick. I know that this is a new Congress and a new majority
129 has come in with it. That said, our committee rules,
130 procedures and decorum have remained substantially the same.
131 Mr. Chairman, if we are not careful to set the right course
132 of action moving forward, we will find ourselves lost in a

133 sea of confusion, and we get our sea legs underneath us, we
134 must try to do better.

135 I am extremely troubled by the Majority's stubborn
136 resistance to inviting credible witnesses at this hearing who
137 think and believe the EPA has a duty and the authority under
138 the Clean Air Act to regulate greenhouse gases. Stacking
139 different cards with the same suit will rig the outcome
140 before the first hand is even dealt. But that isn't what the
141 American people and the American taxpayer want, and that is
142 certainly not what they deserve. This is the House of
143 Representatives. We represent all the American people and
144 all businesses and public interest, not just some of them or
145 the ones who support what we and our little circles want to
146 do and desire to do.

147 As I said earlier, this hearing's focus is on a
148 legislative draft known as the Upton-Inhofe Energy Tax
149 Prevention Act. The draft bill will eviscerate the EPA by
150 repealing indispensable responsibility and authority the
151 agency holds under the Clean Air Act to preserve and protect
152 human health, our environment, and to promote more efficient
153 use of energy. It would further overturn a Supreme Court
154 decision affirming a lower court's ruling that the EPA has
155 the authority to regulate greenhouse gases and it would
156 prohibit the State of California from regulating greenhouse

157 gas emissions from automobiles as well as stop the EPA from
158 taking further steps in reducing tailpipe emissions. Mr.
159 Chairman, it goes without saying that this proposal before us
160 overreaches by large limits, and Mr. Chairman, this gets me
161 to what my big rub is today. What irritates me the most is
162 the Majority's refusal to invite the Administrator of the
163 EPA, Ms. Lisa Jackson, to testify at today's hearing. The
164 only reason that Administrator Jackson is appearing before us
165 today is because we here in the Majority had to kick and
166 scream and scratch so that Madam Administrator could have her
167 day and the opportunity to defend her agency's findings and
168 judgments here in the halls of Congress. How can we
169 formulate good public policy or look at ourselves as fair and
170 decent lawmakers if Congress as a body doesn't solicit the
171 expert views of the EPA on this legislation? And as a Member
172 of Congress, I want to hear as many pertinent viewpoints as I
173 am able to hear before deciding how to cast my votes on
174 pieces of legislation that are critical to the welfare of our
175 economy, our own safety as human beings and preservation of
176 our planet.

177 Mr. Chairman, it goes without saying that we should not
178 have to push this hard to get key officials and important
179 witnesses invited to hearings of this magnitude, and that is
180 one reason why, Mr. Chairman, I ask for unanimous consent to

181 enter into the record a response dated December 8, 2010, to a
182 Wall Street Journal editorial entitled ``The EPA
183 Permitorium.'' Mr. Chairman, with that said, I yield back
184 the balance of my time.

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

186 ***** COMMITTEE INSERT *****

|
187 Mr. {Whitfield.} I thank the gentleman for that opening
188 statement, and we do look forward to hearing Ms. Jackson.
189 She will be here on the second panel, and we all will look
190 forward to her testimony.

191 At this time I would like to recognize for 5 minutes the
192 chairman of the committee, Mr. Upton of Michigan.

193 The {Chairman.} Well, thank you, Mr. Chairman. It is a
194 delight to be here, and I would just open my remarks by
195 saying that it was the Minority that asked for Administrator
196 Lisa Jackson to come, and we are delighted to have her, and
197 with nature, she has got a good parking place right outside
198 the door as well. In all seriousness, that was the
199 Minority's request and we are certainly delighted to make
200 sure that it happened.

201 This hearing really is about job creation. It is a
202 simple goal but unfortunately one that Washington lost sight
203 of in the last few years. No more. Cap-and-trade
204 legislation failed in the last Congress in that it did not
205 get through the Senate or to the President's desk but now we
206 face the threat of the EPA bureaucrats imposing the same
207 agenda through a series of regulations. Like cap and trade,
208 these regulations would boost the cost of energy not just for
209 homeowners and car owners but for businesses large and small.

210 EPA may be starting by regulating only the largest power
211 plants and factories but we will all feel the impact of
212 higher prices and fewer jobs.

213 These regs go after emissions of carbon dioxide, the
214 unavoidable byproduct of using coal, oil and natural gas that
215 provides the Nation with 85 percent of its energy. These
216 fossil fuels are such an important part of our energy mix
217 because they are often the most affordable choice. EPA regs
218 seek to take away that choice by making the use of these
219 fuels prohibitively expensive. It is worth noting that for
220 all the mentions of clean energy in the President's State of
221 the Union, he never once mentioned keeping energy affordable.
222 Affordable energy is what keeps our economy moving.

223 We live in global marketplace filled with manufacturers
224 working to produce high-quality goods at the lowest cost. I
225 know American manufacturers can compete but not if they are
226 saddled with burdensome regs that put us at a distinct,
227 unfair disadvantage.

228 Needless to say, the Chinese government and other
229 competitors have no intention of burdening and raising the
230 cost of doing business for their manufacturers and energy
231 producers the way EPA plans to do here in America. Our goal
232 should be to export goods, not jobs.

233 To do that, we released a draft, and it is a draft,

234 called the Energy Tax Prevention Act. This is a bill that
235 would protect jobs and preserve the intent of the Clean Air
236 Act. It is narrowly crafted. It specifically targets the
237 EPA's regs under the Clean Air Act that regulate carbon
238 dioxide and other greenhouse gases as related to climate
239 change. It allows States to continue setting climate policy
240 as they please, but prevents those actions from being imposed
241 or enforced nationally. It leaves in place the tailpipe
242 standards for cars and light trucks from model years 2012
243 through 2016, and allows NHTSA to continue to regulate fuel
244 economy after 2016.

245 I have mentioned what this proposal does, but let me
246 also emphasize what it does not do. It does not weaken the
247 Clean Air Act. It does not limit EPA's ability to monitor
248 and reduce pollutants that damage public health. I have
249 looked back at the comments made by the authors of the
250 revisions to the Clean Air Act in the early 1990s, and I am
251 confident that our bill actually restores the Clean Air Act
252 to its intended purpose.

253 I yield the balance of my time to Chairman Emeritus Joe
254 Barton from Texas.

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

256 ***** COMMITTEE INSERT *****

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257 Mr. {Barton.} Well, thank you, Chairman Upton.

258 Welcome, Senator Inhofe, former House member and good
259 friend and senior member of the other body. We are glad to
260 have your comments. I also want to welcome my Attorney
261 General, Greg Abbott, my good friend from Austin, Texas, and
262 the General Manager for Environmental Affairs of Nucor
263 Corporation, Mr. Steve Rowlan, who has several manufacturing
264 facilities in my district.

265 The great Joe Louis, the heavy champion of the mid-
266 1900s, was facing a difficult test with another heavyweight
267 contender, and made the comment, ``He can run but he can't
268 hide.'' Well, today we are going to use that in the
269 legislative arena. The Environmental Protection Agency and
270 the Obama Administration have decided basically just because
271 they have the ability to decide as the executive branch that
272 they want to put the American economy in a straitjacket and
273 cost us millions of jobs and hundreds of billions of dollars
274 a year with these greenhouse gas regulations. They couldn't
275 get it through the legislative process. The Markey-Waxman
276 bill in the last Congress barely passed the House and it did
277 not go anywhere in the Senate so they tried to do it by a
278 regulatory approach. It is not going to work. Chairman
279 Upton and Subcommittee Chairman Whitfield have introduced

280 this draft legislation, and I fully expect in the next month
281 or two that it is going to pass the subcommittee and the full
282 committee.

283 So today we are going to start that legislative process.
284 I am going to put into the record some comments from one of
285 the EPA officials who had the authority at the time to take a
286 look at the proposed endangerment finding, and I am going to
287 read from the executive summary one sentence and then yield
288 back the balance of Mr. Upton's time. It says, ``In many
289 cases, the most important arguments are based not on
290 multimillion-dollar research efforts but by simple
291 observation of available data which has surprisingly received
292 so little scrutiny. In the end, it must be emphasized that
293 the issue is not which side has spent the most money or
294 pushed the most peer-reviewed papers, the issue is whether
295 the greenhouse gas CO2 hypothesis meets the ultimate
296 scientific test: conformance with real-world data.'' What
297 these comments show is that in this case the ultimate test,
298 the hypothesis fails. That is why we have put this
299 legislation forward and that is why at the appropriate time
300 it is going to pass and go to the House Floor.

301 With that, I yield back.

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

303 ***** COMMITTEE INSERT *****

|
304 Mr. {Whitfield.} At this time I recognize the ranking
305 member of the full Energy and Commerce Committee, the
306 gentleman from California, Mr. Waxman.

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

308 Today we hold a hearing on legislation that would roll
309 back the Clean Air Act and block the Environmental Protection
310 Agency from regulating dangerous carbon emissions from power
311 plants, oil refineries and other large polluters. The
312 underlying premise of this bill is that climate change is a
313 hoax. That is the view of the chief Senate sponsor of this
314 bill and it is also the view of our former chairman of this
315 committee, Mr. Barton, and that is the foundation of this
316 bill. This legislation says carbon emissions do not endanger
317 public health and welfare.

318 Mr. Chairman, you and the new Republican majority have a
319 lot of power to write the Nation's laws but you do not have
320 the power to rewrite the laws of nature, and that is the
321 fundamental problem with this proposal.

322 In 2009, EPA found that carbon emissions endanger public
323 health and the environment. That was a scientific conclusion
324 that is supported by the National Academy of Sciences, the
325 premier scientific organization of all the world's major
326 economies. This legislation would overturn EPA's

327 endangerment finding.

328 Now, this won't stop carbon pollution from building up
329 in the atmosphere. It won't stop the droughts and floods
330 that are spreading like an epidemic across the globe. It
331 won't protect the air quality of our cities when summer
332 temperatures soar to record levels, and it won't stop the
333 strange weather patterns that have locked much of our own
334 Nation in a deep freeze this winter. What it will do,
335 though, is gut the Clean Air Act and prevent EPA from
336 addressing this enormous threat to public health and welfare.

337 Protecting public health and preventing climate change
338 should not be a partisan issue. In January 2008, Stephen
339 Johnson, the former EPA administrator under President Bush,
340 sent a letter to President Bush. Administrator Johnson
341 wrote, ``The latest science of climate change requires the
342 agency to propose a positive endangerment finding. It does
343 not permit a credible finding that we need to wait for more
344 research.'' And he said that the Bush Cabinet agreed with
345 this position.

346 The science hasn't changed in the last 2 years. In
347 fact, it has only gotten stronger. Yet somehow belief in
348 science has become another partisan battleground.

349 This legislation is called the ``Energy Tax Prevention
350 Act.'' This is a title that is total nonsense because EPA

351 has no authority to levy energy tax. What this bill should
352 be called is the ``Big Polluter Protection Act.'' The only
353 beneficiaries of this legislation are the Nation's largest
354 polluters. The biggest backer of this bill is Koch
355 Industries, an oil company that spent millions of dollars to
356 elect Republicans to Congress.

357 Now, members can have different ideas about how to
358 reduce carbon pollution. I believe the steps that EPA
359 Administrator Lisa Jackson is proposing under the Clean Air
360 Act are moderate and appropriate. They are also remarkably
361 similar to the measures that former Administrator Johnson
362 recommended to President Bush. But I understand that members
363 could reasonably have different views. Indeed, I preferred
364 the market-based approach recommended by utilities and
365 manufacturers that was the basis for the House-passed clean
366 energy legislation last Congress.

367 But what doesn't make sense is this extreme approach in
368 this bill. It will repeal the only authority the
369 Administration has to protect our health and environment
370 without providing any alternative. That is another repeal
371 but no alternative to replace it. Why replace it? The
372 science is a hoax, we don't need to solve the problem, there
373 is no problem. That is the underlying assumption. Well,
374 that will only make the problem worse.

375 History will not judge this committee kindly if we
376 become the last bastion of the polluters and the science
377 denier. When carbon emissions rise to record levels and our
378 weather system goes haywire, the American people will ask why
379 we acted so irresponsibly. I hope we will be able to tell
380 them that we stood up for science and public health and
381 rejected this extreme proposal. Yield back my time.

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

383 ***** COMMITTEE INSERT *****

|
384 Mr. {Whitfield.} Thank you, Mr. Waxman.

385 At this time we will introduce our first witness, who
386 really needs no introduction. Senator James Inhofe from
387 Oklahoma is the ranking member of the Senate Committee on
388 Environment and Public Works. Of course, he served in the
389 House of Representatives. He is recognized as a real expert
390 in the field of energy as well as other areas. We are
391 delighted to have him with us today, and I might say that he
392 is floating a discussion draft over on the Senate side very
393 similar to our legislation we have on the House side. So
394 Senator Inhofe, we are delighted to have you with us today
395 and we recognize you for an opening statement.

|
396 ^STATEMENT OF HON. JAMES INHOFE, U.S. SENATOR, STATE OF
397 OKLAHOMA

398 } Senator {Inhofe.} First of all, let me thank you for
399 the invitation to be here. It is a joy. The only
400 disappointment I have is that I am not sitting at the same
401 table with Administrator Jackson. I know it surprises and
402 disappoints a lot of people that she and I are really very
403 good friends. I find her--a lot of liberals aren't this way
404 but in her case, she responds to a question, she gives you an
405 honest answer, and I have always appreciated that.

406 Much to the chagrin of my staff, I am not going to use
407 my opening statement that they prepared, but so that they
408 won't be completely overlooked, I would like to ask that it
409 be made a part of the record, and I will go ahead and ramble
410 just for a few minutes.

411 Let me share a couple of thoughts that I have with you.
412 First of all, this issue is a new issue to the House,
413 relatively new. We have been dealing with it since Kyoto,
414 since the middle 1990s, and I was in the middle of it back
415 then and you are right, you quoted the statement that was
416 made by some 95 to nothing in the Senate. Now, that
417 statement to refresh memories here, was that we are not going

418 to ratify anything that doesn't treat developing nations like
419 developed nations or that is devastating to our economy.
420 However, most of the Senators at that time were believers,
421 and I use the word ``the alarmists.'' I think most of them
422 would fit that.

423 And so we--and I have to admit, you know, confession is
424 good for the soul. When I was the chairman of the
425 subcommittee, I believe the Clean Air Subcommittee of EPW, I
426 thought too that catastrophic global warming was caused by
427 anthropogenic gases because everybody said it was, and it
428 wasn't until the Wharton School came out with, I think it was
429 called the Wharton Econometric Survey, the question was this:
430 should we ratify the Kyoto treaty, what would it cost the
431 people of America, and the result was a range. That range
432 was between \$300 billion and \$400 billion a year. Then I
433 happened to think, you know, when you got up in the billions
434 and trillions, it is kind of hard. You have to bring this
435 back home. I remembered how outrageous it was when the
436 Clinton-Gore tax increase of 1993 came through, and that was
437 a \$30 billion tax increase. I thought wait a minute, this is
438 10 times greater than that. So I thought at that time, let
439 us at least look and be sure that the science is there, and I
440 remember at that time there was a scientist by the name of
441 Tom Wigley. Tom Wigley was commissioned, I believe, by then-

442 Vice President Al Gore to answer the question that if all
443 nations, all developed nations were to get together and agree
444 to the Kyoto treaty and live by their emission standards, how
445 much would that reduce the temperature in 50 years. The
446 answer was something like seven one-hundredths of 1 degree
447 Celsius. Well, of course, that was something that wasn't
448 even measurable.

449 So when we started questioning the science, all of a
450 sudden the scientists came out of the woodwork and they were
451 coming in and giving testimonials about how they, the IPCC,
452 would not consider any views that anyone had unless they
453 themselves were an alarmist. Well, we started talking about
454 that and then obviously we did not ratify. By the way, it is
455 important to note that the ones who were really pushing the
456 Kyoto treaty, that would have been the Clinton-Gore
457 Administration, they never submitted to the Senate for
458 ratification. So it is not our fault that we never had that
459 before us but they wisely did not do it.

460 Then we started coming up with the bills. We had
461 McCain-Lieberman of 2003, McCain-Lieberman of 2005, the
462 Waxman-Markey bill, the Lieberman-Warner bill, the Sanders-
463 Boxer bill. Now, they were all very similar. Cap and trade
464 is cap and trade. Now, you could argue, well, wait a minute--
465 --and I am sure Congressman Waxman would disagree with this--

466 but all these bills along with the Kyoto treaty would cost in
467 that range of somewhere between \$300 billion and \$400 billion
468 a year. It is not just Wharton. MIT, Penn State and others
469 have come in and talked about that.

470 I am going to mention too, I want to end my opening
471 statement with two quotes or responses to questions by Lisa
472 Jackson that I have a great deal of respect for. Well, we
473 have made a decision some time ago as we were trying to
474 defeat and successfully did defeat all the bills that I
475 mentioned on the Floor of the Senate, and one of the things I
476 did since at best the science is mixed, there is nothing
477 conclusive in the science, but it is mixed, let us go ahead--
478 and I did this, it might have been when we were debating the
479 Waxman-Markey bill or it might have been the Sanders-Boxer
480 bill, I can't remember which one, but I said even though I
481 don't agree the science is there, let us stipulate to it so
482 we can talk about the economics, and so we did, and then is
483 when we started talking about the cost of this thing.

484 I think that maybe in response to questions I can be
485 more specific but this bill that I will be the sponsor in the
486 Senate, it will be the same wording, I say to Chairman
487 Whitfield, that is just one of the problems we are having
488 right now with the overregulation of the Environmental
489 Protection Agency. We have such things as the boiler and

490 utility MACT--that is the maximum achievable control
491 technology--ozone, the PM 10 dust, hydraulic fracturing, all
492 these things to put American jobs either overseas or just
493 kill them and destroy our economy. These things are
494 happening right now. This is one part of it but a very
495 important part of it.

496 Now, what I am going to say within my time frame here
497 and make two observations, and this came from Administrator
498 Jackson. In one of our committee hearings, and I will tell
499 you when it was, it was in December, a year ago December,
500 right before, the day before I was going to go to Copenhagen.
501 I was the one-man truth squad in Copenhagen, I might add, and
502 before I left I said in a hearing, Mr. Chairman, I said,
503 Madam Administrator, I understand and I believe that once I
504 leave town you are going to have an endangerment finding, and
505 she did not deny that and she kind of nodded and with her
506 very pleasant smile like she always has, and I said when you
507 do this, it has got to be based on some kind of science, what
508 science would you base this on, and she said well, primarily
509 it is the IPCC. That is the United Nations. Well, that was
510 right in the middle of the time that they had been totally
511 debunked. Now, they try to say that Climategate wasn't a real
512 thing. It was. They tried to play it down. Let me just
513 real quickly, so it is in the record, talk about it.

514 Atlantic magazine said the close-mindedness of these supposed
515 men of science, their willingness to go to any length to
516 defend a preconceived message is surprising even to me. The
517 stink of intellectual corruption is overpowering. The
518 statement in the Daily Telegraph, this is the largest one in
519 London, the scandal could well be the greatest scandal in
520 modern science. So we have all of the facts that this is the
521 science on which this is based, and I am hoping that people
522 are going to keep this in the dialog, let people know how
523 phony this was.

524 The other thing was, and I am speaking now to the many
525 people out not just in my State of Oklahoma but throughout
526 America who think I am wrong on this issue, people who really
527 believe, people who think that the alarmists are right, that
528 in fact that anthropogenic gases are causing catastrophic
529 global warming. To them I say this: If they are right, what
530 difference does this really make? Because when I asked the
531 question to Administrator Jackson, I said if we were to pass
532 this bill, I don't know, I say to my good friend, Mr. Waxman,
533 whether it was the Waxman-Markey or which bill it was, but I
534 said if we pass this, will this have a reduction, result in
535 reducing greenhouse gases. Her answer was no, because this
536 only applies to the United States.

537 I will carry it one step further. If we cause our jobs

538 to go overseas as a result of having something like this,
539 those jobs are going to go places like China and India and
540 Mexico where they don't have any restrictions at all, and so
541 those people who say well, we have to set the example in
542 America, that China is anxious to follow our great example.
543 I say they are laughing at us right now. They are not going
544 to do it. They are waiting for those jobs to come over.

545 So with that, I would only say that I hope we will get a
546 chance to realize that even if this ends up, those people out
547 here that really believe this, what we take, the action we
548 take whether it is through regulation or whether it is
549 through legislation here in the United States is not going to
550 reduce the greenhouse gas emissions. Thank you, Mr.
551 Chairman.

552 [The prepared statement of Mr. Inhofe follows:]

553 ***** COMMITTEE INSERT *****

|
554 Mr. {Whitfield.} Thank you, Senator Inhofe. We
555 appreciate your testimony.

556 Mr. Waxman in his opening statement referred to this
557 letter by former EPA Administrator Steve Johnson to President
558 Bush about the endangerment finding, and I don't know all the
559 details about it so I am going to ask you about it, but it
560 was my understanding that once they really got into the
561 process of looking at that, a number of federal agencies came
562 out very much opposed to an endangerment finding including
563 Ag, Commerce, Transportation and Energy. Do you have any
564 recollection of the letter that Mr. Waxman was referring to?

565 Senator {Inhofe.} I do, because first of all, I have a
566 great deal of respect for Steve Johnson and I supported his
567 being put in the position he was in. I would only say this.
568 Those who want to quote him as was quoted in the opening
569 statement here in this meeting need to talk about what he
570 said since then. I want to quote him now. He said, ``One
571 point is clear. The potential regulation of greenhouse gases
572 under any portion of the Clean Air Act could result in an
573 unprecedented expansion of EPA authority that would have a
574 profound effect on virtually every sector of the economy and
575 touch every household in the land.'' He went on to say, ``I
576 believe the ANPR demonstrates the Clean Air Act, an outdated

577 law originally enacted to control regional pollutants that
578 caused direct health effects, is ill suited for the task of
579 regulating global greenhouse gases.''

580 Mr. {Whitfield.} Thanks.

581 Senator {Inhofe.} And this by way, you mentioned the
582 Departments of Energy, Transportation, Commerce, Agriculture
583 and probably some others have made this statement.

584 Mr. {Whitfield.} You know, I was looking at the EPA
585 website actually last night, and there was a comment on there
586 right at the very main page. It said ``We are working across
587 the nation to usher in a green economy.''

Now, we all
588 recognize, as I said in my opening statement, to meet our
589 energy demands, we are going to have to have renewables, we
590 are going to have to have everything, but this Administration
591 seems to be so focused on pushing a green economy, and I know
592 that President Obama in his State of the Union address talked
593 about this green economy is going to stimulate the economy
594 and create the jobs. And I know from the research that I
595 have done personally, one of the countries that has been a
596 leader in green energy has been Spain, and I read an article
597 just a couple of days ago that they have the highest
598 unemployment rate in the industrialized world, approaching 20
599 percent. Do you have the same concerns about this all-out
600 push for green energy and the impact that that could have on

601 our employment levels in America?

602 Senator {Inhofe.} Chairman Whitfield, it goes even
603 further than that. One of the--I would have to, for the
604 record, give you the name of which one of the Administration
605 said this, I think it might have been the Under Secretary of
606 Treasury, made the statement that we are going to have to do,
607 they say take away the perks that are out there for the
608 energy industry so that we can force people to concentrate on
609 green energy. You know, I am for--I think everyone here, I
610 think every Republican and Democrat or the Republicans,
611 anyway, they want all of the above. We want gas, oil, coal,
612 nuclear, renewables, green, we want it all, but what is
613 available now to run this machine called America? We have
614 oil and gas.

615 This is new information. As of just a year ago, we in
616 the United States have the greatest, largest number of
617 recoverable reserves in coal, oil and gas of any country in
618 the world. We are not number 2, we are number 1. Now, if
619 you look at the shale opportunities that are out there and
620 the fact that these are close formations, we have enough
621 natural gas to take care of this country for 110 years. Now,
622 yes, during that time perhaps technology will be here, we
623 will have all kinds of green opportunities. That is great.
624 I am all for it. But until then, you have got to run this

625 country.

626 The thing that bothers me over in the Senate, I hear
627 from my good friends John Kerry, Barbara Boxer, they all talk
628 about our dependence on foreign countries, for our oil, our
629 energy, as if, you know, we shut down fossil fuels and
630 somehow not be as dependent upon them. Just the opposite.
631 You know, we have to run this machine called America and we
632 can't do it now without fossil fuels. If we could release
633 all the political pressures that are on our resources out
634 there, we wouldn't have to be dependent upon any foreign
635 country or the Middle East for one barrel of oil. I forgot
636 what your question is but that is the answer.

637 Mr. {Whitfield.} Thank you. I thought it was a good
638 answer.

639 I recognize Mr. Rush for 5 minutes.

640 Mr. {Rush.} I thought it was a good question but I
641 didn't think it was a good answer.

642 Senator, I have the utmost respect for you. I want to
643 thank you for taking the time out to come to this hearing.
644 As you know, there are some vociferous and very disagreement
645 with some of your conclusions, especially as it relates to
646 job creation and also electric reliability. Administrator
647 Jackson, she has pointed out in her White Paper that she
648 released earlier that the environmental, technology and

649 services sectors generated under the Clean Air Act an
650 estimated \$300 billion in revenue--that is \$300 billion in
651 revenue--and supported nearly 1.7 million jobs, and I think
652 those are real jobs. That is certainly not chump change. Do
653 you have any comments or any reaction to her conclusion?

654 Senator {Inhofe.} Yeah, I do, Congressman. First of
655 all, I have a website, Inhofe.Senate.gov, and if you go there
656 you will find, I have talked about the money and the jobs
657 that all these overregulations would cause. Now, you are
658 addressing only the greenhouse gas, what is happening with
659 the regulations that are subject of this committee. But I
660 had mentioned in my opening statement, there is also all the
661 MACT laws, the utility MACT, the boiler MACT, trying to stop
662 hydraulic fracturing, the ozone, all of these issues that are
663 there, the PM10 dust, if you add those up, each one has a
664 price tag in terms of dollars and the amount of the jobs that
665 would be lost. Those jobs, that information comes from most
666 of the labor unions in the United States along with, I might
667 add, the National Black Chamber of Commerce, who will be
668 testifying, I don't know whether he is on today, but he is
669 great. He has testified before our committee. And I want
670 you to ask him that question because I think it is very
671 specific. The jobs that would be lost, the costs that would
672 be there are something that we can't sustain in this country.

673 Mr. {Rush.} Thank you, Senator. Senator, let me ask
674 you, as I think you are the ranking member on, which
675 committee now?

676 Senator {Inhofe.} Environment and Public Works.

677 Mr. {Rush.} I wanted to make sure I got it right. And
678 as ranking member and during the course of that committee's
679 hearings, I am sure you had a number of different hearings on
680 this particular subject. Is that correct?

681 Senator {Inhofe.} We have had hearings.

682 Mr. {Rush.} Has your committee conducted hearings with
683 no scientists among the witnesses? Have scientists been
684 included in your hearings?

685 Senator {Inhofe.} Yes, we have scientists there on both
686 sides, as you well know, because you are going through this
687 now. When you are a minority, you don't get as many
688 witnesses.

689 Mr. {Rush.} But do you find it strange that this
690 hearing is being conducted with no scientists at all?

691 Senator {Inhofe.} We had scientists in our hearing. I
692 would just use one, Richard Linzen, for example, from MIT is
693 recognized as one of the very top individuals. He testified
694 and--

695 Mr. {Rush.} Senator, which I do understand, but do you
696 find that it is strange that at this hearing of this

697 importance that we have no scientists on the witness list at
698 all for this hearing? Do you find that strange?

699 Senator {Inhofe.} I don't know. You would have to ask
700 the chairman that question. I do know that the rules of the
701 House and the rules of the Senate do provide for minority
702 witnesses and so I don't know how this was constructed.

703 Mr. {Rush.} All right. And lastly, Senator, Chairman
704 Waxman and I on February 7th sent a letter to the chairman
705 and asked him that the Republicans and the Democrats work
706 together to write bipartisan legislation to establish a clean
707 energy standard. Do you support similar activity in the
708 Senate?

709 Senator {Inhofe.} Well, yes. We have been trying to do
710 that for a long period of time. Unfortunately, CO2 has held
711 hostage all kinds of opportunities. We had the Clear Skies
712 bill. That would have been SOx, NOx, mercury. We could have
713 passed the most restrictive bill in terms of emissions, of
714 pollutants but it was held hostage because we don't care
715 about all that, we want to make sure that CO2 is there. So I
716 do support programs that affect kinds of emissions and I
717 strongly support it. I would say this, that we are going to
718 go through the process, and I am hopeful that I can get my
719 bill passed in the Senate and this bill passed here and we
720 will see what happens. It could be we would have to override

721 a veto. I don't know. But we may end up--things are going
722 to change in a couple years so we will have to wait and see.

723 Mr. {Rush.} Thank you. I yield back the balance of my
724 time.

725 Mr. {Whitfield.} Thank you, Mr. Rush.

726 At this time I recognize Mr. Upton.

727 Mr. {Upton.} Thank you, Mr. Chairman, and again
728 Senator, I appreciate you being here, especially on a day
729 that the Senate doesn't have votes and I know you are trying
730 to get back to snow-laden Oklahoma where they have, I am
731 told, cross-country skiing. I am not sure you have got any
732 hills for downhill but you have got a good 10 inches last
733 night, and people at least can go straight forward.

734 Two questions that I want to ask. One is, I mentioned
735 in my opening statement, and I wanted you just to comment on,
736 as regards to some groups that are offering criticism toward
737 this discussion draft. In your view, does it in any way
738 undermine the Clean Air Act?

739 Senator {Inhofe.} No, it is not going to weaken the
740 regulation of air pollution that, you know, people are
741 concerned about, asthma and heart attacks and all these long
742 list of things, lung cancer. The Clean Air Act has reduced
743 air pollution and has done so in conjunction with a period of
744 economic growth. That is significant because during that

745 period of time all these things have actually reduced, and I
746 can't see that this would have any effect on that. I did
747 mention that things like the Diesel Regulation Act, Clear
748 Skies, these are things that we have been trying to do and
749 have done successfully, so we are addressing that and have
750 been addressing that with such legislation as I just
751 mentioned.

752 Mr. {Upton.} Now, I know that you are writing a book,
753 and--

754 Senator {Inhofe.} Guess what the name of it is?

755 Mr. {Upton.} Well, you can tell me in a second. I just
756 want to know if you are going to talk in your book or you are
757 planning to write in your book whether EPA has calculated the
758 further reduction in temperature from the tailpipe rule at
759 about one-hundredth of a degree Fahrenheit by the year 2100.

760 Senator {Inhofe.} I think what you are getting to here
761 confirms what I said in my opening statement about the Tom
762 Wigley report on the Kyoto treaty, that it is hardly
763 detectable. I will tell you about my book. I did finish it
764 last week on the 5th, although now I see we are going to have
765 to go forward with it a little bit further. I won't tell you
766 what it is about but the name of the book is The Hoax. Yes,
767 there have been a lot of things that--Don Rumsfeld is not the
768 only one writing a book.

769 Mr. {Upton.} Thank you. I yield back, Mr. Chairman.

770 Mr. {Whitfield.} Thank you. At this time I recognize
771 the gentleman from California, Mr. Waxman.

772 Senator {Inhofe.} And he will be the first to receive
773 an autographed copy.

774 Mr. {Waxman.} I will be greatly honored. I receive a
775 lot of books. In fact, I just got one that pointed out that
776 Jack Abramoff was railroaded into prison by the
777 establishment, so I am looking forward to reading both books.

778 Senator Inhofe, it is my understanding you have said,
779 and I think you said it very clearly a minute ago, that this
780 climate change idea is just a hoax being perpetrated on the
781 American people. Is that right?

782 Senator {Inhofe.} That is right.

783 Mr. {Waxman.} I am a lawyer, and I don't have a
784 scientific background. I understand your degree was in
785 economics and you ran small businesses before you were
786 elected to public office. Like me, you are not a scientist
787 by training. Isn't that right?

788 Senator {Inhofe.} That's correct.

789 Mr. {Waxman.} Now, I want to read you a quote from our
790 Nation's premier scientific organization, the National
791 Academy of Sciences. According to the National Academy of
792 Sciences, ``Climate change is occurring, is caused largely by

793 human activities and poses significant risks for and in many
794 cases is already affecting a broad range of human and natural
795 systems.'" Senator, you disagree with the National Academy
796 of Sciences. Is that right?

797 Senator {Inhofe.} Well, I disagree with that particular
798 interpretation. I would add that there are several members,
799 former members of the National Academy of Sciences, who are
800 not there anymore because they disagreed--

801 Mr. {Waxman.} Well, that is their conclusion and you
802 disagree with it.

803 Senator {Inhofe.} And--

804 Mr. {Waxman.} No, Senator, it is my turn now. You are
805 in the House and this is a 5-minute round so you know how
806 that goes.

807 Senator {Inhofe.} Yes, sir. It hasn't been that long.

808 Mr. {Waxman.} Now, you disagree with that and the
809 National Academy of Sciences. The National Academy of
810 Sciences is our Nation's premier scientific institution. I
811 don't know why they would want to mislead the American
812 people. But they are not alone. The American Association
813 for the Advancement of Science, the American Geophysical
814 Union, the American Meteorological Society along with 15
815 other leading scientific organizations have concluded, and I
816 want to quote, ``If we are to avoid the most severe impacts

817 of climate change, emissions of greenhouse gases must be
818 dramatically reduced.'' Thirteen federal departments and
819 agencies including NASA, the National Science Foundation, the
820 Department of Defense have reported that global warming is
821 ``unequivocal and primarily human induced.'' And the leading
822 scientific organizations in England, France, Germany, Russia,
823 Japan, China, Brazil and India have all reached the same
824 conclusion.

825 Now, Chairman Upton and you have gone to the point where
826 you say that this is not something we need to deal with. I
827 think Mr. Upton says it is a problem that is occurring but he
828 doesn't accept it as human emissions that are causing climate
829 change. Well, Mr. Rush raised this point. I think it would
830 be important and I would request that we hold hearings on
831 this fundamental issue of science before we vote on this
832 legislation. The premise of the Inhofe-Upton legislation is
833 that carbon emissions don't endanger public health. Before
834 we proceed, we should call the best scientists in the Nation
835 before the committee so we can understand whether Senator
836 Inhofe's views or Chairman Upton's are supported by the
837 science. But it seems to me what you are saying is, even if
838 climate change is real, we can't do anything about it so we
839 shouldn't even try, and if that is the situation, I find that
840 quite amazing.

841 Now, the reason this is under the Clean Air Act is
842 because the Supreme Court by 5-4 said EPA must regulate if
843 they have an endangerment finding. The Supreme Court by 5-4.
844 There are a lot of Supreme Court decisions that went 5-4 that
845 I didn't like but this is one where the Court said that this
846 is part of the Clean Air Act.

847 I think that there is a fundamental flaw in one of the
848 arguments that I have been hearing. When you calculate the
849 benefits of action, there is an assumption that the United
850 States and other nations will take only minimal steps to
851 control emissions, but when you calculate the cost, there is
852 an assumption, there is a completely different scenario that
853 the United States will implement draconian control measures.
854 I don't think that is fair. A fair analysis will show that
855 the modest measures that EPA is currently proposing will have
856 little impact on the economy. In fact, EPA's analysis shows
857 our economy grows because we become more energy efficient.
858 In other words, we are making a small step forward on climate
859 change at virtually no cost to the economy. A fair analysis
860 will show that if we adopt more far-reaching measures, we
861 could have a major impact on climate change at a manageable
862 cost.

863 Last year the House passed the Waxman-Markey, passed out
864 of this committee as well. That would have reduced U.S.

865 emissions by 80 percent by 2050. Modeling of that bill
866 proved that we could dramatically reduce pollution for only a
867 postage stamp per day while cutting the deficit. Well, I
868 think if we do nothing, and this bill is a repeal and no
869 replacement. No replacement for dealing with this problem.
870 If it is a real problem, let us acknowledge it and figure out
871 a way to deal with it and resolve our differences on how to
872 approach a constructive resolution but if it is not a
873 problem, then I think what we are doing is saying that we
874 can't do anything about the droughts, the floods, the storms,
875 the public health and economic misery climate change will
876 cause so we simply should give up trying, and I don't think
877 that is the American way. Yield back my time.

878 Senator {Inhofe.} Mr. Chairman, I know his time has
879 expired but he asked me three questions and I can answer them
880 real quick.

881 Mr. {Whitfield.} Okay.

882 Senator {Inhofe.} First of all, I knew you were going
883 to end up with the droughts and the floods and all that. It
884 is the fear that has been driving this for so long. Let me
885 just answer the three questions.

886 First of all, the fact that if we were--the reason in my
887 opening statement--

888 Mr. {Waxman.} What are the three questions you seek to

889 answer?

890 Senator {Inhofe.} Well, I am answering them right now.

891 One was about the reductions. The fact is--

892 Mr. {Waxman.} I asked you whether you disagree with the
893 National Academy of Sciences. I asked you very specific
894 questions.

895 Mr. {Barton.} Mr. Chairman, we should let our witness
896 make a statement. Mr. Waxman talked for 4 minutes--

897 Mr. {Waxman.} Mr. Chairman--

898 Mr. {Barton.} He basically gave an opening statement.

899 Mr. {Waxman.} --the time now goes to whoever on your
900 side is next, and they can yield their time for that purpose.
901 But I will go along with whatever the--

902 Mr. {Barton.} We always let the witness answer a
903 question--

904 Mr. {Waxman.} Well, I didn't have a question pending.

905 Senator {Inhofe.} Yes, you did.

906 Mr. {Waxman.} If the gentleman wants to respond to my
907 statements, then that is up to the Chair whether that comes
908 out of my time.

909 Mr. {Whitfield.} I will tell you what let us do,
910 Senator Inhofe. I am going to go to Mr. Barton and he can
911 ask questions. We have a lot of other people, and I am sure
912 that--

913 Senator {Inhofe.} That is fine.

914 Mr. {Whitfield.} --we will get to the issues. Mr.
915 Barton, I recognize you for 5 minutes.

916 Mr. {Barton.} Thank you, Chairman. We do give our
917 witnesses the courtesy at the end of their--when somebody
918 gives a soliloquy or monolog like Chairman Waxman did to at
919 least make a comment on it.

920 Senator, you have participated in dozens of hearing on
921 this issue in the other body, some as chairman and some as
922 ranking member. Is that not correct?

923 Senator {Inhofe.} That is correct.

924 Mr. {Barton.} And you would consider yourself at least
925 in that body to be knowledgeable on this issue?

926 Senator {Inhofe.} Not scientifically, as pointed out by
927 Mr. Waxman, but yes.

928 Mr. {Barton.} You mentioned in your opening statement
929 millions of jobs and hundreds of billions per year and
930 studies that have been done by independent groups. I think
931 the U.S. Chamber has done a study, Heritage has done a study.
932 You mentioned MIT. Have any of those studies been refuted by
933 the EPA or any other executive branch authority in the Obama
934 Administration?

935 Senator {Inhofe.} No, they haven't. The interesting
936 thing is that there is a consistency here. It doesn't matter

937 whether you are talking about the Kyoto treaty or any of the
938 other issues or bills that we considered including the
939 Waxman-Markey bill, the amount is always in that range, \$300
940 billion to \$400 billion, and that is pretty consistent.

941 Mr. {Barton.} So there has been no refutation of those
942 type order of magnitude numbers?

943 Senator {Inhofe.} I can remember when we have had
944 witnesses from the EPA who have agreed with that. Some will
945 not, of course.

946 Mr. {Barton.} And obviously if cap and trade had been
947 implemented like Mr. Markey and Mr. Waxman wanted, or if
948 these pending greenhouse gas regulations are implemented, we
949 could expect that type of an impact and that would certainly
950 be a tax, if not explicitly, implicitly, on the U.S. economy.
951 Would you agree with that?

952 Senator {Inhofe.} I would say precisely the same
953 difference in what they are attempting to do with regulations
954 and what they are attempting to do with legislation so I
955 think it would be the same, yes, sir.

956 Mr. {Barton.} Now, you indicated that you have got a
957 draft bill that is either identical or very similar to
958 Chairman Whitfield and Chairman Upton's bill. Is that
959 correct?

960 Senator {Inhofe.} That is correct.

961 Mr. {Barton.} Does your legislation or this pending
962 legislation that is in draft form, does it change the
963 standard on ozone under the Clean Air Act?

964 Senator {Inhofe.} No.

965 Mr. {Barton.} Does it change the standard on
966 particulate matter?

967 Senator {Inhofe.} No, it doesn't.

968 Mr. {Barton.} Does it change the standard on carbon
969 monoxide?

970 Senator {Inhofe.} No.

971 Mr. {Barton.} Does it change the standard on nitric
972 oxide?

973 Senator {Inhofe.} No.

974 Mr. {Barton.} Does it change the standard on sulfur
975 dioxide?

976 Senator {Inhofe.} No.

977 Mr. {Barton.} Does it change the standard on lead?

978 Senator {Inhofe.} No.

979 Mr. {Barton.} Those are the six criteria pollutants
980 that are regulated under the Clean Air Act. Is that not
981 correct?

982 Senator {Inhofe.} That is correct.

983 Mr. {Barton.} So if you don't change any of those
984 standards, to paraphrase former Chairman Waxman, you are

985 certainly not gutting the Clean Air Act, are you?

986 Senator {Inhofe.} No, sir.

987 Mr. {Barton.} What you are doing, though, Senator, is
988 saying that the Clean Air Act and its amendments were never
989 intended to regulate CO2 as a pollutant. Is that not
990 correct?

991 Senator {Inhofe.} Which is also what Mr. Johnson said,
992 yes, sir.

993 Mr. {Barton.} And I think this is a true statement. I
994 was on this committee when was passed the Clean Air Act
995 Amendments of 1990. I was a cosponsor. I participated in
996 the debate. Chairman Dingell was the full committee chairman
997 and was very fair in allowing what was then the Minority that
998 I was a member of to be a full participant in those debates.
999 I don't remember that we put CO2 in any way in the Clean Air
1000 Act Amendments. Is that your recollection?

1001 Senator {Inhofe.} That is correct.

1002 Mr. {Barton.} Are you familiar with the comments of a
1003 scientist or at least a senior staffer at the EPA who has
1004 since retired named Mr. Alan Carlin?

1005 Senator {Inhofe.} Yes, I am.

1006 Mr. {Barton.} And are you cognizant of the report that
1007 he attempted to publish that was suppressed for some time by
1008 the EPA that basically said the endangerment finding put

1009 forward by the Obama Administration was totally incorrect?

1010 Now, I am paraphrasing when I say totally incorrect but he

1011 pointed out seven or eight basic flaws that says the

1012 hypothesis is not supportable.

1013 Senator {Inhofe.} It was a career ender, yes.

1014 Mr. {Barton.} He has since retired?

1015 Senator {Inhofe.} Yes.

1016 Mr. {Barton.} I am going to submit that statement, this

1017 report for the record, Mr. Chairman.

1018 Mr. {Whitfield.} Without objection.

1019 [The information follows:]

1020 ***** COMMITTEE INSERT *****

|
1021 Mr. {Barton.} It is about 50 pages, so I don't know
1022 what the rules are on that lengthy of a statement being put
1023 in the record, but I would hope the Minority would allow us
1024 to.

1025 And with that, I again thank Senator Inhofe and we look
1026 forward to working with you, and I yield back, Mr. Chairman.

1027 Mr. {Whitfield.} Thank you.

1028 I am going to call on the chairman emeritus, Mr.
1029 Dingell, for questions, but before, Mr. Dingell, you ask your
1030 questions, Senator, it is my understanding that you are going
1031 to have to leave relatively soon.

1032 Senator {Inhofe.} Well, we are having a problem now. I
1033 am trying to get back to Tulsa but there is a record snow and
1034 maybe they are canceling the flights, but yes, I do have to
1035 try.

1036 Mr. {Whitfield.} Okay. Well, then Mr. Dingell, I am
1037 going to allow you--

1038 Mr. {Dingell.} Mr. Chairman, I thank you for your
1039 courtesy. This will comfort you and I am sure Senator
1040 Inhofe. I have no questions. I wanted to welcome the
1041 senator.

1042 Senator {Inhofe.} Could I use some of your time to
1043 answer the question from Mr. Waxman?

1044 Mr. {Dingell.} Well, all I really wanted to do,
1045 Senator, is welcome you back.

1046 Senator {Inhofe.} Thank you very much, sir.

1047 Mr. {Dingell.} Good to see you again.

1048 Mr. {Inslee.} Mr. Dingell, would you mind yielding your
1049 time?

1050 Mr. {Dingell.} I am sorry?

1051 Mr. {Inslee.} Would you mind yielding your time to a
1052 fellow over here?

1053 Mr. {Dingell.} No, I really don't want to.

1054 Mr. {Inslee.} Thank you very much.

1055 Senator Inhofe, welcome to the committee. You were
1056 right on one thing. You were right on one thing. The
1057 alarmists should not be listened to because the alarmists are
1058 those pessimists who figure out that Americans aren't smart
1059 enough to innovate our way out of this pickle, and we are in
1060 a pickle. And Senator, thank you for telling about your
1061 book. I am going to suggest a book you might want to look
1062 at. It is called Apollo's Fire, a book I coauthored, and it
1063 tells you how we are going to grow our economy, an economy
1064 that the evidence shows we can grow.

1065 Now, the American are against this Dirty Air Act, and
1066 that is what it is, and I will explain why in a minute. They
1067 are against this Dirty Air Act three to one, and the reason

1068 is, they know that the Clean Air Act reduced pollution 60
1069 percent over the last 40 years while we grew our economy 207
1070 percent.

1071 Senator {Inhofe.} I agree.

1072 Mr. {Inslee.} Americans get it that we can innovate our
1073 way out of this pickle. Now, this is why this is the Dirty
1074 Air Act. I hear my friends saying we don't have anything
1075 against the Clean Air Act, we are not gutting the Clean Air
1076 Act. It is like saying they are not against the
1077 Antiterrorism Act, all we are doing is passing a bill saying
1078 the FBI can't enforce it. Now, when you gut the EPA's
1079 ability to enforce the law, you turn the Environmental
1080 Protection Agency into the environmentally pathetic agency,
1081 and that is not what Americans want. They want something
1082 rather than dirty air, and this Dirty Air Act hurts kids with
1083 asthma, it hurts seniors with respiratory problems and it
1084 hurts our economy.

1085 Now, I want to suggest to you there is a fundamental
1086 problem here. That problem is that we are not listening to
1087 the scientists, and I am going to ask you a question when I
1088 am done here in a minute and I hope I give time you to
1089 answer. But the scientists are telling us that we have got a
1090 real health problems on our hands. We got a letter from
1091 1,800 scientifically trained medical professionals yesterday.

1092 It says communities across the nation will suffer, not maybe,
1093 will suffer from poor--excuse me--still suffer from poor air
1094 quality. Low-income families face the impacts of toxic air
1095 pollution every day from smog causing asthma attacks to toxic
1096 mercury harming children's neurological development. Far too
1097 many people face a constant threat from the air they breathe
1098 and the impacts of climate change. Now, that letter is
1099 signed by, among others, doctors, Dr. Guillermo Arnaud of
1100 Tahlequah, Oklahoma, Dr. Therese Kwan of Kingston, Oklahoma,
1101 Dr. Warren Teal of Carney, Oklahoma. Doctors across this
1102 country and scientists across this planet know that our
1103 health is adversely affected by these chemicals, and by the
1104 way, carbon dioxide is in the Clean Air Act. It is in
1105 section 103, if you folks want to look at it. Carbon dioxide
1106 is in the Clean Air Act. And yet you are trying to take away
1107 the ability of Uncle Sam to protect our kids from asthma, and
1108 I have got a problem with that, and I am going to ask you
1109 this question because I think it is fundamental to this
1110 disagreement. I respect your opinion and right to have an
1111 opinion. But the National Science Foundation, these doctors,
1112 the IPCC, depending on science from the U.S. Navy, from Nobel
1113 Prize winners, none of whom are going to be called by this
1114 committee, by the way, and I think it is too bad we don't
1115 have real scientists up here, all of these people say that

1116 these things are bad for our kids' health, and yet this
1117 committee, their first witness calls somebody, rather than
1118 listening to Nobel Prize winners, thinks somehow that he is
1119 smarter than the 2,500 scientists that are telling us this is
1120 a problem.

1121 Now, I want to ask you this question. You have got, I
1122 think, grandkids, and I trust that if your grandkids were
1123 having a health problem, if they couldn't breathe, if asthma
1124 is affecting them, that you wouldn't take them to a lobbyist
1125 for the fossil fuel industry, you would take them to a
1126 pediatrician. You would take them to a scientist. So the
1127 question I ask you is, shouldn't we listen to the scientists
1128 here rather than the politicians and shouldn't we trust
1129 people of science that have an overwhelming conclusion about
1130 this issue? And I will yield to you for an answer.

1131 Senator {Inhofe.} Thank you very much. And that is
1132 essentially the same question asked, so I will respond to it.
1133 Yes, in the very beginning when people were listening just to
1134 the IPCC, as I said in my opening statement, that has been
1135 pretty much debunked now. I don't know how anyone with a
1136 straight face is going to say that that should be the leading
1137 science. When you mention scientists, yes, many of them are
1138 saying this. If you go to my website, I have given five
1139 speeches on this science, very long ones, I might add. We

1140 started out with some 50 scientists, went up to 100 and up to
1141 several hundred. And so there are many scientists that have
1142 varying views. That is why I say, the science on this issue
1143 is mixed. The economics are not mixed.

1144 The last thing I want to mention, because somehow it has
1145 got to be in this record, and this is responding to Mr.
1146 Waxman, the Court did not mandate that the EPA regulate CO2,
1147 and this is words of the Court. The EPA can avoid
1148 promulgating regulations if it determines that greenhouse
1149 gases do not contribute to climate change or if it provides
1150 some reasonable explanation as to why it cannot. Well, what
1151 they are saying is, they have three choices: either regulate
1152 it, don't regulate it or do nothing, and that was not a
1153 mandate from the Court, and I believe that has to be in here
1154 at some point.

1155 Mr. {Whitfield.} I might say that we did invite a
1156 scientist to testify. Mr. Chu was invited, and he declined
1157 our offer.

1158 Now, Senator Inhofe, do you have to go now or can you
1159 take more questions?

1160 Senator {Inhofe.} I think I need to.

1161 Mr. {Whitfield.} You need to go?

1162 Senator {Inhofe.} Yes.

1163 Mr. {Whitfield.} All right. Well, we appreciate very

1164 much your taking time to be with us, and we may very well
1165 have another hearing--

1166 Senator {Inhofe.} Let me thank you, because this is
1167 only the third since 1984 when I left this that I have been
1168 invited to appear--

1169 Mr. {Rush.} Point of order, Mr. Chairman.

1170 Senator {Inhofe.} --and I appreciate it.

1171 Mr. {Rush.} Point of order, Mr. Chairman.

1172 Mr. {Whitfield.} Yes, sir.

1173 Mr. {Rush.} Mr. Chairman, I just want to make sure that
1174 the record accurately reflects that Secretary Chu indicated
1175 that he had a conflict in scheduling. He didn't decline. It
1176 was just a conflict in his schedule.

1177 Mr. {Whitfield.} Well, we advised Secretary Chu but he
1178 had a conflict in his schedule. Thank you.

1179 Okay. We will now call our second witness. Thank you,
1180 Senator Inhofe. And our second witness is the Hon. Lisa
1181 Jackson, Administrator of the United States Environmental
1182 Protection Agency, and we are looking forward to her
1183 testimony. Ms. Jackson, thank you very much for taking the
1184 time to join us today. We are looking forward to your
1185 testimony and the opportunity to ask questions. With that, I
1186 am going to go on and recognize you for an opening statement.
1187 I will say that Senator Inhofe ended up taking almost 7

1188 minutes in his opening statement, so we would be happy to
1189 give you 7 minutes in your opening statement, so you are
1190 recognized.

|
1191 ^STATEMENT OF LISA JACKSON, ADMINISTRATOR, ENVIRONMENTAL
1192 PROTECTION AGENCY

1193 } Ms. {Jackson.} Well, thank you, Mr. Chairman. I will
1194 try not to take all seven.

1195 To you, Mr. Chairman and members of the Committee, thank
1196 you for inviting me to testify about Chairman Upton's draft
1197 bill to eliminate portions of the Clean Air Act, the landmark
1198 law that all American children and adults rely on to protect
1199 them from harmful air pollution. The bill appears to be part
1200 of a broader effort in this Congress to delay, weaken or
1201 eliminate Clean Air Act protections of the American public.
1202 I respectfully ask the members of this committee to keep in
1203 mind that EPA's implementation of the Clean Air Act saves
1204 millions of American children and adults from the
1205 debilitating and expensive illnesses that occur when
1206 smokestacks and tailpipes release unrestricted amounts of
1207 harmful pollution into the air we breathe. Last year alone,
1208 EPA's implementation of the Clean Air Act saved more than
1209 160,000 American lives, avoided more than 100,000 hospital
1210 visits, prevented millions of cases of respiratory illness
1211 including bronchitis and asthma, enhanced productivity by
1212 preventing millions of lost work days, and kept American kids

1213 healthy and in school.

1214 EPA's implementation of the Act also has contributed to
1215 dynamic growth in the U.S. environmental technology industry
1216 and its workforce. In 2008, that industry generated nearly
1217 \$300 billion in revenues and \$44 billion in exports.

1218 Yesterday the University of Massachusetts and Ceres released
1219 an analysis finding that two of the updated Clean Air Act
1220 standards EPA is preparing to establish for mercury, soot,
1221 smog and other harmful air pollutants from power plants will
1222 create nearly 1.5 million jobs over the next 5 years.

1223 As you know, Mr. Chairman, the Supreme Court concluded
1224 in 2007 that the Clean Air Act definition of ``air
1225 pollutant'' includes greenhouse gas emissions. The Court
1226 rejected the EPA Administrator's refusal to determine whether
1227 that pollution endangers Americans' health and welfare.
1228 Based on the best available peer-reviewed science, EPA found
1229 in 2009 that manmade greenhouse gas emissions do threaten the
1230 health and welfare of the American people. EPA is not alone
1231 in reaching that conclusion. The National Academy of
1232 Sciences has stated that there is a strong, credible body of
1233 evidence based on multiple lines of research, documenting
1234 that the climate is changing and that the changes are in
1235 large part caused by human activities. Eighteen of America's
1236 leading scientific societies have written that multiple lines

1237 of evidence show humans are changing the climate, that
1238 contrary assertions are inconsistent with an objective
1239 assessment of the vast body of peer-reviewed science and that
1240 ongoing climate change will have broad impacts on society,
1241 including the global economy and the environment.

1242 Chairman Upton's bill would, in its own words, repeal
1243 that scientific finding. Politicians overruling scientists
1244 on a scientific question: that would become part of this
1245 committee's legacy.

1246 Last April, EPA and the Department of Transportation
1247 completed harmonized standards under the Clean Air Act and
1248 the Energy Independence and Security Act to decrease the oil
1249 consumption and greenhouse gas emissions of model year 2012-
1250 2016 cars and light trucks sold in the United States.
1251 Chairman Upton's bill would block President Obama's plan to
1252 follow up with Clean Air Act standards for cars and light
1253 trucks of model years 2017 through 2025. Removing the Clean
1254 Air Act from the equation would forfeit pollution reductions
1255 and oil savings on a massive scale, increasing America's
1256 debilitating oil dependence.

1257 EPA and many of its State partners have now begun
1258 implementing safeguards under the Clean Air Act to address
1259 carbon pollution from the largest facilities when they are
1260 built or expanded. A collection of 11 electric power

1261 companies called EPA's action a reasonable approach focusing
1262 on improving the energy efficiency of new power plants and
1263 large industrial facilities. And EPA has announced a
1264 schedule to establish uniform Clean Air Act performance
1265 standards for limiting carbon pollution at America's power
1266 plants and oil refineries. Those standards will be developed
1267 with extensive stakeholder input including from industry.
1268 They will reflect careful consideration of cost and will
1269 incorporate compliance flexibility.

1270 Chairman Upton's bill would block that reasonable
1271 approach. The Small Business Majority and the Main Street
1272 Alliance have pointed out that such blocking action would
1273 have negative implications for many businesses, large and
1274 small, that have enacted new practices to reduce their carbon
1275 footprint as part of their business models. They also write
1276 that it would hamper the growth of the clean energy sector of
1277 the U.S. economy, a sector that a majority of small business
1278 owners view as essential to their ability to compete.

1279 Chairman Upton's bill would have additional negative
1280 impacts that its drafters might not have intended. For
1281 example, it would prohibit EPA from taking further actions to
1282 implement the Renewable Fuels Program, which promotes the
1283 domestic production of advanced biofuels.

1284 I hope this information has been helpful to the

1285 committee, and I look forward to your questions. Thank you.

1286 [The prepared statement of Ms. Jackson follows:]

1287 ***** INSERT 1 *****

1288 Mr. {Whitfield.} Ms. Jackson, thank you very much.

1289 Before you came in, I had mentioned in my opening
1290 statement that Congress had specifically looked at regulating
1291 greenhouse gases on three different occasions, one in 1990
1292 when the last Clean Air Act Amendments were adopted. They
1293 rejected it then. Number two, 1998, when the Senate voted 95
1294 to zero not to take up the Kyoto Protocol, objecting to the
1295 greenhouse gas regulations in the Kyoto Protocol, and then
1296 last when the U.S. Congress refused to adopt the cap-and-
1297 trade bill. So Congress on three separate occasions has
1298 spoken very clearly that in its opinion we do not need to
1299 regulate greenhouse gases. So I would ask you the question
1300 just your personal opinion, do you object to Congress having
1301 an up or down vote approving or disallowing EPA's greenhouse
1302 gas regulations?

1303 Ms. {Jackson.} Sir, I am here to explain the impact of
1304 our greenhouse gas regulations and then Congress is obviously
1305 going to make a determination whether--

1306 Mr. {Whitfield.} So you wouldn't object to Congress
1307 having an up or down vote on your regulations then, correct?

1308 Ms. {Jackson.} Sir, I would not presume to tell
1309 Congress its business.

1310 Mr. {Whitfield.} Thank you. Now, I want to ask you,

1311 did you agency conduct an overall comprehensive assessment of
1312 the cost of the greenhouse gas regulations?

1313 Ms. {Jackson.} We conduct assessments of costs of
1314 regulations. We did not conduct an assessment of the cost of
1315 the endangerment finding because it is a scientific finding.

1316 Mr. {Whitfield.} But do you have any idea what the
1317 costs of the greenhouse gas regulations would be?

1318 Ms. {Jackson.} As we propose regulations, for example,
1319 the cars rule that I mentioned in my opening statement, we do
1320 a regulatory impact analysis that is required--

1321 Mr. {Whitfield.} And by the way, on the car thing, it
1322 is my understanding that cost \$52 billion. Is that correct?

1323 Ms. {Jackson.} The cost of the cars and trucks rule, I
1324 don't have the exact number in front of me, but--

1325 Mr. {Whitfield.} Well, my understanding--

1326 Ms. {Jackson.} --we also did--

1327 Mr. {Whitfield.} --the light-duty vehicle rule,
1328 according to the information I have, cost \$52 billion and
1329 will increase in 2016 the cost of one of those vehicles by
1330 \$948. Now, we recognize cost goes along with regulations but
1331 it is also the information that we have that by the year
1332 2100, the greenhouse gas standards for the light-duty vehicle
1333 is expected to reduce global temperatures by .006 degrees
1334 Centigrade, \$52 billion, and that is about mobile sources,

1335 and I don't think anyone has any idea what the regulation of
1336 stationary sources will be. Would you give us a guess on
1337 what the cost would be on that?

1338 Ms. {Jackson.} Mr. Chairman, just two points. The auto
1339 rules that you speak about were hailed by the industry,
1340 consumers and environmentalists because of cost savings.
1341 There are efficiency rules for automobiles and trucks and so
1342 they pay for themselves, and as the price of gas increases,
1343 they pay for themselves in shorter and shorter periods. I
1344 believe at the time the estimate was somewhere between 3 and
1345 4 years. So the money you save on gasoline--

1346 Mr. {Whitfield.} You know, another understanding that I
1347 have is that there really is no technology available to
1348 really reduce greenhouse gases other than efficiencies.
1349 Would you agree with that?

1350 Ms. {Jackson.} There are emerging technologies for
1351 stationary sources but energy efficiency is thought to be the
1352 low-hanging fruit in terms of--

1353 Mr. {Whitfield.} And that is my understanding, that we
1354 are getting ready to implement this tremendous greenhouse gas
1355 regulation. In fact, your air chief indicated that if your
1356 tailoring rule is determined to be illegal, that EPA is going
1357 to require 6 million sources to obtain Title V operating
1358 permits and would have to have 82,000 permitting actions

1359 under the PSD program resulting in an estimated \$22.5 billion
1360 just for the permitting authorities.

1361 Ms. {Jackson.} It sounds like you agree with me, that
1362 the tailoring rule is a good idea to protect small businesses
1363 from--

1364 Mr. {Whitfield.} But it--

1365 Ms. {Jackson.} --unnecessary regulation.

1366 Mr. {Whitfield.} Doesn't it explicitly violate the
1367 language of the Clean Air Act which says specifically if it
1368 is 100 or 250 tons per year emitting, that it must be
1369 regulated?

1370 Ms. {Jackson.} No, sir, I don't see it as a violation.
1371 I see it as looking--

1372 Mr. {Whitfield.} But that is what the language says,
1373 doesn't it?

1374 Ms. {Jackson.} The legal theory--

1375 Mr. {Whitfield.} And your tailoring rule says what,
1376 25,000 tons, or is it 75,000 tons?

1377 Ms. {Jackson.} It is 100,000 tons, equivalent of a
1378 railroad car--

1379 Mr. {Whitfield.} Tell me about this--well, my time is
1380 expired. Thank you, Ms. Jackson.

1381 I recognize at this time Mr. Rush.

1382 Mr. {Rush.} Well, Administrator Jackson, I am certainly

1383 glad to see that you finally arrived. It wasn't easy getting
1384 you here but you are here.

1385 First of all, do you have a scientific or a technical
1386 background?

1387 Ms. {Jackson.} Yes, sir, I am a chemical engineer by
1388 training. I have a master's degree in chemical engineering
1389 from Princeton University and an undergraduate degree from
1390 Tulane University.

1391 Mr. {Rush.} Well, I am glad to know that. I am glad to
1392 know that we do finally have someone with a scientific
1393 background here on the panel.

1394 Do you find it as amazing as I do that the subcommittee
1395 has not called any scientists, medical professionals,
1396 biologists, ecologists or any other scientists to consider
1397 this draft legislation? What do you think about that?

1398 Ms. {Jackson.} Sir, I think if this is going to be a
1399 referendum on a scientific question, it would be important to
1400 hear from the best scientists in our country.

1401 Mr. {Rush.} Thank you very much. The legislation we
1402 are considering today overturns your scientific determination
1403 that carbon emissions are dangerous, and I am concerned about
1404 the precedent that this would set. Whether carbon pollution
1405 is dangerous or not is fundamentally, I agree with you, a
1406 scientific question and not a political question. I believe

1407 that we should leave these types of decisions to expert
1408 scientists. Are you aware of any precedent for Congress to
1409 overrule EPA or any other agency on a question of science
1410 like this?

1411 Ms. {Jackson.} I am not aware of it, sir.

1412 Mr. {Rush.} Chairman Upton said yesterday that he does
1413 not believe that climate change is caused by human pollution.
1414 That certainly is an extreme view that has been rejected time
1415 and time again by scientists, so now he is trying a different
1416 approach. He is asking this committee to approve legislation
1417 that says he is right and the scientific community has made a
1418 glaring mistake. I don't believe that is the right way for
1419 us to proceed. We should be telling you to listen to
1420 America's best scientists and not ignore them because
1421 Chairman Inhofe or Chairman Upton have decided that they
1422 don't like their conclusions. Senator Inhofe testified
1423 earlier just a few moments ago that the science on climate
1424 change is mixed but that the economics are not. As I stated
1425 during my questioning of the Senator, the Clean Air Act has
1426 been the catalyst for creating close to 2 million jobs and
1427 creating an industry generating \$300 billion in revenues.
1428 Are the economics as mixed as Senator Inhofe suggests, in
1429 your opinion?

1430 Ms. {Jackson.} Sir, the history of the Clean Air Act's

1431 implementation I think is consistent with what we would see
1432 for its implementation with carbon dioxide and greenhouse gas
1433 pollution, and that is that our economy can grow and thrive
1434 because of innovation while we reduce pollution and increase
1435 energy efficiency.

1436 Mr. {Rush.} Thank you, Mr. Chairman. I yield back.

1437 Mr. {Whitfield.} At this time I recognize the gentleman
1438 from Michigan, Mr. Upton, for 5 minutes.

1439 The {Chairman.} Thank you. Mr. Chairman, and welcome,
1440 Administrator. You found a parking place okay?

1441 Ms. {Jackson.} I didn't find a parking place but I am
1442 here.

1443 The {Chairman.} We had one right out there in the
1444 horseshoe. I checked with the police in advance.

1445 Ms. {Jackson.} Thank you.

1446 The {Chairman.} I want to ask one quick question on
1447 maybe an unrelated topic first, and that is the boiler MACT
1448 rules. As you know, you all asked for a 15-month extension
1449 back in December, and the court said no, we want them done
1450 by, I want to say the 21st of February. Would it be helpful,
1451 useful, constructive if we gave you a little assistance
1452 legislatively to extend that deadline? Yes or no.

1453 Ms. {Jackson.} The EPA argued that we will need to make
1454 administrative re-proposal of the rule in order to increase

1455 the amount of transparency in the time that we have, and I am
1456 disappointed that we have to get the rule out but we will use
1457 the current administrative processes under the Clean Air Act
1458 to ensure that the American public and industry gets a chance
1459 to look at these new rules. They will be significantly
1460 different.

1461 The {Chairman.} So would you like a little, sort of
1462 like--

1463 Ms. {Jackson.} I believe the Clean Air Act is strong
1464 enough to allow for that kind of transparency.

1465 The {Chairman.} OMB is not here. You can say whatever
1466 you want. You can give the truth. Never mind.

1467 Let me go to this hearing. You have petitioned to set
1468 GHG standards for agriculture emissions. We have the Farm
1469 Bureau coming on a later panel this afternoon. Do you intend
1470 to act on the agriculture emissions as part of GHG?

1471 Ms. {Jackson.} The number of agricultural sources
1472 subjected to EPA's reporting rule is zero. The number of
1473 agricultural sources that would face any regulation for
1474 greenhouse gas emissions under Clean Air Act permitting
1475 before July 2013 is zero, sir.

1476 The {Chairman.} There are GHG emissions from non-road
1477 vehicles, ships, boats, planes, railroads. Do you intend to
1478 set any standards for those types of vehicles?

1479 Ms. {Jackson.} We have certainly, sir, been petitioned
1480 to do so. We have made no determination on a regulatory
1481 calendar that I have been briefed on.

1482 The {Chairman.} My State of Michigan, there have been
1483 some reports that the implications of EPA GHG regs for the
1484 Michigan economy would do a number of things: reduce
1485 Michigan GDP by \$18 billion, destroy 96,000 jobs, reduce
1486 household incomes by nearly \$1,600 and reduce Michigan
1487 manufacturing output by \$2.3 billion. Those are independent
1488 estimates. Has EPA done an analysis of what the full costs
1489 of regulating GHGs under the Clean Air Act would be by State
1490 or by the entire country?

1491 Ms. {Jackson.} We have done impact analysis and
1492 economic analysis as we propose and finalize regulations,
1493 sir, but the analysis you are talking about and you are
1494 referring to is of regulations we have yet to propose and
1495 implications that therefore would, it would be unfair. We
1496 would actually have to go to industry and ask them to tell us
1497 what it is they are planning to do in order to tell them what
1498 the impacts might be so that is a very difficult hurdle and
1499 probably not one that industry would welcome.

1500 The {Chairman.} A number of us have commented about the
1501 regulations that could be imposed in this country versus on
1502 employers overseas. Does EPA intend to look at the potential

1503 of jobs leaving the United States and going someplace else?
1504 Is that going to be a factor that is going to be considered
1505 as the regulations are pursued?

1506 Ms. {Jackson.} Certainly part of our economic analysis
1507 is an impact on jobs, both jobs that could be lost but also
1508 jobs that could be gained, and you heard in my opening
1509 statement that there are potentials for our environmental and
1510 air pollution control industry jobs to actually have
1511 increases.

1512 The {Chairman.} And that figure, what was it? How many
1513 jobs? I know you cited--did you say 96,000?

1514 Ms. {Jackson.} I believe there was a study yesterday
1515 that talked about nearly 1.5 million jobs over the next 5
1516 years. That was not an EPA, that was University of
1517 Massachusetts and Ceres. That is an independent study.

1518 The {Chairman.} So if the Continuing Resolution which
1519 might be a funding freeze at 2008 levels is adopted, that
1520 would be--you would have a pretty difficult reaching that
1521 number of inspectors. Would these be EPA government jobs?

1522 Ms. {Jackson.} Sir, this was an independent--

1523 The {Chairman.} Would they be contracted out?

1524 Ms. {Jackson.} No, no. These are not government jobs
1525 in any way, and with respect to your question on budget, the
1526 EPA's regulatory authority incentivizes and promotes

1527 innovation in the private sector. It promotes investments
1528 here. There are estimates that there is almost \$2 trillion
1529 waiting to be invested in this country, and that is what that
1530 study is--

1531 The {Chairman.} I mean, what I am interested in is the
1532 net increase or decrease in jobs, and you may have more
1533 inspectors that are out there but at the same time you might
1534 not have nearly as many companies still producing goods here
1535 because they might go someplace else. I am more concerned
1536 about a dramatic net loss of jobs rather than an increase
1537 based on the proposal.

1538 So I see my time is expired. Thank you, Mr. Chairman.

1539 Ms. {Jackson.} I just want to clear up for the record,
1540 I don't know what net increase in inspectors you are speaking
1541 of. I do believe that we remain committed to enforcing the
1542 Clean Air Act but none of the jobs numbers that I speak about
1543 are public sector employment, they are private sector
1544 employment. Thank you.

1545 Mr. {Whitfield.} The gentleman from California is
1546 recognized for 5 minutes.

1547 Mr. {Waxman.} Thank you, Mr. Chairman.

1548 Administrator Jackson, the Republicans have made the
1549 argument that you don't have the authority under the Clean
1550 Air Act to do this regulation of greenhouse gases. Are they

1551 right?

1552 Ms. {Jackson.} No, sir, they are not.

1553 Mr. {Waxman.} The Clean Air Act requires you to
1554 regulate carbon emissions?

1555 Ms. {Jackson.} Yes. As the Supreme Court said,
1556 greenhouse gas emissions fit within the definition of
1557 pollution under the Clean Air Act.

1558 Mr. {Waxman.} Republicans further have made the
1559 argument that public health is not at risk from these
1560 greenhouse gases. Could that be true?

1561 Ms. {Jackson.} No, sir, I don't believe that to be the
1562 case. The endangerment finding is about that very issue, and
1563 in that finding, we determined that unchecked greenhouse gas
1564 emissions increase the intensity and duration of heat waves.
1565 That increases heat-related mortality and morbidity,
1566 especially among children, among the elderly, among the sick,
1567 people who work outdoors, people who can't afford air
1568 conditioning or have never needed it because their climate
1569 was temperate enough. By raising temperatures, you also
1570 exacerbate the impact of smog, and we know the life-
1571 threatening impacts of smog on people who have compromised
1572 lung function, especially people with asthma and other lung
1573 diseases. Unchecked emissions are said by our best
1574 scientists to increase the severity of flooding, and having

1575 grown up in New Orleans and seeing the impacts of flooding on
1576 just one small part of the town, the part I know, I know that
1577 that also means more contamination, more pollution, more
1578 disease as we deal with the impacts of our changing climate.

1579 Mr. {Waxman.} So this is really a threat to the public
1580 health, and if we don't regulate we are allowing that threat
1581 to become greater?

1582 Ms. {Jackson.} That is the nexus of the endangerment
1583 finding. It is a threat to our public health as Americans
1584 and our welfare, sir.

1585 Mr. {Waxman.} You have been criticized for this finding
1586 that greenhouse gases endanger the public. Mr. Abbott, the
1587 Texas Attorney General, claims that the finding is arbitrary
1588 and legally flawed. We learned yesterday, however, that your
1589 predecessor in the Bush Administration looked at the science
1590 and apparently reached the same conclusion you did. In a
1591 private letter to President Bush, Administrator Johnson
1592 stated, and I quote, ``The latest science on climate change
1593 requires the agency to propose a positive endangerment
1594 finding as was agreed to at the Cabinet-level meeting in
1595 November.'' According to Mr. Johnson, ``The latest climate
1596 change science does not permit a negative finding nor does it
1597 permit a credible finding that we need to wait for more
1598 research.'' And I gather Mr. Johnson didn't like to have to

1599 say that because is not happy about the proposals that you
1600 have made, but as a matter of fact, what you have proposed is
1601 very similar to what he would have had to propose as well.
1602 Are you surprised that the predecessor in the Bush
1603 Administration privately reached the same conclusion that you
1604 have?

1605 Ms. {Jackson.} I think that the letter which I saw
1606 yesterday when it was released is proof that it is not me
1607 sitting in the administrator's chair who looks at the science
1608 and makes a finding of endangerment but clearly past
1609 administrators have felt and have believed the same based on
1610 their--

1611 Mr. {Waxman.} Well, once you have reached those
1612 findings, once you have reached the conclusion that this is
1613 not a hoax but that the public health and public welfare is
1614 endangered, then the question is, what do we do about it, and
1615 the Republican approach is not to let anything be done, not
1616 to pass legislation--they didn't offer an alternative to our
1617 bill last year--not let EPA act. In fact, they would go so
1618 far as to say that you can't even allow some of the voluntary
1619 efforts to report and try to reduce carbon emissions. You
1620 are being vilified for proposing the same measure that your
1621 Republican predecessor called ``prudent, responsible, cost-
1622 effective and practical.'' Both Republican and Democratic

1623 administrators saw the same science and reached the same
1624 conclusion. Unfortunately, President Bush and his people
1625 told Administrator Johnson don't move forward on it. You
1626 represent a President that wants to protect the public health
1627 and safety and well-being and he has allowed you to do your
1628 job. I think that Congress ought to allow you to do your job
1629 as well. And if we have an alternative, let us hear what it
1630 is, but saying there is no problem, it is all a hoax is not a
1631 responsible answer.

1632 Thank you, Mr. Chairman.

1633 Mr. {Whitfield.} I recognize the gentleman from Texas
1634 for 5 minutes.

1635 Mr. {Barton.} Thank you. Thank you, Mr. Chairman.

1636 The Minority seems to be of the impression that we
1637 didn't want you to attend, Madam Administrator. We are
1638 delighted you are here. If I knew you better, I would come
1639 down and hug you. I can assure you that Chairman Upton and
1640 Chairman Whitfield and Chairman Stearns are going to invite
1641 you numerous times, you and your deputies, to come before
1642 this committee and its various subcommittees for the next 2
1643 years. So welcome, and we do appreciate your attendance.

1644 I need to educate the subcommittee briefly before I
1645 start asking my questions because there is an attempt by
1646 Chairman Waxman and perhaps by yourself to rewrite history.

1647 The Clean Air Act does not specifically mention CO2 as a
1648 criteria pollutant. The reference that Mr. Inslee made talks
1649 about ozone, not carbon dioxide. The court case in
1650 Massachusetts v. EPA was a 5-4 decision in which the majority
1651 of the Supreme Court said that since it did not explicitly
1652 prohibit CO2 being regulated under the Clean Air Act, it
1653 might could be, and the EPA needed to--I don't think the EPA
1654 needed to but it said the EPA could make a decision.

1655 As you well know, when your Administration, Mr. Obama,
1656 President Obama, came into office very quickly issued an
1657 endangerment finding, saying that CO2 should be regulated.
1658 Mr. Waxman alluded to a private letter that has miraculously
1659 come forward in the last day or so for this hearing, and I
1660 would emphasize the term ``private.'' I would hope that
1661 maybe we could get Carol Brown's private correspondence and
1662 some of the other Obama officials' private correspondence.
1663 We do have some e-mails from the direct supervisor of Mr.
1664 Carlin back and forth to people in the White House in which
1665 Mr. Carlin is explicitly told stop investigating whether CO2
1666 is a danger, the decision has been made, the White House has
1667 decided that they are going to issue a endangerment working,
1668 stop working on this report. I don't have those e-mails with
1669 me but they are available.

1670 So I am going to ask you the same question that I asked

1671 Senator Inhofe. Under the Clean Air Act, which is the law of
1672 the land, as amended, does anything in Mr. Whitfield's and
1673 Mr. Upton's pending legislation change the standard on ozone?

1674 Ms. {Jackson.} The--

1675 Mr. {Barton.} The answer is no.

1676 Ms. {Jackson.} Would you like me to answer, sir?

1677 Mr. {Barton.} Well, I am willing if you will go through
1678 it quickly. I have got a minute and 50 seconds here.

1679 Ms. {Jackson.} I see. Well, what I would say is that I
1680 am concerned that there needs to be an analysis to ensure
1681 that there aren't unintended consequences. My belief is that
1682 there is no intention in the legislation--

1683 Mr. {Barton.} But the legislation does not change the
1684 standard on ozone, it does not change the standard on
1685 particulate matter, it does not change the standard on carbon
1686 monoxide, it does not change the standard on NOx, it does not
1687 change the standard on sulfur dioxide and it does not change
1688 the standard on lead, does not change the enforcement
1689 criteria, does not change the quantities, does not change any
1690 of the Clean Air Act on the criteria pollutants that this
1691 committee amended and passed back in 1990. Is that not
1692 correct?

1693 Ms. {Jackson.} I believe the intent is only to gut
1694 portions of the Clean Air Act, sir, not--

1695 Mr. {Barton.} That is the Clean Air Act.

1696 Ms. {Jackson.} But it is changing, gutting portions of
1697 the Clean Air Act--

1698 Mr. {Barton.} How?

1699 Ms. {Jackson.} --for certain pollution, some of which
1700 is pollution--

1701 Mr. {Barton.} CO2--

1702 Ms. {Jackson.} --not only because it is a greenhouse
1703 gas.

1704 Mr. {Barton.} Madam Administrator, CO2 is not mentioned
1705 in the Clean Air Act. It is a 5-4 decision that it might be.
1706 It is your Administration's position that it should be. I
1707 respect that. I respect that. But that doesn't mean that it
1708 has to be, and unless you can refute all these cost-benefit
1709 analyses that have been done independently about the millions
1710 of jobs and hundreds of billions of dollars per year, I would
1711 say that the Congress as an independent arm of the federal
1712 government has an obligation to clarify what the Clean Air
1713 Act really does regulate. That is our obligation. Do you
1714 have an objection to that?

1715 Ms. {Jackson.} Again, sir, I would not presume to tell
1716 the Congress its business in any way.

1717 Mr. {Barton.} Well, my time is expired. I am going to
1718 yield back. I am going to ask you some specific questions in

1719 writing about what you are doing in Texas. You have denied
1720 every existing air permit issued since 1992, and we are going
1721 to ask some specific questions about that. Thank you.

1722 Mr. {Whitfield.} I recognize the gentleman from
1723 Michigan for 5 minutes of questions.

1724 Mr. {Dingell.} Mr. Chairman, I thank you.

1725 Madam Administrator, welcome to the committee. I have a
1726 number of questions on which I would like, if possible, to
1727 get yes or no answers, and I say that with respect.

1728 EPA has already issued regulations under Title II of the
1729 Clean Air Act. It has issued its determinations for
1730 regulations under the Title V permit program and it is also
1731 for under sections 111 for the prevention of significant
1732 deterioration, and in addition to that, it would appear that
1733 EPA can issue regulations under the National Ambient Air
1734 Quality Program. Is that correct?

1735 Ms. {Jackson.} Yes, sir.

1736 Mr. {Dingell.} So we have a potential here then for at
1737 least four different sets of regulations plus State
1738 implementation plans which could also cover these questions?

1739 Ms. {Jackson.} Yes, sir.

1740 Mr. {Dingell.} So you have an unholy complicated mess
1741 here if you are going to regulate greenhouse gases. Is that
1742 right?

1743 Ms. {Jackson.} Pursuant to the Clean Air Act, those are
1744 all requirements, sir.

1745 Mr. {Dingell.} Now, Madam Administrator, what other
1746 provisions of the Clean Air Act can EPA use to issue
1747 regulations in the next 5 years in terms of greenhouse gas
1748 emissions?

1749 Ms. {Jackson.} Sir, did you mention the new source
1750 performance standard provisions of the Clean Air Act? EPA
1751 has already announced the schedule to put forth new source
1752 performance standards for utility sector and for the refinery
1753 sector. I know you said 5 years, but those are in the next 2
1754 years.

1755 Mr. {Dingell.} This gives you an unbelievably
1756 complicated process, especially if you are going to bring the
1757 States into the matter as required under the state
1758 implementation plans.

1759 Now, Madam Administrator, how many different regulations
1760 to introduce greenhouse gas emissions could this add up to?
1761 I don't think you can tell us here this morning, and I am not
1762 sure anybody including the prophet Esau can give us that
1763 number. But would you please submit for the record the
1764 number of potential regulations and the number of potential
1765 regulatory sources under the statute that are going to be
1766 used here.

1767 Now, Madam Administrator, so it is clear that these
1768 regulations could add up to a great multiplicity of
1769 stationary and mobile source controls. Isn't that right?

1770 Ms. {Jackson.} Yes, sir, but I do want to point out
1771 that the purpose of tailoring rule was to manage that
1772 workload in a way that ensures that the vast majority of
1773 sources would not be caught--

1774 Mr. {Dingell.} Madam Administrator--

1775 Ms. {Jackson.} --under the Clean Air Act.

1776 Mr. {Dingell.} --this is not to criticize you, it is to
1777 try and dig you out of an intolerable hole in which I find
1778 you, and I am looking forward to your help in achieving that
1779 very important purpose.

1780 Now, under the provisions of the bill before us, should
1781 this legislation become law, it would repeal the endangerment
1782 finding. Does that put the national standards at risk? Yes
1783 or no.

1784 Ms. {Jackson.} Yes, sir, I would think it would invite
1785 litigate on past standards, and future standards are
1786 explicitly prohibited under the draft.

1787 Mr. {Dingell.} Now, Madam Administrator, do you and the
1788 Administration firmly support a national standard for auto
1789 fuel economy and greenhouse gas emissions, and are you
1790 committed to a single national standard for the model years

1791 2017 to 2025?

1792 Ms. {Jackson.} Yes, sir, we are very much committed to
1793 working collaboratively with the industry and the States and
1794 staying at the table as we did for the standards that we put
1795 out in May of 2010.

1796 Mr. {Dingell.} Now, does the draft legislation prevent
1797 EPA from enforcing greenhouse gas reporting rule which
1798 contains information that could inform the Congress relative
1799 to the Congress's future action? Yes or no.

1800 Ms. {Jackson.} Yes, sir.

1801 Mr. {Dingell.} Now, Madam Administrator, EPA's
1802 endangerment finding, let us refer to that, was that or is
1803 that a scientific finding or a political finding?

1804 Ms. {Jackson.} It is a scientific finding, sir.

1805 Mr. {Dingell.} Now, Madam Administrator, could EPA have
1806 found otherwise than it did?

1807 Ms. {Jackson.} No, I do not believe so, sir.

1808 Mr. {Dingell.} Madam Administrator, did your
1809 predecessors in the previous Administration, that of Mr.
1810 Bush, find or propose otherwise than you have done?

1811 Ms. {Jackson.} An endangerment finding was prepared and
1812 sent to the White House but the White House did not open the
1813 e-mails.

1814 Mr. {Dingell.} Okay. We have done it with 7 seconds

1815 overrun. Thank you.

1816 Ms. {Jackson.} Sir, may I correct one inaccuracy in my
1817 answer? National ambient air quality standards and State
1818 implementation plans are not required for greenhouse gases at
1819 this time. We have been petitioned with respect to that
1820 matter. Thank you.

1821 Mr. {Dingell.} But I should be somewhat concerned that
1822 a court which would make a finding that the Clean Air Act
1823 affected greenhouse gases, that they might insist that that
1824 also be used on the State implementation plans. Isn't that
1825 so?

1826 Ms. {Jackson.} Yes, sir. I just wanted to be clear on
1827 the current state of--

1828 Mr. {Whitfield.} I recognize the gentleman from
1829 Illinois, Mr. Shimkus.

1830 Mr. {Shimkus.} Thank you, Mr. Chairman.

1831 Welcome, Administrator Jackson. Just so we don't get
1832 into a debate next week when we have our hearing on the
1833 environment and job creation, I am formally asking you if you
1834 would like to return to talk, to address my subcommittee that
1835 deals with a huge portion of the portfolio and also jobs.
1836 This hearing is about jobs, and that is why we are focused on
1837 it. So I will give you time to think about it, but I am
1838 formally asking you if you would like to join us next week at

1839 our hearing.

1840 This hearing is about jobs, and there is a chart on the
1841 screen, and I don't know if you have ever seen it, the
1842 National Environmental Policy Act and Environmental
1843 Protection Agency were both first authorized in 1970. Have
1844 you ever seen this char? Has it ever occurred to you that
1845 there appears to be a cause and effect between U.S. oil
1846 imports and these policies? If you look, what it is up there
1847 is production and imports, and as we have been involved with,
1848 and a lot of us would agree, important Clean Air Act
1849 amendments, it has affected jobs and our reliance on imported
1850 crude oil. Have you ever seen that, and do you think there's
1851 a relation?

1852 Ms. {Jackson.} Sir, it is the first time I am seeing
1853 this particular chart, and what I do know is that the energy
1854 efficiency and ability--

1855 Mr. {Shimkus.} But you wouldn't dispute that our
1856 importation and our ability to produce has declined? I mean,
1857 those are just Energy Information Agency. Timeliness with
1858 the Clean Air Act and Clean Air Act Amendments, it has had an
1859 effect on our energy production. Well, let me move on. I
1860 will give you a chance to look at that, and maybe next week--

1861 Ms. {Jackson.} I don't see anything on that chart that
1862 talks about the Clean Air Act, sir, but I would be happy to--

1863 Mr. {Shimkus.} Well, it is related to the time frame on
1864 the bottom with 1970, so this is a timeline from 1920 to
1865 2000, so--

1866 Ms. {Jackson.} I am sure there are a lot of things that
1867 happened in 1970 that can't be attributed--

1868 Mr. {Shimkus.} Let me just go back now to other issues.
1869 This is about job creation and the effect that the
1870 Environmental Protection Agency has, and we are going to hear
1871 the testimonies when we have the next panel. Let me--you
1872 recognize these folks, right? And my friends on the other
1873 side. These are the folks that were affected by the 1992
1874 Clean Air Act Amendments. This is from Kincaid Mine in my
1875 district. One thousand miners' jobs were closed because of
1876 the Clean Air Act. The reason why we could not pass into law
1877 through the Senate Waxman-Markey is because we successfully
1878 made the argument that this would create higher cost energy
1879 and jobs would be destroyed, and these folks should be
1880 awarded a medal for stopping the job-destroying aspects of
1881 the Waxman-Markey bill. Illinois lost 14,000 jobs during the
1882 last round, and Ohio lost 35,000 jobs during the Clean Air
1883 Act Amendments.

1884 And so this hearing is about jobs and the effects of
1885 jobs, and I think we can make an argument on carbon dioxide
1886 not being a criteria pollutant under the Clean Air Act and

1887 that we have gone around the legislative ability by using the
1888 courts and using regulatory authority to regulate something
1889 that should not be regulated but let us assume you all are
1890 successful. I have in front of me a power plant that is
1891 being built, 1,600 megawatts. If we mandate them to reduce
1892 carbon dioxide emittance by 60 percent, what amount of the
1893 energy that they produce will have to be used to capture that
1894 carbon? Do you know what that is?

1895 Ms. {Jackson.} Sir, I sure you are going to give me the
1896 number.

1897 Mr. {Shimkus.} It is 22 percent. The energy that they
1898 are going to put on the grid will now have to capture. If
1899 they go to 85 percent, do you know how much energy that would
1900 require? Thirty percent of what they were going to put on
1901 the grid to sell. Do you believe in the law of supply and
1902 demand?

1903 Ms. {Jackson.} Do I believe in the law of--

1904 Mr. {Shimkus.} Supply and demand, economics 101.

1905 Ms. {Jackson.} The economic principle of supply and
1906 demand? It is not a tenet of faith, sir. It is a--

1907 Mr. {Shimkus.} No. Do you believe it?

1908 Ms. {Jackson.} --an economic model, and I was trained
1909 in it.

1910 Mr. {Shimkus.} Do you believe it?

1911 Ms. {Jackson.} Yes, I believe that it is generally--

1912 Mr. {Shimkus.} That if you constrain a product and
1913 there is a high demand, that costs go up?

1914 Ms. {Jackson.} It depends on the elasticity of the cost
1915 curves.

1916 Mr. {Shimkus.} And I would say that here is an example
1917 of us having power on the grid that this regulation is now
1918 going to constrain because we are going to have to use energy
1919 to capture carbon which is not energy we can put on the grid
1920 so the people who are going to buy this have to buy, what,
1921 higher power. You know what the capital expense for this
1922 power plant is if they are going to build new facilities to
1923 capture carbon, what is the new capital expense at 60
1924 percent? It is \$1.8 billion. If it is 85 percent, their
1925 capital expense, this is new spending, \$2.3 billion.

1926 Ms. {Jackson.} Sir, under the--

1927 Mr. {Shimkus.} Do you know where they have to go to
1928 pipe the carbon capture and sequestration, how far? We think
1929 the closest might be 70 miles. Who is going to pay for the
1930 pipeline? And then how big a sequestering facility has to be
1931 there? The point is, this regulation is going to skyrocket
1932 electricity costs, which will destroy jobs.

1933 I yield back my time, Mr. Chairman. Thank you.

1934 Mr. {Whitfield.} Thank you.

1935 Ms. {Jackson.} Sir, may I respond to just a few things
1936 for the record?

1937 Mr. {Whitfield.} Sure.

1938 Ms. {Jackson.} The first is, under the Clean Air Act,
1939 which is a public health--

1940 Mr. {Shimkus.} Mr. Chairman, I would like to, if she
1941 would yield, I would address this the same way that Chairman
1942 Waxman addressed Senator Inhofe and not allowing him, so if
1943 my colleagues on the other side want to give her time, they
1944 should do it on their time.

1945 Mr. {Whitfield.} Very good point.

1946 Mr. Inslee, you are recognized for 5 minutes.

1947 Mr. {Inslee.} Thank you. I think this is interesting,
1948 a 5-4 Supreme Court decision was good enough in Bush v. Gore
1949 to be settled law. A 5-4 decision in United Citizens was
1950 good enough to allow corporations to run America. But all of
1951 a sudden a 5-4 decision of the Supreme Court that you expect
1952 the EPA and us to just ignore.

1953 Now, I want to make sure that we are clear about this.
1954 The Supreme Court, which binds all of us who have taken an
1955 oath to the Constitution at the moment, says, ``Carbon
1956 dioxide, methane, nitric oxide and hydrofluorocarbons are
1957 without a doubt physical and chemical substances which are
1958 emitted into the ambient air. The statute is unambiguous.''

1959 The statute is unambiguous. Madam Administrator, is it clear
1960 that you are bound by this decision and that we have got to
1961 regulate CO2?

1962 Ms. {Jackson.} Absolutely, sir.

1963 Mr. {Inslee.} And I want to tell you the last witness,
1964 Senator Inhofe, we appreciate him coming here. We know he is
1965 a person of strong beliefs. He tells us he is writing a book
1966 called The Hoax. Now, I haven't seen it but I think it is
1967 about the alleged Apollo moon landing on the lunar surface
1968 because we know there are people that are still out there
1969 doubting that. They are doubting that the National Academy
1970 of Science has confirmed we landed on the moon. They are
1971 doubting the IPCC that confirmed we have landed on the moon,
1972 but there are still those who doubt.

1973 And I want to ask you about the status of science on
1974 this. Could I have the picture of the Arctic put up, please?
1975 This is a picture, I am afraid it is not as visible as I
1976 would have liked. This is a picture of the current status of
1977 the Arctic ice cap in September. It is difficult to view,
1978 but there is a red line showing what the Arctic ice cap used
1979 to look like before we started dumping millions of tons of
1980 carbon dioxide into the atmosphere, and what it shows, that
1981 the Arctic ice cap has now shrunk about 40 percent by mass.
1982 Now, several years ago thought it was going to disappear in

1983 its entirety, and this is the air conditioner for the world.
1984 This is what controls the ambient air, bounces light back,
1985 and it is going to disappear. Now, scientists thought it was
1986 by 2040. Now we think it might be within this decade
1987 actually being gone.

1988 Now, my understanding of the status of the science,
1989 National Science Foundation, National Academy of Science,
1990 International Panel on Climate Change, 2,500 sciences who
1991 sent this committee a letter dated a couple days ago saying
1992 that this science is clear by compelling, cogent and
1993 consistent evidence in the peer-reviewed literature that we
1994 are having an impact on climate, visibly in many, many
1995 manifestations, this being just one of them.

1996 I have not been able to find--and I understand for
1997 political purposes people are trying to drum up questions
1998 about this. I understand politics. But I have not been able
1999 to find a peer-reviewed scientific study that challenges this
2000 finding of the consensus of scientists in America, including
2001 those who work for the United States Navy, and they do a
2002 pretty good job on our submarines. Is it a fair statement
2003 that there is wide, wide consensus about the science upon
2004 which you have made this finding?

2005 Ms. {Jackson.} Yes, sir, it is very broad and based on
2006 multiple lines of research.

2007 Mr. {Inslee.} And are you aware of any single peer-
2008 reviewed scientific journal which has questioned the
2009 foundations of the relationship between our actions on earth
2010 and the increase in CO2 in the atmosphere? Because I am not.

2011 Ms. {Jackson.} I am not, sir.

2012 Mr. {Inslee.} Now, I tell you what, I hear a lot of
2013 political flacks, I hear a lot of people on television saying
2014 the science is questionable, but we can't find one single
2015 peer-reviewed research study that has questioned this
2016 science, and I hope the people who are distributing
2017 information at this hearing will point out that the
2018 Republican Party that wants to pass this Dirty Air Act will
2019 not produce one single peer-reviewed scientific piece of
2020 literature which questions the finding of the Environmental
2021 Protection Agency. I think that is pretty stunning that they
2022 want to put our kids' health at risk and won't produce one
2023 peer-reviewed piece of research to support their conclusion.

2024 One last question on the economy. In fact, the research
2025 has shown that we increase our economy by a factor of three
2026 or four every time we make an investment under the Clean Air
2027 Act, and I want to put in the record, and you made reference
2028 to this. It is a study by industry and institutional
2029 investors. It is called New Jobs, Cleaner Air, and it finds
2030 as a result of your proposal, there will be an estimated job

2031 gain in Illinois of 122,695 jobs associated with the new
2032 construction jobs, the new scientific jobs, the new jobs in
2033 utilities associated with making the air cleaner. Is it a
2034 fair thing to believe that as we make our air cleaner, we can
2035 grow our economy?

2036 Ms. {Jackson.} Yes, sir.

2037 Mr. {Inslee.} Thank you.

2038 Mr. {Whitfield.} I recognize the gentleman from
2039 Oklahoma, Mr. Sullivan.

2040 Mr. {Sullivan.} Thank you, Mr. Chairman, for holding
2041 this hearing. I would like to state that this hearing is not
2042 about science, it is about the destructive economic impacts
2043 of the EPA trying to use the Clean Air Act for what it was
2044 never designed to do: regulate greenhouse gases.

2045 Administrator Jackson, thank you for being here today.
2046 I have several companies my district ranging from chemical
2047 companies, manufacturing, energy companies, and they are
2048 scared to death of the EPA's pending rules on greenhouse gas.
2049 The energy industry in my State employs over 320,000 workers,
2050 and I intend to see that number grow by vigorously supporting
2051 this legislation. The Oklahoma Farm Bureau is also concerned
2052 with the GHG rule as they are the second largest industry in
2053 my State. Heck, Administrator Jackson, I even have churches
2054 that are concerned about this.

2055 You have been petitioned to set GHG standards for
2056 agriculture emissions. Do you intend to act on this?

2057 Ms. {Jackson.} Sir, as I stated earlier, there are no
2058 agricultural sources subject to EPA's mandatory reporting
2059 rule and no agricultural sources that need to address
2060 greenhouse gas emissions in Clean Air Act permits before July
2061 of 2013.

2062 Mr. {Sullivan.} So that would be no, just no?

2063 Ms. {Jackson.} Yes.

2064 Mr. {Sullivan.} Has EPA done an analysis on how much
2065 greenhouse gas regulations will impact the cost of producing
2066 food on farms and the price that American families will have
2067 to pay at the grocery store? We have a lot of people
2068 concerned that spend a lot of their money on groceries, you
2069 are taxing the food they eat that keeps them alive.

2070 Ms. {Jackson.} Sir, I just mentioned that we are not
2071 going to be regulating agricultural sources. They are not
2072 even required to subject to our mandatory reporting rule for
2073 greenhouse gases.

2074 Mr. {Sullivan.} But did you do any analysis on how it
2075 would affect the price of food at all? You don't do any of
2076 that, huh?

2077 Ms. {Jackson.} No, sir. When we analyze our
2078 regulations or, for example, as we analyzed legislation

2079 pending before this committee last year, we analyzed changes
2080 in potential energy costs, and of course its impact on the
2081 economy.

2082 Mr. {Sullivan.} Do you think it would be a good idea to
2083 require an economic analysis on how these rules impact family
2084 farms and the price of groceries? Is it that you don't know
2085 what the total economic impacts will be on the agricultural
2086 sector? All tolled, 17,000 farms nationwide are impacted by
2087 the EPA's greenhouse gas regulations.

2088 Ms. {Jackson.} Sir, we will do economic analysis of
2089 regulations as they are proposed and finalized. That is a
2090 process required under the Clean Air Act already.

2091 Mr. {Sullivan.} I am concerned that we have no idea
2092 what the avalanche of greenhouse gas rules will cost, costs
2093 that could shift and shatter the economy. The Obama
2094 Administration has come out recently with an initiative for
2095 regulatory reform seeking to be more business-friendly,
2096 stating that our regulatory system must take into account
2097 benefits and costs. On paper, we agree. Has the EPA done an
2098 analysis of what the full costs of regulating greenhouse gas
2099 under the Clean Air Act will be?

2100 Ms. {Jackson.} We do regular analyses, and of course,
2101 we will be complying with the Executive Order to do a
2102 cumulative review of all of our regulations. Under the Clean

2103 Air Act, we know that the benefits to costs of the Clean Air
2104 Act are 30 to 40 to one cumulatively, and in the regulations
2105 recently proposed are oftentimes at least double if not an
2106 order or two of magnitude higher. The benefits are higher
2107 than the cost.

2108 Mr. {Sullivan.} So you will be doing analysis. When
2109 will you be doing it? Do you know?

2110 Ms. {Jackson.} We will do economic analysis as part of
2111 the rulemaking process, sir.

2112 Mr. {Sullivan.} Has the EPA looked at the impact on
2113 jobs?

2114 Ms. {Jackson.} Yes. Just yesterday EPA put out a White
2115 Paper in response to a question from a member of this
2116 committee on jobs and the Clean Air Act, and it confirms that
2117 which we heard earlier today which is that having regulatory
2118 certainty allows businesses to innovate and give us clean air
2119 and grow our economy at the same time. That is the history
2120 and legacy of the Clean Air Act, sir. It is a very powerful
2121 piece of legislation.

2122 Mr. {Sullivan.} Have you looked at the risk of
2123 manufacturing jobs overseas? I hear that all the time, that
2124 people are going to do it if this happens. Do you look at
2125 that?

2126 Ms. {Jackson.} We do do an economic and jobs impacts

2127 analysis on regulations as part of the regulatory process,
2128 sir.

2129 Mr. {Sullivan.} But you haven't done that yet?

2130 Ms. {Jackson.} We do them for the regulations as they
2131 come out so--

2132 Mr. {Sullivan.} When will you be doing it?

2133 Ms. {Jackson.} The regulations are proposed for, for
2134 example, new source performance standards, we will do
2135 analysis as part of the regulatory process.

2136 Mr. {Sullivan.} Thank you. I yield back.

2137 Mr. {Rush.} Mr. Chairman?

2138 Mr. {Whitfield.} Yes?

2139 Mr. {Rush.} I respectfully request that the White Paper
2140 that the Secretary mentioned that it be entered into the
2141 record.

2142 Mr. {Whitfield.} Without objection.

2143 [The information follows:]

2144 ***** COMMITTEE INSERT *****

|
2145 Mr. {Whitfield.} I recognize at this time Mr. Markey of
2146 Massachusetts.

2147 Mr. {Markey.} I thank the gentleman.

2148 This bill that we are considering, the Polluters
2149 Protection Act of 2011, repeals the scientific finding that
2150 global warming pollution is dangerous. It ties EPA's hands
2151 and prevents it from moving forward with any regulations to
2152 reduce global warming pollution. It even prevents EPA from
2153 thinking about global warming pollution as part of its other
2154 duties under the Clean Air Act. In George Orwell's 1984, Big
2155 Brother's faceless minions at the ministry of truth dispose
2156 of politically inconvenient facts by pitching them down a
2157 memory hole. Today, Big Oil and Big Coal have been working
2158 with the Republican thought police to comb through each and
2159 every reference to global warming pollution in the Clean Air
2160 Act and then disappear them, sending scientific consensus
2161 down the memory hole at the expense of public health and
2162 welfare. But their bill will create new jobs. The oil and
2163 the coal and the utility lobbyists who are here today and
2164 watching on the Web all across America, there is new people
2165 being hired in those industries to make sure that the EPA
2166 cannot do its job, and we congratulate you for that purpose.
2167 But what this bill also does is to bar EPA from doing

2168 anything further to reduce oil from cars, trucks, planes,
2169 boats or other sources. The legislation might even nullify
2170 the progress we have already made over at EPA in reducing
2171 demand for oil. The Republican bill could result in an
2172 increase in our dependence of more than 5 million barrels of
2173 oil per day by the year 2030, more than we currently import
2174 from OPEC. So that is what we are doing today. Tomorrow, in
2175 this very same subcommittee, we are holding a hearing on the
2176 impact of Middle East unrest and its impact on U.S. energy
2177 prices for consumers. That is like holding a hearing on
2178 repealing FDA's authority to regulate tobacco and then
2179 holding a hearing the very next day on the dangers of tobacco
2180 in creating lung cancer. Five million barrels of oil per
2181 day. At \$90 per barrel, that is \$164 billion a year we would
2182 send to OPEC if the Republicans are accurate. That would
2183 fund al-Qaeda. That would fund Hamas. That would fund
2184 Hezbollah. That would fund the Muslim Brotherhood. That is
2185 what this money would be used to accomplish. That is what
2186 their bill makes possible.

2187 Now, I understand why Arab oil sheiks and Oklahoma
2188 oilmen want the price of a barrel to continue to rise and to
2189 rise and to rise, but the consequences for American young men
2190 and women that we would have to send over there, the impact
2191 on our geopolitical status around the world would be

2192 devastating. Instead of holding the line so that we continue
2193 to back out that imported oil, the Republicans have offered
2194 us a unilateral disarmament policy that al-Qaeda and other
2195 groups around the world will be able to exploit as we send
2196 more money over there to import oil into our country.

2197 By repealing the endangerment finding, Republicans are
2198 endangering the current standards by opening up a litigation
2199 loophole in the current standards to reduce oil use in cars
2200 and light trucks, and Republicans are barring EPA from moving
2201 forward with any new standards at all. Do you agree, Madam
2202 Administrator, that this legislation would increase our
2203 dependence on foreign oil if you are prohibited from
2204 promulgating additional regulations to reduce our dependence
2205 upon that imported oil?

2206 Ms. {Jackson.} Yes, sir.

2207 Mr. {Markey.} Doesn't this bill also undermine the
2208 renewable fuel standards, which is driving the production of
2209 homegrown biofuels that will further our imports of oil from
2210 OPEC by 1.6 million barrels of oil per day?

2211 Ms. {Jackson.} Yes, sir, I believe it does.

2212 Mr. {Markey.} Doesn't this bill also prevent EPA from
2213 setting standards to reduce oil use in trains, boats, planes,
2214 large trucks and other industrial sources, sources that
2215 account for almost 40 percent of all oil that we use each

2216 day?

2217 Ms. {Jackson.} Yes, sir, I believe it would.

2218 Mr. {Markey.} So basically what we have here then is
2219 legislation that is a regulatory relief bill for oilmen in
2220 Oklahoma and at OPEC that would allow for a tightening of the
2221 noose around the neck of American foreign policy and
2222 consumers that will come back to haunt us in years ahead
2223 because we did not use America's greatest strength, our
2224 technological genius, to improve the vehicles that we drive,
2225 improve the appliances which we use, improve the efficiency
2226 of the buildings within which we live so that we reduce
2227 dramatically the amount of energy that we have to consume and
2228 tell OPEC we don't need their oil anymore than we need their
2229 sand. That is what this hearing is all about and that is why
2230 this bill has an historic place in terms of its undermining
2231 of our national security.

2232 Mr. {Whitfield.} The gentleman from Oregon is
2233 recognized for 5 minutes.

2234 Mr. {Walden.} Thank you, Mr. Chairman.

2235 Woody is back in town. I want to talk to you about
2236 biomass first off. You testified, and the Administration
2237 testified in support of the Waxman-Markey bill, and I would
2238 just like to know your scientific underpinning for supporting
2239 the provision that treated biogenic carbon emissions as if

2240 they were oil or gas when used in the production of renewable
2241 energy.

2242 Ms. {Jackson.} Sir, I recently wrote a letter saying
2243 that we believe that there is only limited climate impact
2244 through the combustion of certain biomass.

2245 Mr. {Walden.} Now, that is interesting because the
2246 scientists at the State University of New York, College of
2247 Environmental Science and Forestry contend that woody biomass
2248 is a substantial CO₂-neutral renewable resource that can be
2249 used as a fuel for a variety of sustainable, environmentally
2250 sound energy applications. Do you disagree with that
2251 finding?

2252 Ms. {Jackson.} No, Mr. Walden. What I said is that I
2253 substantially agree that we need additional science because
2254 it may well be that many sources of biomass are neutral when
2255 it comes to greenhouse gas emissions.

2256 Mr. {Walden.} Do you think that there is a difference
2257 between woody biomass that is used for renewable energy that
2258 is produced on private, State or county land versus that
2259 comes off federal land?

2260 Ms. {Jackson.} Sir, I don't know what the difference
2261 would be except its source, and it would depend on the type
2262 of biomass.

2263 Mr. {Walden.} But if it were the same tree source,

2264 right? If you have a fir tree on one side of the line--

2265 Ms. {Jackson.} Scientifically, there is no difference
2266 on whose land the trees are.

2267 Mr. {Walden.} Right. So that is what perplexed me
2268 about your support for the Waxman-Markey bill that said woody
2269 biomass off federal land was different than the woody biomass
2270 off other lands when treated--when used to create renewable
2271 energy. It is a flaw.

2272 Now, in your tailoring rule--people in my district are
2273 real upset because there are a lot of rules, not just this
2274 one but others coming out that do affect the price of oil. I
2275 understand your agency just pulled the air permit on a Shell
2276 drilling operating Alaska that would have potentially reached
2277 into 35 billion barrels of oil. They have gone through 35
2278 other permits. That one has been pulled. If you want to
2279 talk about accessing America's great energy reserves, didn't
2280 you pull that air permit?

2281 Ms. {Jackson.} No, sir, actually we issued the permit.
2282 The courts--the Environmental Appeals Board ruled against the
2283 EPA-issued permit, sir.

2284 Mr. {Walden.} So what is your plan going forward there?

2285 Ms. {Jackson.} We have a motion to the Environmental
2286 Appeals Board for reconsideration, and we are working with
2287 the permit applicant to perfect the application and move

2288 forward as quickly as we can in response to the application.

2289 Mr. {Waxman.} Will the gentleman yield?

2290 Mr. {Walden.} No, I won't. I only have a minute, 10,

2291 Mr. Chairman. Otherwise I would.

2292 Let us go back to the biomass issue because in the--a
2293 lot of us wrote you in a bipartisan way asking you to not
2294 move forward with the rule on biomass in the tailoring rules
2295 affecting biomass. You responded and said you are going to
2296 delay this for a couple of years. Now, the practical impact
2297 in a district like mine is, we have got a lot of people that
2298 want to invest in new high-tech biomass facilities, to turn
2299 woody biomass into renewable energy. They are concerned that
2300 you are going to come back in 2013 or later on with a rule
2301 that treats biomass if it were coal or oil. Can you give us
2302 any indication that you won't do that?

2303 Ms. {Jackson.} I do know, sir, that the American Forest
2304 Products Association hailed the decision to defer for 3
2305 years--

2306 Mr. {Walden.} I am aware--

2307 Ms. {Jackson.} --to get the science, like the science
2308 you mentioned, to show the carbon neutrality of biomass fuel.

2309 Mr. {Walden.} But I want to get to my question. I know
2310 what they said. I know what I said. I was glad except I
2311 think we create this delay process where you are stifling

2312 investment. You know, the President wants to see \$2 trillion
2313 in private sector investment come off the shelves and get
2314 invested. It is rules like this that are causing the people
2315 trying to make those decisions to wait because they don't
2316 know what your agency is going to do in a couple of years
2317 that might affect them if they make that investment today.
2318 Because you could go back under the new source performance
2319 standards, could you not, and say no, actually we are going
2320 to regulate the burning of woody biomass as if it were--

2321 Ms. {Jackson.} I support the delay to get the best
2322 science, sir, to give scientists a chance to do the studies
2323 to determine how best to deal with biomass and to determine
2324 whether all biomass is created the same. It was a delay to
2325 review scientific--

2326 Mr. {Walden.} So you can't give us any certainty. So
2327 we are on delay for a couple years?

2328 Mr. {Waxman.} Mr. Chairman, I would ask unanimous
2329 consent that I be given 30 seconds to make a statement for
2330 the record.

2331 Mr. {Whitfield.} Does anybody object?

2332 Mr. {Waxman.} I just wanted to point out to the
2333 gentleman from Oregon that his criticism of our bill would
2334 have applied to its initial formulation, but by the time we
2335 passed the House Floor, the biomass provisions were changed,

2336 and I think even in Oregon the industry was for it. But your
2337 criticism was of the draft bill that was in the committee,
2338 not the bill that passed.

2339 Mr. {Walden.} Well, Mr. Chairman, if I might respond to
2340 that?

2341 Mr. {Waxman.} I would be happy to yield.

2342 Mr. {Walden.} Indeed, there was criticism of the
2343 original language. However, the language that was adopted by
2344 this committee still left a real problem when you accept--if
2345 you go to section 15, I believe it is, and the new language
2346 still precludes material that would come off all kinds of
2347 federal lands--roadless areas, old growth, late successional
2348 stands--except for dead, severely damaged or badly infested
2349 trees. Those definitions, those were never defined. I had
2350 Forest Service employees ask me what is a severely damaged
2351 tree, what is a badly infested tree, because they said we are
2352 the ones who are going to get sued because--and so it still
2353 is not workable language in the real forest.

2354 Mr. {Waxman.} We thought we had corrected the problem.
2355 I just wanted to make that point.

2356 Mr. {Whitfield.} Ms. Jackson, maybe we will have you
2357 back and we will talk about woody biomass in detail, at
2358 length.

2359 This time I will recognize Ms. Capps of California.

2360 Mrs. {Capps.} Thank you. Before I get to my questions,
2361 I ask unanimous consent to place into the record a letter,
2362 and it is signed by more than 1,800 physicians, nurses and
2363 other health professionals from all 50 States calling upon
2364 Congress to, and I quote, ``resist any efforts to weaken,
2365 delay or block progress toward a healthier future for all
2366 Americans.

2367 Mr. {Whitfield.} Without objection.

2368 [The information follows:]

2369 ***** COMMITTEE INSERT *****

|
2370 Mrs. {Capps.} Thank you. I also ask unanimous consent
2371 to place into the record statements from a number of public
2372 health organizations including the American Lung Association
2373 and the Trust for Americans' Health rejecting the draft bill
2374 under consideration today.

2375 Mr. {Whitfield.} Without objection.

2376 [The information follows:]

2377 ***** COMMITTEE INSERT *****

|
2378 Mrs. {Capps.} Thank you, Mr. Chairman.

2379 Administrator Jackson, thank you for your testimony and
2380 for your patience this morning. I want to talk about the
2381 very real consequences for our public health, and you know my
2382 background as a public health nurse, if we do not act to
2383 control greenhouse gas emissions. One of the best documented
2384 impacts of climate change is the in ground-level ozone smog
2385 concentrations. This is a big problem for many of our
2386 metropolitan and suburban areas. Now, I know you were asked
2387 about and already talked about some of the harmful effects of
2388 this carbon pollution on people but can you be more specific
2389 or give some examples, if you will, from your data collection
2390 on kids' respiratory health being impacted, the cases of
2391 asthma or heart problems or cancers?

2392 Ms. {Jackson.} EPA's work under the Clean Air Act to
2393 address smog is directed primarily at reducing ground-level
2394 ozone, which we know, which science does not dispute,
2395 increases the risk of asthma attack and premature death for
2396 people who have lung disease.

2397 Mrs. {Capps.} Thank you. I know in my years of being a
2398 school nurse, we saw a dramatic increase in the number of
2399 children with asthma, which is the case today as well.

2400 Two years ago when you issued the endangerment finding,

2401 you considered these effects on human health. They were a
2402 part of your decision-making process, right?

2403 Ms. {Jackson.} Absolutely. The unchecked emissions of
2404 greenhouse gas emissions would change the climate, thus
2405 exacerbating the effects of smog on asthmatic children and
2406 people with lung disease.

2407 Mrs. {Capps.} Can you please also share with this
2408 subcommittee some of the other public health research and
2409 science that you reviewed in making this decision? I know
2410 that it was an extensive and thorough decision-making process
2411 in which you didn't ask a few selectively chosen groups, that
2412 you went broad-based. Maybe we need to know how broad-based
2413 your research was.

2414 Ms. {Jackson.} Yes, it was based on the peer-reviewed
2415 work of multiple research programs, both public research as
2416 well as privately and academic research. The U.S. Global
2417 Change Research Program, for example, projects that the
2418 impacts we would see in America from unchecked carbon dioxide
2419 and global warming pollution would be tremendous. They would
2420 not be limited to urban areas. They would not be limited to
2421 arid areas. The Great Plains would experience more drought
2422 and increased infestation of pests. That means more disease.
2423 The Southeast would experience declines in livestock
2424 production. The Great Lakes would have more frequent spring

2425 flooding and more frequent drought. That's in addition to
2426 the more traditional public health impacts to people who
2427 oftentimes are least able to defend themselves: our children.

2428 Mrs. {Capps.} Exactly. And, you know, we have heard
2429 today about the costs of implementation of the EPA and your
2430 endangerment findings and all the rest, but I have been able
2431 to make the case, and I wonder if you wouldn't agree, that
2432 the benefits of the programs that you have implemented really
2433 do exceed and add greatly to balance over the costs of
2434 implementation, far and away.

2435 Ms. {Jackson.} That is right. We are talking about the
2436 Clean Air Act today and history. Facts show numerous
2437 studies, 30 to one, 40 to one, the health benefits for every
2438 dollar invested in this country in clean air technology.

2439 Mrs. {Capps.} And finally, as you agency continues to
2440 do the work that you are doing, you are going to be making
2441 decisions based on the best public health research and
2442 science, I am sure, and I just want to make sure that we
2443 have, because it is in the record now as I have introduced,
2444 one quote from the letter that these 1,800 health
2445 professionals submitted, and they say, ``As health and
2446 medical professionals, we are keenly aware of the health
2447 impacts of air pollution. Air pollution is linked to a wide
2448 range of health consequences including cancer, asthma

2449 attacks, heart attacks and strokes. The Clean Air Act
2450 guarantees all Americans, especially those most vulnerable,
2451 that the air be safe and healthy to breathe. Despite air
2452 pollution reductions, more progress is needed to fulfill this
2453 promise, and maybe you will close it out with 3 seconds
2454 illustrating that.

2455 Mrs. {Capps.} I don't know what better way to say it or
2456 from a more credible source. I like a recent quote I saw
2457 from a physician in the Missouri area who said it is just not
2458 conceivable that we wouldn't our require not to pollute our
2459 air, not to make our air dirtier and our families less
2460 healthy in order to increase their profit margins.

2461 Mrs. {Capps.} Thank you. Thank you, Mr. Chairman. I
2462 yield back.

2463 Mr. {Whitfield.} Thank you. At this time I recognize
2464 the gentleman, Mr. Terry, 5 minutes.

2465 Mr. {Terry.} Thank you, Madam Administrator. Do you
2466 like puppies?

2467 Ms. {Jackson.} Do I like puppies?

2468 Mr. {Terry.} Yes.

2469 Ms. {Jackson.} Yes, as long as somebody trains them for
2470 me, but I have a dog.

2471 Mr. {Terry.} I just wanted to ask you because I felt
2472 like joining Mr. Waxman and Mr. Markey in asking you

2473 questions.

2474 Now, could you point to the area where in the Clean Air
2475 Act it lists--because I have looked at the Clean Air Act and
2476 it sets out rather lengthy lists of what is covered. So
2477 within the Clean Air Act, could you point to which section
2478 CO2 is listed?

2479 Ms. {Jackson.} That determination was made by the
2480 Supreme Court, sir.

2481 Mr. {Terry.} Okay. Let us go to Massachusetts v. EPA.
2482 And by the way, I want to refute, not refute but Mr. Inslee
2483 read a portion of or a paragraph of the Court decision,
2484 Massachusetts v. EPA, that recognizes the fact that--I just
2485 put CO2 into the air and I appreciate that the Supreme Court
2486 recognized that when I exhale or there is CO2 emissions. I
2487 am not going to comment on any contribution by me of methane.
2488 That is humor, by the way, Ms. Jackson. Larry the Cable Guy
2489 is from Nebraska so we have a certain level of humor.

2490 But here is a compelling part or part of the
2491 Massachusetts v. EPA that is really the subject of the debate
2492 over this issue of whether or not the EPA has the power to do
2493 this, and I am going to read the full paragraph like Mr.
2494 Inslee did. It is in the order part, and it just says, ``In
2495 short, EPA has offered no reasoned explanation in its refusal
2496 to decide whether greenhouse gases cause or contribute to

2497 climate change. Its action was therefore arbitrary,
2498 capricious or otherwise not in accordance with law. We need
2499 not and do not reach the question whether on remand EPA must
2500 make an endangerment finding or whether the policy concerns
2501 can inform EPA's actions in the event that it makes such a
2502 finding. We only hold that EPA must ground its reasons for
2503 actions or inaction in the statute.''

2504 The issue here is whether or not this Administration is
2505 grabbing power without Congressional approval, and I would
2506 submit to you that the language in Massachusetts v. EPA does
2507 not say that the EPA has the power to start regulating CO2.
2508 Science and issues, as Mr. Sullivan from Oklahoma, where all
2509 evil oil men evidently reside, made the point, this isn't a
2510 debate about science, this is a debate about whether the EPA
2511 has authority. Next week we are going to do the same thing
2512 with the FCC on whether they have unilaterally sua sponte
2513 performed a power grab without Congressional authority. So
2514 that is what we are here to do today. And then I want to get
2515 to the Clean Air Act. If this Clean Air Act was amended and
2516 just added carbon dioxide to the section that lists all the
2517 pollutants specifically, isn't it--well, then would you be
2518 able to say well, we are only going to apply CO2 if there is
2519 more than 100,000 tons emitted within a calendar year? Would
2520 you be able to do that?

2521 Ms. {Jackson.} Sir, are you asking about a potential
2522 change to section 111 of the Clean Air Act?

2523 Mr. {Terry.} Well, I will have to look at 111, but the
2524 issue is that you said earlier in your testimony that the
2525 emissions that you would regulate would be for CO2 would be
2526 over 100,000. You said that in answering Mr. Whitfield's
2527 question.

2528 Ms. {Jackson.} Pursuant to the standards under the
2529 tailoring rule that we--

2530 Mr. {Terry.} Under the tailoring rule, but when reading
2531 the Clean Air Act under what triggers it, it is either 100 or
2532 250 tons per year, 250 being cited exemptions of which CO2 is
2533 not or its type of industry, so let us say coal industry.

2534 Ms. {Jackson.} Right. So the United States Supreme
2535 Court, whose job it is under the Constitution to interpret
2536 our laws, ruled on whether or not EPA could ignore its need
2537 to make a finding--

2538 Mr. {Terry.} Okay. So since you are saying that the
2539 EPA has already ignored that Congress didn't give you the
2540 authority and now you are interpreting they did, that you can
2541 just continue to interpret--

2542 Ms. {Jackson.} I am not interpreting. The United
2543 States Supreme Court--

2544 Mr. {Terry.} --different sections saying that you--

2545 Ms. {Jackson.} --ruled that--

2546 Mr. {Terry.} --are going to redo the standards where
2547 you are able to regulate, i.e., 100 or 250, and you can
2548 arbitrarily set it at 100,000 for a coal-fired plant,
2549 correct?

2550 Ms. {Jackson.} Sir, in an attempt to ensure that we--

2551 Mr. {Terry.} Okay. You are not going to answer the
2552 question.

2553 Ms. {Jackson.} --minimize the number of--

2554 Mr. {Terry.} Thank you for your testimony.

2555 Ms. {Jackson.} --sources that were regulated, we have
2556 proposed and summarily adopted after public comment a rule
2557 that is intended to ensure that only the very largest
2558 sources--

2559 Mr. {Terry.} Madam Secretary, the Clean Air Act does
2560 not give you that authority.

2561 Ms. {Jackson.} The United States Supreme Court says it
2562 does.

2563 Mr. {Whitfield.} I recognize the gentleman from Texas,
2564 Mr. Green, 5 minutes.

2565 Mr. {Green.} Thank you, Mr. Chairman.

2566 Welcome, Madam Administrator. I know there is an image
2567 here that there are only oilmen in Oklahoma. We have a
2568 couple in Texas and Louisiana and Alabama and Alaska and

2569 other places in our country.

2570 My first question was talking about new source
2571 performance standards, and you have answered that. I guess
2572 my concern is that there was a consent decree signed but
2573 there was no economic analysis except during the rulemaking
2574 process. It seems like we ought to look at that ahead of the
2575 rulemaking, but I know you have already answered that
2576 question.

2577 My question, though, concerns what happens if only the
2578 United States acts to reduce these emissions while major
2579 emitters like China or India, and China may overtake us if
2580 they haven't already, do not follow suit? Can we really
2581 address climate change without strong mandatory reductions by
2582 other major emitters in our countries?

2583 Ms. {Jackson.} We will not ultimately be able to change
2584 the amount of CO2 that is accumulating in the atmosphere
2585 alone, but that does not mean we should all start at the
2586 exact same time.

2587 Mr. {Green.} I am concerned that the regulations put
2588 our smaller manufacturers' plants and refineries at an
2589 economic disadvantage compared to similar industries
2590 overseas, a disadvantage that several of our witnesses later
2591 on will outline, and what specifically can your agency do to
2592 address the concerns of these smaller facilities?

2593 Ms. {Jackson.} Well, the tailoring rule which I just
2594 mentioned was intended to give certainty that those
2595 facilities would not be subject to regulation. We are
2596 talking about facilities that emit more than 100,000 tons of
2597 CO2 or its equivalent per year. You get that by burning over
2598 a railroad car of coal every single day. That is how large
2599 these facilities are. It was intended to be a reasonable
2600 first step, to start with the large sources, not with the
2601 small ones, and to rely heavily on energy efficiency because
2602 the belief was that if we are going to invest and make
2603 ourselves more competitive, making ourselves more energy
2604 efficient will help our bottom line and put more money in the
2605 economy for us to spend on something besides oil, especially
2606 foreign oil, of course.

2607 Mr. {Green.} Well, I have to admit the hearing today is
2608 on potentially legislation that would actually remove the
2609 EPA's authority. I think we have to address carbon in our
2610 country. I just prefer it to be on the legislative level.
2611 And we made an effort last time. We know cap and trade
2612 didn't pass during Democrat Congresses so it is not going to
2613 pass during a Republican Congress. But I would like to see
2614 Congress take that effort and maybe EPA doing it will push
2615 us.

2616 Would you agree that the measures your agency is

2617 undertaking in an attempt to curb greenhouse gases would
2618 still be necessarily to increase environmentally responsible
2619 production of domestic natural gas supplies to meet the
2620 short-term carbon reduction goals and keeping these
2621 manufacturing jobs in the United States? Is natural gas part
2622 of the solution to carbon?

2623 Ms. {Jackson.} Natural gas is much less carbon-intense
2624 than some other forms of fossil fuels, particularly coal,
2625 which is used for baseload electricity generation in this
2626 country. So it can certainly be a help, a very useful step
2627 in the right direction.

2628 Mr. {Green.} Well, and I have said it before and I
2629 think this is something we can agree across party lines, is
2630 that the other side is nuclear power. Our country compared
2631 to both France and Japan is so far behind in utilizing
2632 nuclear power, but as we know, nuclear power has no carbon
2633 emissions except for the construction. But natural gas emits
2634 30 percent less of the carbon dioxide than oil does. For our
2635 New Englanders who still use fuel oil to heat their homes,
2636 maybe they need to put a pipeline for the natural gas. But
2637 it is 50 percent less than coal. So I would hope this
2638 Congress would look at empowering cleaner burning fuels
2639 including substantial expansion of nuclear. We are
2640 struggling, as you know, to get loan guarantees that were

2641 passed in the 2005 energy bill for expansion of nuclear power
2642 in our country, yet here we are in 2011 and we still don't
2643 have it.

2644 So I share your concern about carbon. I just am
2645 concerned that we need to do it in a legislation effort so we
2646 can do that economic analysis from the members, elected
2647 members instead of the agency.

2648 With that, Mr. Chairman, I yield back my time.

2649 Mr. {Whitfield.} I recognize the gentleman from Texas,
2650 Mr. Burgess, 5 minutes.

2651 Dr. {Burgess.} Thank you, Mr. Chairman.

2652 Thank you, Administrator Jackson, for being here. I am
2653 going to ask you a series of, I think, six questions. They
2654 are detailed and complicated and I know they are going to
2655 require answers in writing. Some of these I submitted to you
2656 before. We are still awaiting answers. So what I am
2657 interested in this morning is getting affirmation that some
2658 type of response will be coming from your office on these
2659 issues.

2660 Now, north Texas, where I live, last week, a week ago
2661 today, we were subject to rolling blackouts of electrical
2662 power. Businesses, schools, hospitals were all affected.
2663 This was not because of tree branches weighted down by the
2664 ice and cutting power lines. This was simply an effect of

2665 the very cold temperatures that were in place in Texas last
2666 week. We do all recognize there are new regulations coming
2667 down the pike, and can you assure us here at the subcommittee
2668 that these rules will not make instances of rolling blackouts
2669 more common? We would also be interested in the studies that
2670 are underway to look at the cumulative effect of all of the
2671 EPA regulations on electrical reliability, not just in Texas
2672 where we have our own reliability council, but across the
2673 country.

2674 A second area. Did the EPA consult with anyone at
2675 Office of Management and Budget or the White House before
2676 moving forward in taking over the Texas flexible permitting
2677 program under the Clean Air Act? The EPA is now issuing its
2678 own permits to utilities in Texas, displacing the State
2679 agencies that have been responsible for that historically,
2680 the first time to my knowledge that the EPA has taken over a
2681 State system. And did the EPA consult with Office of
2682 Management and Budget on regulations for the permits it is
2683 issuing in lieu of the State-based permits? And I would be
2684 interested in your development of that answer in light of
2685 President Obama's recent Executive Order calling for greater
2686 scrutiny of regulations and streamlining of problems
2687 encountered with bureaucracy so areas where you and the EPA
2688 have identified regulations for streamlining. I would like

2689 to have your thoughts on that.

2690 Gene Green mentioned natural gas. It is a big industry.
2691 In my part of Texas, there is of course some controversy over
2692 the production of natural gas and there are issues that are
2693 being worked out at the federal, State and local level.
2694 Still your administrator in region 6 has made public
2695 statements that he is going to be much more actively involved
2696 in the regulation of this industry. It employs 100,000 in my
2697 area of north Texas. So my question that I would like for
2698 you to provide some insight is, are there active discussions
2699 within the EPA to take over--we are talking about the Clean
2700 Air Act today but this could also involve the Clean Water
2701 Act. Is there going to be greater involvement at the federal
2702 level in these activities and how are you going to justify
2703 that with the President's call for greater streamlining of
2704 burdensome regulations?

2705 The ethanol mandate that was accelerated in December of
2706 2007--E15 is now, we are told, going to be mandated by the
2707 EPA, 15 percent ethanol. Can you provide us with the testing
2708 that has been done in both vehicles and small engines
2709 utilizing 15 percent ethanol? Can you provide us with
2710 information on the testing done to date and the testing
2711 methodology that was employed? And again, I am particularly
2712 interested in older engines, cars produced between 2001 and

2713 2007, and the small engine--the snow blower, the weed eater
2714 and that type of activity.

2715 Under Title 42 of the United States Code, the section
2716 for the Department of Health and Human Services, it does
2717 allow for increased salaries for limited positions requiring
2718 specialized expertise, and I get that and that is not
2719 necessarily a bad thing, but it appears that EPA is also
2720 utilizing some of those 42 exemptions. Can you provide for
2721 the committee how many EPA employees are receiving pay under
2722 Title 42 exceptions? Have you placed a limit of pay under
2723 Title 42 and what is the total amount of the Title 42 program
2724 costing the federal taxpayer within the Environmental
2725 Protection Agency's budget?

2726 Now, this last question, perhaps you can address this
2727 while we are here today. The Business Roundtable in June of
2728 this year under the President's request submitted to the
2729 President some issues that they thought might help in job
2730 creation because this was an issue last June that the
2731 President was concerned about, and the Roundtable
2732 specifically mentioned the Environmental Protection Agency's
2733 moves against Texas flexible permitting program as one of the
2734 major examples of the Administration's hostility--their
2735 words--towards growth. So 6 months, what has your office,
2736 Office of Management and Budget, the White House done in

2737 response to the Business Roundtable's suggestion to remove
2738 the EPA's restrictions on the Texas flexible permitting
2739 program?

2740 Ms. {Jackson.} Sir, I will answer all the other
2741 questions in writing for the record, and I am happy to do
2742 that. I just want to point out one important fact. It was
2743 the Bush EPA, the Bush Administration that found out that
2744 under the Clean Air Act the Texas flexible permitting program
2745 was not legal. So when I became Administrator, I found a
2746 situation where businesses in Texas have no certainty that
2747 the permits they have protect them from lawsuits for emitting
2748 excessive pollution. We have worked individually with
2749 businesses in Texas to bring their permits into compliance
2750 with the law and that process will take some amount of time.
2751 But the answer certainly could not have been to look the
2752 other way as these businesses got permits that weren't worth
2753 the paper they were printed on.

2754 Dr. {Burgess.} If I may point out in the Business
2755 Roundtable report prepared for the President, similar rules
2756 exist in other States which have not been challenged by the
2757 EPA. This appears to be Texas specific, and if it is, that
2758 is wrong and I would like you to look into it, and I will
2759 await your answers. Thank you.

2760 Mr. {Whitfield.} At this time I recognize Mr. Engel

2761 from New York for 5 minutes.

2762 Mr. {Engel.} Thank you very much, Mr. Chairman.

2763 As my colleagues have discussed, this legislation would
2764 repeal EPA's scientific determination that greenhouse gases
2765 threaten public health and welfare, known as the endangerment
2766 finding. I happen to believe that carbon emissions are a
2767 serious threat to our Nation's welfare. I mean, I know that
2768 some of us might wish that the earth is flat, and I
2769 understand that different districts have different needs, I
2770 understand my colleagues trying to protect industry in their
2771 districts, but the bottom line is, this is scientific
2772 research. This is proven, and we have decisions and we are
2773 supposed to abide by them.

2774 Ms. Jackson, let me first of all thank you for the
2775 excellent job that you are doing, and your testimony here
2776 this morning has just affirmed in my mind what a grasp you
2777 have of the issues, how determined you are to be on the right
2778 track, and I just want to thank you for your good work.

2779 Legislatively repealing that scientific determination
2780 directly conflicts with the consensus of climate scientists,
2781 including President Bush's EPA Administrator, Stephen
2782 Johnson, and the world's most authoritative scientific
2783 organizations which use words like ``indisputable'' and
2784 ``unequivocal.'' We talk about it killing jobs. Well, this

2785 is an interesting statistic. Since its adoption, the Clean
2786 Air Act has reduced key air pollutants by 60 percent while at
2787 the same time the economy grew by over 200 percent. So I
2788 don't think that that shows that jobs are being killed. From
2789 1990 to 2008 alone, the Clean Air Act reduced key air
2790 pollutants by over 400 percent, and the economy grew by
2791 almost 65 percent. These pollution reductions save lives,
2792 improve health, particularly among children and seniors, and
2793 in 2010 alone, last year, according to a peer-reviewed EPA
2794 analysis, the Clean Air Act prevented over 160,000 premature
2795 deaths, 130,000 cases of heart disease, 1.7 million asthma
2796 attacks, 86,000 hospital admissions and millions of
2797 respiratory illnesses. So I wanted just to state that for
2798 the record.

2799 I would like to explore with you, Madam Administrator,
2800 one question on the impacts of this legislation on the
2801 renewable fuel standard. As you know, in order to promote
2802 renewable fuels and reduce greenhouse gas pollution, Congress
2803 has required EPA to issue regulations to ensure that
2804 transportation fuels sold in the United States contain
2805 certain volumes of renewable fuel: advanced biofuel,
2806 cellulosic biofuel and biomass-based diesel. The volume of
2807 each type of fuel is established annually by the EPA and
2808 based in part of the availability of the fuel. Now, it

2809 appears to me that the new section 330(b)(1)(A) would prevent
2810 the EPA from establishing these required annual volumes in
2811 subsequent years because it prohibits EPA from taking actions
2812 related to greenhouse gases. Do you have the same
2813 interpretation that I do of section 330(b)(1)(A), and if so,
2814 what do you think that means for the renewable fuel standards
2815 specifically and the future of biofuels generally in the
2816 United States?

2817 Ms. {Jackson.} Sir, as I said in my opening statement,
2818 I believe the draft bill would likely prohibit EPA from
2819 taking further actions to implement the renewable fuels
2820 program in the United States.

2821 Mr. {Engel.} Well, I think that that is something that
2822 is really, really important and we really need to think twice
2823 before we want to do such a thing. I mean, I think that
2824 nobody at this point should conclude that carbon emissions
2825 are not a serious threat to our Nation. I mean, they are,
2826 and we ought to not put our heads in the sand. We ought to
2827 figure out a way where we can have cleaner air and at the
2828 same time have the least impact on business and creation of
2829 jobs but we shouldn't eliminate all these restrictions just
2830 because we are concerned about these things with jobs. We
2831 don't want our children to breathe filthy air. We don't want
2832 it to go back to the bad old days. There are countries all

2833 around the world where literally people, the cancer rates are
2834 up because they don't have the rules that we have adopted to
2835 prevent these things, and I don't think we want to go back to
2836 the Stone Age.

2837 So I thank you for your testimony, and I look forward
2838 continuing to work with you, and I yield back, Mr. Chairman.
2839 Thank you, Mr. Chairman.

2840 Mr. {Whitfield.} A number of people have mentioned this
2841 renewable fuels issue, and as we move forward with this
2842 legislation, we are certainly going to try to address some of
2843 the concerns that you all have brought about it.

2844 At this time I recognize the gentleman from Louisiana,
2845 Mr. Scalise, for 5 minutes.

2846 Mr. {Scalise.} Thank you, Mr. Chairman, and welcome
2847 back, Ms. Jackson.

2848 Ms. {Jackson.} Thank you.

2849 Mr. {Scalise.} I appreciate you coming to testify. And
2850 of course, today's hearing is specifically focused on the
2851 Energy Tax Prevention Act and especially its impact on jobs
2852 and how if we are able to prevent, truly prevent your agency
2853 from going into an area where it hadn't been before, we would
2854 also be able to save thousands of American jobs, potentially
2855 millions of American jobs along with billions of investment.

2856 First I want to go back to some comments and statements

2857 that the President made when he was a candidate. President
2858 Obama on multiple occasions has talked about cap and trade
2859 and this kind of regulatory scheme increasing the cost of
2860 electricity, and I will read one of his quotes. ``Under my
2861 plan of a cap-and-trade system, electricity rates would
2862 necessarily skyrocket.'' That was then-Senator Obama as a
2863 candidate for president. Do you agree with that statement?

2864 Ms. {Jackson.} No, sir. I think that statement is--

2865 Mr. {Scalise.} You disagree with the President's
2866 statement that a cap-and-trade scheme would necessarily--

2867 Ms. {Jackson.} I believe his larger point was that a
2868 market-based program could ensure that energy rates while
2869 producers had the certainty they needed to move forward, the
2870 market and through innovation would allow it to happen in a
2871 gradual fashion.

2872 Mr. {Scalise.} A gradual fashion where electricity
2873 rates skyrocketed, though. That is the key point. The
2874 President said this. I am not saying this. I will give you
2875 Tim Geithner's statement. Tim Geithner said cap and trade
2876 would increase the cost of energy. Do you agree with that
2877 statement? Yes or no.

2878 Ms. {Jackson.} Controlling pollution is not free.

2879 Mr. {Scalise.} It is a yes or no question. Tim
2880 Geithner made the statement, President Obama made the

2881 statement.

2882 Ms. {Jackson.} Sir, I don't know what cap and trade you
2883 are asking me to speculate about. We are here to talk about
2884 the Clean Air Act and--

2885 Mr. {Scalise.} We are talking about the regulatory
2886 scheme that your agency is currently undergoing that is
2887 costing jobs--

2888 Ms. {Jackson.} No, that is not true. There is no cap-
2889 and-trade scheme--

2890 Mr. {Scalise.} --and the effects it would have on
2891 electricity rates.

2892 Ms. {Jackson.} --planned or provided--

2893 Mr. {Scalise.} Do you think that this wouldn't have--

2894 Ms. {Jackson.} --for in the Clean Air Act.

2895 Mr. {Scalise.} --any impact on electricity rates?

2896 Ms. {Jackson.} There is no cap-and-trade scheme
2897 provided for under the Clean Air Act--

2898 Mr. {Scalise.} Your regulatory scheme for greenhouse
2899 gases--

2900 Ms. {Jackson.} --for greenhouse gases, I should say.

2901 Mr. {Scalise.} --which you agency is currently doing.
2902 Are you currently doing this?

2903 Ms. {Jackson.} What we are doing is--

2904 Mr. {Scalise.} Yes or no.

2905 Ms. {Jackson.} --enforcing the Clean Air Act--

2906 Mr. {Scalise.} I hate to put you on the spot. I know

2907 Mr. Dingell--

2908 Ms. {Jackson.} --to reduce the emissions--

2909 Mr. {Scalise.} --got a lot of good yes or no answers.

2910 Ms. {Jackson.} --of greenhouse gases.

2911 Mr. {Scalise.} I would appreciate the same courtesy to

2912 a yes or no question.

2913 Ms. {Jackson.} Well, no, if you are asking me about cap

2914 and trade for greenhouse gases because there are no plans for

2915 cap and trade at EPA, and there are no plans--

2916 Mr. {Scalise.} So is it safe to say you disagree with

2917 the President when the President said when cap and trade

2918 would increase, skyrocket the cost of electricity?

2919 Ms. {Jackson.} Sir, what I do know is that we are not

2920 planning any cap-and-trade regulations or standards. That is

2921 not--

2922 Mr. {Scalise.} We both have limited time, and I

2923 appreciate that maybe you want to evade the question. It is

2924 a direct question. It is a pretty simple question that many

2925 in this Administration have been comfortable acknowledging.

2926 Many in business have acknowledged that this would increase

2927 the cost on families. It seems like for whatever reason you

2928 don't want to acknowledge it, but if you then go to the next

2929 step of regulating greenhouse gases, do you think that if you
2930 regulate greenhouse gases in your agency that it would cost
2931 jobs?

2932 Ms. {Jackson.} I agree with the President that
2933 investing in clean energy will make our economy stronger,
2934 will help our economy--

2935 Mr. {Scalise.} And I see you have made statements these
2936 standards will help American companies and create good jobs.
2937 The problem is, that flies in the face of what the Nation's
2938 employers in America are saying about what you are doing, you
2939 know, and I don't know if there is a parallel universe going
2940 on but I will point to you a number of companies, and I have
2941 conversations as I am sure most of my colleagues do. The
2942 biggest impediment our job creators in this country tell us
2943 about is the threat of regulations coming from your agency
2944 and a few other agencies in this Administration as the
2945 impediments to creating jobs. So maybe you think that these
2946 policies will help create jobs.

2947 I will just read what one of our later panelists is
2948 talking about in terms of how it is costing American jobs.
2949 Nucor, which is a plant, a company based in America that is
2950 preparing to build a major steel plant in Louisiana, in our
2951 State, the CEO of that company--that is a \$2 billion
2952 investment that right now is going to America hopefully. It

2953 was on hold during the whole debate on cap and trade. They
2954 said, and this is a comment from the CEO, ``We are waiting to
2955 see what Congress does with global warming legislation.``
2956 They were holding back on a \$2 billion investment. And then
2957 I will go on to say what the testimony that the environmental
2958 manager of the company who is here today is talking about.
2959 He said, ``But this project is not as large as the \$2 billion
2960 investment we initially intended due to the uncertainty
2961 created by these regulations.`` He is talking about your
2962 department, the uncertainty created by these regulations.
2963 ``We made the difficult decision to delay the \$2 billion
2964 investment also delaying the creation of 2,000 construction
2965 jobs and 500 permanent jobs that average \$75,000 a year.
2966 Now, this is a company.

2967 Ms. {Jackson.} Sir, respectfully--

2968 Mr. {Scalise.} This isn't theory.

2969 Ms. {Jackson.} --based on EPA--

2970 Mr. {Scalise.} Do you recognize that--

2971 Ms. {Jackson.} -- the proposed Nucor iron and steel
2972 facility in Louisiana has actually received the first-ever
2973 State-issued Clean Air Act construction permits--

2974 Mr. {Scalise.} Do you recognize that that costs jobs?

2975 Ms. {Jackson.} --that will require control for
2976 greenhouse gases. They are a permitted facility--

2977 Mr. {Scalise.} And they said they haven't created as
2978 many jobs--

2979 Ms. {Jackson.} --for greenhouse gases, so that would
2980 seem to be--

2981 Mr. {Scalise.} --because of your agency, and I just
2982 want to talk about that.

2983 Ms. {Jackson.} --exactly the opposite of them being
2984 held up. They have--

2985 Mr. {Scalise.} But finally, you made a statement about
2986 Katrina and flooding. You tried, to I guess, infer that
2987 flooding--

2988 Mr. {Waxman.} Point of order, Mr. Chairman.

2989 Mr. {Scalise.} --was related to--

2990 Mr. {Waxman.} Point of order, Mr. Chairman.

2991 Mr. {Scalise.} --greenhouse gases.

2992 Mr. {Waxman.} Point of order.

2993 Mr. {Scalise.} I just want to point out the failure of
2994 the--

2995 Mr. {Waxman.} Point of order, Mr. Chairman.

2996 Mr. {Whitfield.} Hold on just one minute. Okay, Mr.
2997 Waxman, you had a point of order.

2998 Mr. {Waxman.} Looked, she was asked a question. The
2999 gentleman's time has expired. She ought to be able to answer
3000 it.

3001 Mr. {Scalise.} I asked her to answer yes or no, and she
3002 refused to answer a yes or no question multiple times.

3003 Mr. {Whitfield.} I think that--

3004 Mr. {Scalise.} She did it for Mr. Dingell. I
3005 appreciate that. I just would like the same courtesy.

3006 Mr. {Whitfield.} Are you going to have any questions
3007 that you are going to submit to her in writing?

3008 Mr. {Scalise.} I will be happy to submit in writing the
3009 remaining questions, especially as it relates to the comment
3010 you made about flooding having an attribution to greenhouse
3011 gases as opposed to the federal levies in New Orleans, which
3012 I know you are aware was the real cause of flooding.

3013 Ms. {Jackson.} Let me clear because this is my
3014 hometown. I did not say that Katrina was due to greenhouse
3015 gas emissions.

3016 Mr. {Whitfield.} Okay. At this time I recognize--

3017 Mr. {Scalise.} Thank you.

3018 Ms. {Jackson.} I said it was horrible flooding--

3019 Mr. {Whitfield.} --Mr. Doyle for 5 minutes.

3020 Ms. {Jackson.} --impacted that area in a way that is
3021 tragic.

3022 Mr. {Whitfield.} Mr. Doyle, 5 minutes.

3023 Mr. {Doyle.} Thank you, Mr. Chairman.

3024 Administrator Jackson, welcome, and thank you for your

3025 patience today. As most members of this committee know, I
3026 have long been concerned about manmade climate change and how
3027 it affects our climate, but this committee also knows how
3028 concerned I am that as we make efforts to address this
3029 serious problem that we don't harm the competitiveness of
3030 American industry. During the comprehensive energy
3031 legislation that the House considered and passed last year, I
3032 introduced amendments to safeguard many of our industries
3033 from some of the effects of the bill because we are concerned
3034 that this not result in jobs being shipped overseas, and if I
3035 thought that was what was going to happen, I would be very
3036 concerned too.

3037 You know, initially many of us were concerned because
3038 the Clean Air Act had the potential to require numerous
3039 sources to obtain permits for greenhouse gas emissions, but
3040 EPA acted promptly and effectively to issue a tailoring rule
3041 and limit these requirements only to the largest sources.
3042 Administrator Jackson, could you just briefly explain what
3043 that tailoring rule did?

3044 Ms. {Jackson.} The potential universe of sources could
3045 have been 6 million. The tailoring rule took it down to a
3046 universe no larger than about 15,000 potential, but since you
3047 are only regulated if you are building a new facility or
3048 substantially increasing your emissions, we expect that there

3049 are a couple hundred additional permits that would be
3050 required a year, but that was intended to be a deregulatory
3051 action.

3052 Mr. {Doyle.} So does this rule affect every large
3053 facility?

3054 Ms. {Jackson.} It will only affect very, very large
3055 facilities, those that emit more than 100,000 tons a year and
3056 only if they are new or 75,000 tons a year if they are going
3057 to have a significant increase in their greenhouse gas
3058 emissions.

3059 Mr. {Doyle.} So right now if you are an existing
3060 factory or steel mill and you don't expand or increase your
3061 greenhouse gas emissions by a significant amount, you don't
3062 need to spend any capital or labor on controlling your
3063 greenhouse gas emissions. Is that correct?

3064 Ms. {Jackson.} That is right, sir.

3065 Mr. {Doyle.} So let us say a steel company or other
3066 manufacturer does want to build out on an existing facility
3067 or bring an entirely new one online. What do they actually
3068 have to do? Have you issued guidance on this to let sources
3069 know the rules of the road?

3070 Ms. {Jackson.} Yes, we have issued that guidance,
3071 primarily for States, who are the permitting authorities, and
3072 they are implementing it. As you heard, Louisiana just

3073 recently implemented it to issue a permit there.

3074 Mr. {Doyle.} So the permitting authority then basically
3075 selects the best available control technology through
3076 whatever options there are. Is it your statement that I
3077 heard earlier that in most cases the best available
3078 technology for reducing greenhouse gas emissions is likely to
3079 be efficiency?

3080 Ms. {Jackson.} That is right.

3081 Mr. {Doyle.} So to be clear, you expect that almost all
3082 new sources, the main thing they are going to have to do is
3083 just become more energy efficient?

3084 Ms. {Jackson.} That is right.

3085 Mr. {Doyle.} So couldn't that actually save money over
3086 time as sources have fewer inputs and reduce their energy
3087 use?

3088 Ms. {Jackson.} Absolutely. It could increase the
3089 profits because your costs are lower going forward.

3090 Mr. {Doyle.} Yeah, I mean, it just seems to make sense
3091 to me that when we build new facilities, they should be
3092 efficient, and I think that is something that industry is
3093 striving for because they realize it is good for their bottom
3094 line, and it certainly doesn't appear that it would be too
3095 costly or drive new facilities overseas.

3096 But the other concern we have is, is what if it takes

3097 too long for new facilities to get permits? Now, that could
3098 have cost implications even if the requirements are
3099 reasonable. So Administrator Jackson, what is the EPA doing
3100 to help ensure that these requirements don't lead to
3101 permitting delays?

3102 Ms. {Jackson.} The reason we got the guidance out to
3103 the State permitting authorities earlier is so that there
3104 would be no time lapse between when these requirements took
3105 effect on January 2nd and when people would be applying for
3106 and need these permits, and so EPA is offering technical
3107 assistance and guidance to step in for those States, and
3108 there are several who for whatever set of rules or legal
3109 obligations back home are not yet ready to implement the
3110 permitting requirements for greenhouse gases. But almost all
3111 States are moving in that direction. Many have already
3112 gotten to that point.

3113 Mr. {Doyle.} Now, the Upton bill here aims to stop you
3114 from issuing minimum standards for the two largest sources of
3115 greenhouse gas emissions, fossil fuel-powered plants and oil
3116 refineries. Is EPA currently developing minimum standards
3117 for any other sectors of the economy such as manufacturers?

3118 Ms. {Jackson.} No, sir.

3119 Mr. {Doyle.} Okay. Thank you, Administrator Jackson.
3120 I am acutely aware of the challenges that our manufacturers

3121 are facing today, and I have to tell you that I was skeptical
3122 at first when investigating how this Clean Air Act would be
3123 used to regulate greenhouse gases, but it seems to me that
3124 when you strip away the rhetoric and the scare attacks that
3125 the approach and the scare tactics that the approach that you
3126 are taking to date seems extremely reasonable. We know our
3127 manufacturers are facing tough challenges but I really don't
3128 see how repealing the Clean Air Act authority for greenhouse
3129 gases would help them in any way. In fact, the legal
3130 uncertainties actually make things a little bit worse.

3131 Mr. Chairman--

3132 Mr. {Markey.} Would the gentleman yield briefly?

3133 Mr. {Doyle.} Well, if I can, I will.

3134 Mr. {Whitfield.} His time is expired and we have got a
3135 lot of witnesses, so Mr. Olson from Texas, you are recognized
3136 for 5 minutes.

3137 Mr. {Olson.} Thank you, Mr. Chairman, and thank you,
3138 Administrator Jackson, for coming here today. I am going to
3139 follow up on some questions from my colleague, Mr. Burgess
3140 from Texas, about EPA's taking control of the permitting
3141 process for refineries and power sources in my home State of
3142 Texas. This is a fundamental change. The feds under the
3143 Clean Air Act, the feds set the standards and the States and
3144 local governments are the ones who implement them through the

3145 SIPs, and to justify this change, EPA says it erred in the
3146 original approval of the SIP back in 1992, nearly two decades
3147 ago, three Presidential Administrations because the SIP
3148 didn't contain the authority to regulate greenhouse gases,
3149 and that must be corrected. The mechanism to establish this
3150 correction was unilateral EPA authority to correct ``minor
3151 technical errors.'' The feds' takeover of States' authority
3152 to issue permits under the Clean Air Act is not a minor
3153 error. It is a radical departure from existing law, and
3154 under the Constitution that is not your job. That is our
3155 job.

3156 So the first question I have for you is twofold. Has
3157 any previous Administration used an error correction to
3158 overturn State authority to implement its SIP after it has
3159 been approved for 18 years?

3160 Ms. {Jackson.} Sir, I am happy to get you an answer,
3161 but again, I will point out that it was the previous
3162 Administration that determined that parts of Texas's permits
3163 did not meet the requirements of the Clean Air Act. It is
3164 EPA's job to enforce the Clean Air Act and EPA stepped in
3165 because if we didn't, Texas businesses would not be able to
3166 build or expand because they could not get a greenhouse gas
3167 emission permit in the State of Texas that was legal so they
3168 would have been subject to any number of lawsuits.

3169 Mr. {Olson.} Yes, ma'am, but the previous
3170 Administration did come in with a couple of month deadline
3171 for the Texas companies to comply. I mean, usually this
3172 happens when there is a change in the SIP. As I understand
3173 it, there is about a three- to four-, five-year process for
3174 the States to come through and propose what they are going to
3175 do to EPA. We are given less than a year, less than 6 months
3176 to do it, and that is something that is on this
3177 Administration. Is that--

3178 Ms. {Jackson.} We would love to prefer that Texas issue
3179 the greenhouse gas permits themselves but if Texas refuses to
3180 do it, as I am sure you will hear from the next witness, then
3181 EPA is stepping in to do so because the businesses in Texas
3182 still need permits under the Clean Air Act, sir.

3183 Mr. {Olson.} Once again, how is changing the Clean Air
3184 Act with just using the technical corrections legislation,
3185 how is that not usurping the legislative branch's authority
3186 to pass laws and regulate our environment? I mean, why do
3187 you get to be--under the Constitution, we should be doing
3188 that, not the EPA. How can you justify that?

3189 Ms. {Jackson.} Sir, under the Clean Air Act, EPA's job
3190 is to enforce the law and ensure that permits are the same
3191 all over the country, so a business in Texas gets a Clean Air
3192 Act permit, it is the same as Louisiana next door, and so

3193 what EPA is done is move in to ensure that just like the
3194 Nucor steel facility just got a permit from the State of
3195 Louisiana, if they wanted to build the exact same facility in
3196 Texas, they would need a permit for greenhouse gases and they
3197 cannot get one because Texas has refused to consider those
3198 permits at this time.

3199 Ms. {Jackson.} Yes, ma'am. Well, there is one other
3200 question I have for you. Again, we have talked about what is
3201 happening in my home State and we have talked about, the
3202 other side of the aisle has been very vocal about
3203 scientifically based actions here, and I agree with that. We
3204 should do this if we are going to do it scientifically based.
3205 I think the science right now is very much in doubt. But the
3206 one thing that I am really concerned about form the other
3207 side of the aisle, at the end of the day the argument rests
3208 on what five Supreme Court justices decided, and that case
3209 did not say that you had to regulate greenhouse gases. That
3210 was not what the decision said. I will read from the
3211 decision. I mean, the Court did find that EPA has the
3212 authority to regulate carbon dioxide as an air pollutant but
3213 they said only if the EPA makes a finding of endangerment
3214 under that provision, section 202(a)(1). And the Court
3215 further stated that EPA must ground its reasons for action or
3216 inaction in the statute. So basically they gave you the

3217 ball. I guess my question to you is, was Massachusetts v.
3218 EPA a mandate for the EPA to implement global greenhouse gas
3219 control or not? Yes or no.

3220 Ms. {Jackson.} Sir, it was a mandate that we consider
3221 the science and that only if the science--we could come up
3222 with reasonable science, which I do not believe that exists,
3223 that shows that greenhouse gases do not endanger public
3224 health and welfare, could we ignore it. They said it was
3225 arbitrary and capricious to simply ignore the science and
3226 choose to make no decision. So it did give us the ball in
3227 that it said we could not stick our heads in the sand. We
3228 had to, per the law, make a determination, and in making that
3229 determination, I reviewed our Nation's best science by its
3230 best scientists and made a finding of endangerment.

3231 Mr. {Olson.} Basically you have taken something else.
3232 It was EPA that made that decision, not the Court, and those
3233 comments here are erroneous. EPA did it, not the United
3234 States Supreme Court. Thank you for your time.

3235 Mr. {Whitfield.} The gentleman from Utah, Mr. Matheson,
3236 is recognized for 5 minutes.

3237 Mr. {Matheson.} Thank you, Mr. Chairman. Thank you,
3238 Administrator Jackson, for coming today.

3239 I do think it is important that this subcommittee hold
3240 hearings on this issue. I think the challenge of climate

3241 change is real and I think that the legislative branch ought
3242 to be engaged. I have some concerns about legislation like
3243 Chairman Upton's draft bill which does disprove the EPA's
3244 endangerment finding and bans the EPA from regulation
3245 greenhouse gas emissions. I am concerned because I think it
3246 could substantially weaken the effectiveness of the Clean Air
3247 Act, and I think everyone in this room would argue that the
3248 Clean Air Act over the last few decades has been an
3249 undeniable success. It has been a success in providing
3250 cleaner air and contributing to public health interests.

3251 I also have concerns that the bill overrides the ability
3252 of the EPA to regulate emissions from motor vehicles, weaken
3253 the current fuel economy standards for cars and light trucks,
3254 which is important to reducing our dependence on foreign oil.
3255 But I do hear from folks in my State who are concerned about
3256 the implementation of the greenhouse gas regulations and
3257 other regulations coming down the pike from EPA and the
3258 potential costs associated with this uncertainty and growing
3259 regulatory burden, especially as we seek to grow our economy
3260 out of this economic recession.

3261 Administrator Jackson, I have heard from our State
3262 department of environmental quality, and I know you discussed
3263 this in response to Mr. Doyle's questions, but the Utah DEQ
3264 has said that despite the best available control technology

3265 guidance issued to the States last fall, there remains a lot
3266 of uncertainty over what BACT decisions by States will
3267 ultimately be accepted by the EPA. In particular, I have
3268 been told that the BACT is still too vague to provide any
3269 certainty to sources who are trying to plan for new
3270 construction or modifications. In his testimony, Mr. Carter
3271 with Sandy Cooper also made similar remarks. Can you
3272 elaborate on how EPA is working with States to implement best
3273 available control technology?

3274 Ms. {Jackson.} Certainly, sir. Through our regional
3275 offices, we are offering technical assistance as States work
3276 through permit by permit. This is a permit-by-permit
3277 decision under the Clean Air Act, and essentially what you do
3278 is, you lay the options for controlling greenhouse gases and
3279 you look at whether they are commercially available, whether
3280 they are available at reasonable cost and whether they are
3281 effective, and oftentimes we believe that is going to lead
3282 people straight to energy efficiency, which is a very much
3283 available way and certainly cost-effective way to reduce and
3284 make a real start on reducing greenhouse gases.

3285 Mr. {Matheson.} Do you think there is a way to create
3286 additional certainty or predictability that you can provide
3287 to State permitting agencies?

3288 Ms. {Jackson.} We are certainly happy to try and to

3289 continue working with Utah and the professionals there.

3290 Mr. {Matheson.} Do you believe that your regional
3291 offices have the necessary resources, whether it is funding
3292 or staff, to work with the States on implementing these
3293 rules?

3294 Ms. {Jackson.} We have made it a priority that the
3295 implementation of these rules for our air staff is priority
3296 number one, and I do believe, sir, that we have resources
3297 available to any State that needs them.

3298 Mr. {Matheson.} Do you agree with assertions by many in
3299 industry and the utility sector that permitting uncertainty
3300 in conjunction with the additional EPA rules coming down the
3301 pike over the coming months and years is affecting current
3302 and future investments in plant modifications, upgrades and
3303 construction?

3304 Ms. {Jackson.} I agree that one thing I hear often from
3305 industry is that they need certainty of regulation. I think
3306 the clean cars rule and the nationwide standard is a great
3307 demonstration of how knowing what the road ahead looks like
3308 from a Clean Air Act perspective has helped them to move
3309 forward and do what they do best, which is make cars.

3310 Mr. {Matheson.} I will ask another question. The EPA
3311 has already announced the delay in implementation of
3312 efficiency rules for biomass facilities. Do you anticipate

3313 any delays in other covered sectors will be announced?

3314 Ms. {Jackson.} I have nothing to announce right now,
3315 sir. We are trying to do what I said, which is move in a
3316 series of moderate steps that give people lots of warnings so
3317 there are no surprises about regulations that may come down
3318 the pike, and what we have announced so far is that the only
3319 two sectors that we are looking at for additional standard
3320 setting are the power sector, utilities and refineries
3321 because they account for such a large percentage of our
3322 Nation's greenhouse gas emissions.

3323 Mr. {Matheson.} Okay. Thank you, Mr. Chairman. I will
3324 yield back.

3325 Mr. {Whitfield.} I recognize the gentleman from West
3326 Virginia, Mr. McKinley, for 5 minutes.

3327 Mr. {McKinley.} Thank you, Mr. Chairman.

3328 I am trying to keep most of my questions to yes or no
3329 answers to the extent you can, and I have got a lot of others
3330 if you could submit some responses back to those at the
3331 appropriate time. Last summer, Senator Reid made a remark
3332 that said coal makes us sick and oil makes us sick. Do you
3333 agree with that?

3334 Ms. {Jackson.} Only in that pollution makes us sick, so
3335 if they are the source of pollution, then yes, but it is the
3336 pollution that makes us sick.

3337 Mr. {McKinley.} I have heard a lot today about the
3338 health benefits, and I don't want to diminish those concerns
3339 about the health benefits, but I have come to Congress 34
3340 days ago with a bigger concern that there are 15 million out
3341 of work today in America, and a lot of it is attributed back
3342 to the actions of the EPA and some of their activities or
3343 overregulation. I am seeing in West Virginia a mine shut
3344 down that had a permit 3 years ago. Now 250-some people are
3345 out of work. I saw a mine just close in Pennsylvania by the
3346 EPA action. I have seen the issues of water quality in West
3347 Virginia and all other States east of the Mississippi that
3348 are more stringent than bottled water you can buy in a
3349 supermarket. I have seen fly ash being under attack and
3350 people using less of it and recycle. I am just so concerned
3351 that the EPA is, with all due respect, out of touch with what
3352 is going on in America, and I would like if you could please
3353 just cite one example of where the EPA has collaborated with
3354 a major industrial employer and they have increased their
3355 jobs in a significant way. Can you cite one example?

3356 Ms. {Jackson.} Yes, sir. The car industry has reduced
3357 their overall emissions over 40 years while the number of
3358 cars on our roads has continued to increase as our population
3359 got larger, and that is because of technological innovation
3360 that insisted that we not grow their profits at the expense

3361 of our health.

3362 Mr. {McKinley.} I am looking for one company that you
3363 have worked with, you collaborated with them and they have
3364 increased employment.

3365 Ms. {Jackson.} Certainly, sir. Any time an industry
3366 invests in pollution control, they are hiring workers,
3367 everything from engineers to technicians to people who design
3368 and implement and put on scrubber so that when you burn coal
3369 in a power plant, the emissions are clean. All of those jobs
3370 are part of the legacy--

3371 Mr. {McKinley.} The remark you made earlier--

3372 Ms. {Jackson.} --of the Clean Air Act and EPA's--

3373 Mr. {McKinley.} --Madam Administrator, that--

3374 Ms. {Jackson.} --to protect the public health.

3375 Mr. {McKinley.} --there were thousands of scientists
3376 and physicists across America that support this matter but
3377 yet there are thousands equally in opposition to that, such
3378 as physicist Hal Lewis, people within NOAA, people within the
3379 United Nations' climate control panel. There are others that
3380 are supporting that and they conveniently seem to be ignored
3381 in this. Was Hal Lewis wrong when he said this was one of
3382 the greatest frauds being perpetrated on the people of
3383 America?

3384 Ms. {Jackson.} Well, I do not know Mr. Lewis, sir, but

3385 I will say that our best scientists in the country have
3386 reached a consensus, and it is unequivocal, that the science
3387 is clear that manmade emissions of air pollution and global
3388 warming gases are changing--

3389 Mr. {McKinley.} Anthropogenic global warming--

3390 Ms. {Jackson.} --our atmosphere.

3391 Mr. {McKinley.} --is still an issue that the scientists
3392 are still debating, and you know it and I know it.

3393 Ms. {Jackson.} No, I do not agree with that.

3394 Mr. {McKinley.} I am an engineer and I--

3395 Ms. {Jackson.} I absolutely do not agree with that.

3396 Mr. {McKinley.} -- can tell you, it has not been
3397 determined.

3398 Ms. {Jackson.} I am an engineer as well, and I know to
3399 look to scientific experts to make decisions like this. I am
3400 not an expert on the climate so what we have done is look at
3401 people like the National Academies across--

3402 Mr. {McKinley.} Let me go back to a comment that
3403 perhaps it wasn't worded, because I found the answer a little
3404 humorous. It said something to the effect that you didn't
3405 presume to direct Congress how to act, so I am going to
3406 maybe--would you favor, do you support the idea that Congress
3407 may very well want to take action to--do they have the right
3408 to vote up or down on any major EPA regulatory offering?

3409 Ms. {Jackson.} Sir, the laws passed that I implement
3410 were passed by Congress. The Clean Air Act was passed by
3411 Congress. So I understand and recognize that under the U.S.
3412 Constitution Congress makes laws and then the executive
3413 branch executes the laws, absolutely.

3414 Mr. {McKinley.} So you would think Congress should have
3415 the right to approve any regulations before they are
3416 implemented?

3417 Ms. {Jackson.} No, sir. Congress already has the
3418 Congressional Review Act, which allows it to review every
3419 regulation that is adopted by not just my agency, so that is
3420 certainly already the law of the land.

3421 Mr. {McKinley.} Ma'am, I will get back with the other
3422 questions to you. Thank you very much.

3423 Ms. {Jackson.} Thank you.

3424 Mr. {Whitfield.} The chairman recognizes Mr. Gardner of
3425 Colorado for 5 minutes.

3426 Mr. {Gardner.} Thank you, Administrator Jackson, for
3427 your time here today. I appreciate your willingness to be
3428 here, and I too have only been here for 34 days and it
3429 continues to amaze me how the scare tactics are thrown out as
3430 if everybody is speaking from the same page but the problem
3431 is, they are not, and I want to talk a little bit about
3432 criteria pollutants versus greenhouse gases. I think a lot

3433 of the scare tactics that we have heard in terms of the
3434 health concerns are criteria pollutants and greenhouse gas is
3435 not a criteria pollutant, and I think that is important to
3436 recognize, that a lot of the health concerns that have been
3437 raised here as scare tactics are based on criteria
3438 pollutants, and this bill does nothing dealing with criteria
3439 pollutants, the bill that we are discussing now.

3440 I want to follow up another question that some of the
3441 other members have asked. I met with a CEO of a company in
3442 Colorado who employs a thousand people directly, 2,000 people
3443 indirectly, and he mentioned to me at our meeting, this was
3444 just this past Friday, that he is very concerned about
3445 regulations because he is worried that the cost and
3446 reliability of energy and the energy and power
3447 infrastructure, he is worried about the energy infrastructure
3448 and he is worried about the ability of our country to
3449 continue to produce affordable energy for consumers and for
3450 businesses, and that being said, I believe Chairman Upton
3451 asked an earlier question regarding whether or not the EPA
3452 had done an cost-benefit analysis of the impact of EPA
3453 regulations. I believe your response was that the EPA had
3454 not done so because such analysis would have required the EPA
3455 to reach out to businesses in order to gather information
3456 regarding the impact of the EPA's regulations. Well, isn't

3457 that the right thing to be doing is to reach out to
3458 businesses in terms of the impact of this regulation?

3459 Ms. {Jackson.} No, I think that is not an accurate
3460 assessment of how the conversation went. I am happy to
3461 recount it for, it is in the record, but what I said was--

3462 Mr. {Gardner.} You don't think you ought to be talking
3463 to American businesses about these regulations first?

3464 Ms. {Jackson.} We talk to American businesses all the
3465 time, and I think that is the way to make smart commonsense
3466 regulations.

3467 Mr. {Gardner.} And so the American business community
3468 agrees that this regulation is the way to move forward?

3469 Ms. {Jackson.} The American business community has
3470 commented on the regulations as we move forward, and I would
3471 say that there are varying opinions. We have heard from
3472 small businesses who support the regulation because they
3473 believe it will help the clean energy sector. We have heard
3474 from several, I think 11 utility company, who said that this
3475 is a commonsense, reasonable approach to--

3476 Mr. {Gardner.} Have you heard from some--

3477 Ms. {Jackson.} --help to make them efficient.

3478 Mr. {Gardner.} --that they will lose jobs as a result?

3479 Ms. {Jackson.} I think all businesses talk about, when
3480 I talk to them, they want to make sure that they have

3481 regulatory certainty, and they are worried about their bottom
3482 line.

3483 Mr. {Gardner.} And they are worried about job losses?

3484 Ms. {Jackson.} Certainly I have seen studies--

3485 Mr. {Gardner.} Do you think they need to worry about
3486 job losses?

3487 Ms. {Jackson.} I think the President has made it clear
3488 that jobs are an absolute focus, sir, absolutely. Jobs are
3489 our absolute focus and we believe the clean energy sector is
3490 a place to grow jobs--

3491 Mr. {Gardner.} But what if they are not in the clean
3492 energy sector? Should they worry about jobs? I mean, this
3493 sounds like we are picking winners and losers and saying some
3494 jobs are better than others.

3495 Ms. {Jackson.} I do know this, sir, the Clean Air Act
3496 is supposed to relieve their minds about pollution in the air
3497 that might make them and their families sick.

3498 Mr. {Gardner.} That is a criteria pollutant, not
3499 greenhouse gas.

3500 Ms. {Jackson.} No, no, no. The endangerment finding
3501 makes clear that greenhouse gases also endanger public health
3502 and welfare.

3503 Mr. {Gardner.} But I think again we are confusing the
3504 issue of criteria pollutants and greenhouse gases. You

3505 mentioned earlier that ag would not be--there would be no
3506 imposition on agriculture, agricultural sources. I believe
3507 you put a timeline of 2013 on that. Will there be ag sources
3508 put under this rule after 2013?

3509 Ms. {Jackson.} I can't speculate to that. I have made
3510 a commitment that there will be no regulations for permitting
3511 for agricultural sources until July 2013.

3512 Mr. {Gardner.} But after that, there may be permitting
3513 requirements brought into this rule?

3514 Ms. {Jackson.} Yes. It is my hope still that Congress
3515 will look towards legislation at some point.

3516 Mr. {Gardner.} And on agriculture, I think it is
3517 important too when we talk about that agriculture is not
3518 affected by these rules and jobs in agriculture aren't
3519 affected by these rules, I want to point out a letter that
3520 talked about the cost about running a sprinkler for farmers
3521 in my district. The estimated cost of certain greenhouse gas
3522 emission controls would cost the farmer in this particular
3523 rural electric association nearly \$2,000 a year per meter.
3524 Do you think that will affect their ability to hire people
3525 and to grow their operation?

3526 Ms. {Jackson.} Sir, I don't know what you are referring
3527 to. I am happy to review it, and I am also happy to again
3528 state what I said before, that as we put these regulations

3529 out, they are meant to be commonsense moves that in general
3530 will rely on energy efficiency and other moderate steps that
3531 will add up, that will get us started in moving towards
3532 reducing greenhouse gas pollution.

3533 Mr. {Gardner.} Do you believe that agriculture is
3534 affected by increased costs of energy?

3535 Ms. {Jackson.} Certainly.

3536 Mr. {Gardner.} Do you believe agriculture is impacted
3537 by the increased cost of fertilizer?

3538 Ms. {Jackson.} Certainly, sir.

3539 Mr. {Gardner.} Do you believe that these regulations
3540 will increase the cost of farming equipment?

3541 Ms. {Jackson.} No, sir, I don't necessarily believe
3542 that because I am not sure what regulations we are talking
3543 about. We have regulations on the board right now, for
3544 instance, for cars that make clear that they pay for
3545 themselves essentially because of the savings in fuel. There
3546 are tremendous opportunities in rural America for the economy
3547 to continue to grow as it has thrived over the past several
3548 years and we are not looking to regulate--

3549 Mr. {Gardner.} The economy has thrived over the past
3550 several years?

3551 Ms. {Jackson.} Rural American's economy has done fairly
3552 well as the rest of the country has seen the housing market

3553 and economy really do poorly.

3554 Mr. {Gardner.} Administrator Jackson, I would invite
3555 you to my district to meet with people who believe the
3556 economy has not thrived over the past few years.

3557 Ms. {Jackson.} I would be happy to do that, sir.

3558 Mr. {Whitfield.} I recognize the gentleman from Kansas,
3559 Mr. Pompeo.

3560 Mr. {Pompeo.} Thank you, Mr. Chairman.

3561 Thank you, Ms. Jackson, for coming today. In the 4th
3562 district of Kansas, we do lots of things. We have
3563 agriculture, and we make airplanes, a lot of airplane stuff,
3564 manufacturing. I came from that industry. The cost of
3565 manufacturing has driven lots of jobs. We have got
3566 unemployment in our aircraft manufacturing industry that is
3567 enormous, and families are hurting. I heard Mr. Waxman and
3568 Mr. Markey talk about children. I have seen the impacts on
3569 families from what the regulatory environment that this
3570 Administration has put forward has caused.

3571 I want to ask you in response to something you said to
3572 Mr. Shimkus, a question. You acknowledged the existence of
3573 the law of supply and demand or the economic principle, and
3574 then you joked about price elasticity because you wouldn't
3575 answer his question yes or no about what the price elasticity
3576 of something was. Tell me what you think the price

3577 elasticity of energy is as it relates to supply and demand.

3578 Ms. {Jackson.} The price--

3579 Mr. {Pompeo.} Is it zero? Does energy stay--as you
3580 impose regulations, does energy cost stay fixed?

3581 Ms. {Jackson.} Sir, I want to state here, I have not
3582 said that there are not potential costs to move to cleaner
3583 energy. What is at stake is making reasonable decisions on
3584 how to move to cleaner energy, less-polluting forms of energy
3585 but do it in a way that does not harm our economy, and I am
3586 committed as head of the EPA to enforcing and implementing
3587 the Clean Air Act to protect our public health but doing it
3588 in a way that is modest and moderate and that is mindful of
3589 our economy at the same time.

3590 Mr. {Pompeo.} I appreciate that. I will tell you that
3591 the folks that I talk to in the 4th district of Kansas don't
3592 believe there is anything moderate or modest about the
3593 proposals that your agency has put forward.

3594 I will ask you this. You earlier cited statistics that
3595 said that the benefits of the Clean Air Act have been about
3596 40 to one.

3597 Ms. {Jackson.} That is correct.

3598 Mr. {Pompeo.} It would seem to me then if we would just
3599 appropriate a trillion dollars, we could take out all the
3600 deficit because we get a 40 to one return on that investment.

3601 Is that what you are proposing in terms of return on invested
3602 capital?

3603 Ms. {Jackson.} No, sir. What I am trying to propose is
3604 that for every dollar invested to control pollution and
3605 protect public health, that is \$40 of health costs that the
3606 American people are avoiding. They are healthier and more
3607 productive because they don't have to worry about increased
3608 asthma attacks and premature death as a result of--

3609 Mr. {Pompeo.} Right, and if your analysis is therefore
3610 right, what do we spent on health care a year, we just pick
3611 40 of that number and we would invest that amount of money
3612 and we would solve the health care problem. That is what
3613 your analysis suggests. Am I misunderstanding something?

3614 Ms. {Jackson.} Yes, you are, sir.

3615 Mr. {Pompeo.} Okay. Help me understand what it is I am
3616 misunderstanding.

3617 Ms. {Jackson.} You are misunderstanding the point that
3618 the Clean Air Act is a public health statute. It is designed
3619 to protect the health of Americans through preventive
3620 medicine, if you will. It removes pollution from the air
3621 that causes asthma attacks, that causes lung disease, that
3622 make us and our children--

3623 Mr. {Pompeo.} I understand. I have one more question.
3624 I want to clean up a couple things you said earlier. You

3625 spoke to the fact that you appreciated regulatory certainty
3626 being important, and then you just told Mr. Gardner that our
3627 agricultural community gets something less than 2 years of
3628 certainty with respect to greenhouse gas regulation. I will
3629 tell you that their return on invested capital calculations
3630 go far past 24 months, and so I am trying to understand how
3631 you can argue that you think regulatory certainty is
3632 important and yet tell us that our agriculture folks in the
3633 4th district get just a little less than 24 months before you
3634 will chase them too.

3635 Ms. {Jackson.} Well, sir, I am not here to tell your
3636 constituents or anyone else for that matter that greenhouse
3637 gases are not a problem or are not something that we should
3638 be addressing as a country. I believe that we should be
3639 incentivizing and innovating to move to cleaner forms of
3640 energy and reduce the accumulation of greenhouse gases in our
3641 atmosphere, and that is something that is out there not
3642 because I sit in this seat, sir, but because--

3643 Mr. {Pompeo.} If you believe--

3644 Ms. {Jackson.} --they are a challenge for our country.

3645 Mr. {Pompeo.} Fair enough. If you believe that these
3646 regulations were going to have a net loss of jobs, would this
3647 change your view of how the EPA ought to proceed?

3648 Ms. {Jackson.} Certainly, sir. If I was seeing

3649 regulations that I thought--

3650 Mr. {Pompeo.} Thank you.

3651 Mr. {Whitfield.} The gentleman from Virginia, Mr.
3652 Griffith, is recognized for 5 minutes.

3653 Mr. {Griffith.} Thank you, Mr. Chairman.

3654 Massachusetts v. EPA, last line, the holding, ``We hold
3655 only that the EPA must ground its reasons for action or
3656 inaction in the statute.'' Can you tell me where in the
3657 statute it allows you to create a tailoring rule?

3658 Ms. {Jackson.} The tailoring rule is based on our
3659 belief that the statute does not speak to the fact that there
3660 be too many sources to regulate all at once. It is an absurd
3661 result. That is the theory of the law--

3662 Mr. {Griffith.} And I don't disagree with you, ma'am.

3663 Ms. {Jackson.} --on which we based the rule.

3664 Mr. {Griffith.} It is an absurd result but that is what
3665 the law says, and isn't it the right of the elected
3666 officials, this Congress to make that decision and not
3667 unelected officials in the EPA?

3668 Ms. {Jackson.} Sir, the United States Supreme Court
3669 held that the Clean Air Act--

3670 Mr. {Griffith.} You had to do something, but it said
3671 you had to follow the statute--

3672 Mr. {Rush.} Mr. Chairman.

3673 Mr. {Griffith.} --you followed the statute--

3674 Mr. {Rush.} Mr. Chairman, Mr. Chairman. We have sat
3675 here and watched the questions from the members on this
3676 subcommittee and they ask questions and the witness attempts
3677 to answer, and they won't allow her the opportunity to
3678 complete her answer. So would you admonish members to allow
3679 the witness to complete her answer before they interrupt her?

3680 Mr. {Whitfield.} Mr. Rush, thank you for that. These
3681 members have waited a long time, and you have been very
3682 patient to be here, but I am going to allow them to continue
3683 to ask questions and--

3684 Mr. {Rush.} And can the witness please answer? She has
3685 been here for a long time also.

3686 Mr. {Griffith.} I will make it a yes or no question.
3687 Do you believe that EPA should follow law as written or
3688 request Congress to change it or ask Congress to relieve them
3689 of that obligation when the result of the law would be an
3690 absurd result? Yes or no, please.

3691 Ms. {Jackson.} I believe EPA should follow the law as
3692 interpreted by the United States Supreme Court and the rules
3693 that we have on the books are designed to avoid the absurd
3694 result. That is the basis for the rulemaking we have made.
3695 That is the basis for our attempts to be as reasonable as we
3696 can.

3697 Mr. {Griffith.} In regard to certainty, and I am doing
3698 a little cleanup too. In regard to certainty, you indicated
3699 that there were no plans for a cap-and-trade program. How
3700 long can you give me certainty--

3701 Ms. {Jackson.} I should have said for greenhouse gases
3702 because we have a cap-and-trade for--

3703 Mr. {Griffith.} Okay. For greenhouse gases cap and
3704 trade, you said you had no plans, do you have any ability to
3705 give the businesses, the industries and the folks that
3706 produce in my district any certainty how long can they count
3707 on that?

3708 Ms. {Jackson.} They will see proposed rules long before
3709 for public comment and we have agreed to do industry
3710 listening sessions to hear from the industries how best they
3711 think we should approach future regulations. So there will
3712 be a transparent process. There will be no secrets. I do
3713 not believe there will ever be a cap-and-trade program
3714 authorized under the Clean Air Act.

3715 Mr. {Griffith.} Thank you. And then let me ask you,
3716 when you talked about health and safety of the American folks
3717 in looking at the endangerment ruling, I am wondering if you
3718 all looked at the fact, because you mentioned something about
3719 the heat being higher, causing folks to have strokes or heart
3720 attacks, etc., and I am wondering if you looked at the fact

3721 that with the electric rates going up, the heating bills
3722 going up, fuel oil going up, that there are a lot of folks in
3723 my district who are having a hard time paying for their heat,
3724 and what is the offset on the other side? Did you look at
3725 what is going to cost those folks and the danger to their
3726 health by not having sufficient heat?

3727 Ms. {Jackson.} Sir, I am absolutely not asking people
3728 to freeze to death or be very warm in the summer. I am not
3729 sure I understand your question.

3730 Mr. {Griffith.} Well, you said in your opening
3731 statement that one of the things that you looked at in making
3732 the endangerment ruling was the fact that increased heat when
3733 folks--you know, if the planet warms that folks are going to
3734 suffer more disease as a result of overheating and heart
3735 attacks, I think you mentioned heart attacks or strokes. And
3736 I am just asking if the counter side to that was looked at
3737 and the fact that we are going to raise the cost for
3738 Americans to buy fuel, therefore some of them are not going
3739 to have sufficient heat to heat their homes.

3740 Ms. {Jackson.} The actions we have taken under the
3741 greenhouse gas regulations are not intended to make less fuel
3742 available to Americans, sir, so these are commonsense steps
3743 that actually in the case of the car rule means we will need
3744 less oil. They are energy efficiency. They are meant to

3745 make us get every drop of energy we can out of every drop of
3746 gasoline or fuel that we use. So perhaps I am not
3747 understanding. The endangerment finding--

3748 Mr. {Griffith.} All right. Are you unaware that the
3749 regulations already imposed and additional regulations that
3750 are being placed on the power plants of the United States of
3751 America will make it more difficult to use coal which is now
3752 50 percent of our source, and if you eliminate that as a
3753 source, you are going to raise the cost of electricity,
3754 therefore making it harder for people to heat their homes.

3755 Ms. {Jackson.} We are not intending to eliminate coal
3756 as a source of fuel. That is not the goal of reducing
3757 greenhouse gas emissions. What we are saying is that we can
3758 use the Clean Air Act to reduce and make a start in reducing
3759 greenhouse gas emissions.

3760 Mr. {Griffith.} And I am wondering if you all have
3761 looked at the possibility that since I believe that you will
3762 send a number of jobs overseas that the Chinese and the
3763 Indians and even the Ukrainians are going to use coal from my
3764 district and other districts around the United States that
3765 the impact of that is that we actually have more
3766 manufacturing in areas where they are not doing even the
3767 reasonable things that we are doing at this point, therefore
3768 contributing to the global environment additional pollutants

3769 in the air which will actually harm Americans more than what
3770 you believe your actions will solve.

3771 Ms. {Jackson.} As I said earlier, sir, changing the
3772 future with respect to climate change in our planet is going
3773 to require all nations to do something but I do not believe
3774 that means that we all therefore must start at the same time.
3775 Parts of Europe have already started, so clearly it is not--

3776 Mr. {Whitfield.} Well, I think everyone has had an
3777 opportunity to ask questions. Ms. Jackson, we appreciate
3778 your taking time to be with us. We are going to be having
3779 some hearings on the air transport rules, new source review,
3780 fly ash, some other issues, and so we look forward to your
3781 coming back to have additional discussions with us.

3782 I know throughout this questioning period with you, a
3783 number of members said they were going to be submitting
3784 written questions for you to answer. Who on your staff
3785 should we be particularly focused on to deal with that issue?

3786 Ms. {Jackson.} Well, I always accept correspondence
3787 from members but the head of my Office of Congressional and
3788 Intergovernmental relations is David McIntosh, if you would
3789 prefer to direct your staff towards him.

3790 Mr. {Whitfield.} David McIntosh?

3791 Ms. {Jackson.} Yes, Mr. Chairman, but I will take any
3792 questions you have.

3793 Mr. {Whitfield.} Well, thank you very much, and at this
3794 time I would like to call up the third panel, and that is the
3795 Hon. Greg Abbott, who is Attorney General of the State of
3796 Texas; Mr. Steve Cousins, Vice President of Lion Oil Company;
3797 Mr. Harry Alford, President and CEO, National Black Chamber
3798 of Commerce; Mr. Lonnie Carter, President and CEO of Santee
3799 Cooper; Mr. Steve Rowlan, General Manager, Environmental
3800 Affairs, Nucor Corporation, Betsey Blaisdell, Senior Manager
3801 of Environmental Stewardship, the Timberland Company; and Mr.
3802 James Pearce, Director of Manufacturing for FMC Corporation.

3803 Okay. I want to thank all of you. You have been very
3804 patient today, and yet this is an issue of great importance.
3805 It has significant impact on our country in a lot of
3806 different ways, so we look forward to the testimony of all of
3807 you. Mr. Abbott, you are the Attorney General of Texas. We
3808 are going to start with you. We will recognize you for 5
3809 minutes for your opening statement, and then we will go right
3810 down the line, and before we ask any questions we will have
3811 all of you complete your opening statements, so Mr. Abbott.

|
3812 ^STATEMENTS OF HON. GREG ABBOTT, ATTORNEY GENERAL; STATE OF
3813 TEXAS; HARRY C. ALFORD, PRESIDENT AND CEO, NATIONAL BLACK
3814 CHAMBER OF COMMERCE; STEVE ROWLAN, GENERAL MANAGER,
3815 ENVIRONMENTAL AFFAIRS, NUCOR CORPORATION; JAMES PEARCE,
3816 DIRECTOR OF MANUFACTURING, FMC CORPORATION; STEVE COUSINS,
3817 VICE PRESIDENT, LIONS OIL COMPANY; LONNIE N. CARTER,
3818 PRESIDENT AND CEO, SANTEE COOPER; AND BETSEY BLAISDELL,
3819 SENIOR MANAGER OF ENVIRONMENTAL STEWARDSHIP, THE TIMBERLAND
3820 COMPANY

|
3821 ^STATEMENT OF GREG ABBOTT

3822 } Mr. {Abbott.} Thank you, Mr. Chairman, for the
3823 opportunity to appear before this subcommittee. As you
3824 noted, my name is Greg Abbott and I am the Attorney General
3825 of the State of Texas, and I want to first point out that in
3826 my submitted remarks I have more detail about this but Texas
3827 has strived to work very effectively with the EPA to enforce
3828 environmental laws. Texas also strives to prevent political
3829 before it occurs. Ozone and NOx emissions have been on a
3830 steady decline in Texas since 2000. Texas has installed more
3831 wind power than any other State and achieved one of the
3832 largest declines in greenhouse gas emissions of any State in

3833 the Nation. Texas remains committed to working with the EPA
3834 to improve air quality and to hold polluters accountable, but
3835 Texas cannot support the EPA's regulation of greenhouse
3836 gases. Texas believes the EPA has ignored the plain language
3837 of the Clean Air Act, violated notice and comment
3838 requirements, and attempted to rewrite federal laws written
3839 by the United States Congress by the administrative
3840 rulemaking process.

3841 Texas lodges several challenges to the EPA's regulation
3842 of greenhouse gases. For now I will try to plug in just
3843 three of them that reveal legal problems with the EPA's
3844 regulations. One that you all talked about already a lot
3845 this morning is the tailoring rule. The Clean Air Act
3846 defines in precise numerical terms the emission thresholds
3847 that trigger permitting requirements for stationary sources.
3848 The EPA concedes that regulation of greenhouse gases at these
3849 statutory thresholds produce results ``inconsistent with the
3850 Congressional intent concerning the Clean Air Act'' by
3851 subjecting thousands of schools, churches, farms, small
3852 businesses to Clean Air Act regulation. These admittedly
3853 absurd results indicate that greenhouse gases simply are not
3854 the kind of substance the Clean Air Act was designed to
3855 regulate. Well, dissatisfied with Congress's clear
3856 instructions, the EPA attempted to amend by administrative

3857 fiat the Clean Air Act. EPA calls the revised language its
3858 tailoring rule and we believe that the EPA has violated the
3859 Clean Air Act by its tailoring rule.

3860 Texas also challenged the EPA's SIP call rule. The
3861 Clean Air Act empowers the EPA to require States to amend
3862 their permitting programs by issuing a SIP call. The Act
3863 gives States up to 3 years to bring their regulatory program
3864 into compliance with major federal mandates such as the
3865 greenhouse gas regulations. When the EPA issued the SIP call
3866 rule on September 2, 2010, it gave States just 15 months
3867 until December 2, 2011, to change their laws and regulations
3868 to comply with the new greenhouse gas mandate. The EPA
3869 shortening the time frame violates the Clean Air Act by
3870 giving States just 15 months rather than the Congressionally
3871 mandated 36 months.

3872 Texas also challenged the EPA's FIP rule. In August
3873 2010, we informed the EPA that Texas would not satisfy the
3874 EPA's greenhouse gas demands. A few months later in late
3875 October 2010, an assistant EPA administrator filed a sworn
3876 statement in federal court swearing that the EPA could not
3877 take over Texas air permitting program until December 2,
3878 2011, at the earliest, meaning almost 10 months from this
3879 very day. Well, despite that sworn statement, the EPA did a
3880 180-degree turn on December 23rd and issued an emergency FIP

3881 rule in an attempt to immediately federalize Texas's air
3882 permit program. When it suddenly changed courses, the EPA
3883 not only acted duplicitously, it also violated the
3884 Administrative Procedures Act, which requires the EPA to
3885 solicit notice and comment from the public. The EPA's FIP
3886 rule, however, was issued without notice and comment period
3887 at all in direct violation of federal law.

3888 Not only did the FIP rule violate the notice and comment
3889 required by the APA, it was promulgated just before the
3890 Christmas and New Year's holidays in an obvious attempt to
3891 minimize public scrutiny. The EPA had known for more than 4
3892 months that Texas would not comply with the SIP call rule and
3893 yet it waited until just before Christmas to announce without
3894 public comment or notice that a supposed emergency required
3895 it to seize control of the air permitting system in Texas
3896 just 2 weeks later on January 2, 2011. These are some of the
3897 reasons why Texas is lodging its legal challenges against the
3898 EPA.

3899 [The prepared statement of Mr. Abbott follows:]

3900 ***** INSERT 2 *****

|

3901 Mr. {Whitfield.} Thank you, Mr. Abbott.

3902 At this time I recognize Mr. Alford with the Chamber of

3903 Commerce.

|
3904 ^STATEMENT OF HARRY C. ALFORD

3905 } Mr. {Alford.} Chairman Whitfield, Mr. Vice Chairman,
3906 distinguished members of this committee, thank you for having
3907 me. I am Harry C. Alford, President and CEO of the National
3908 Black Chamber of Commerce.

3909 After failing to persuade the American public of its
3910 intentions to pass a cap-and-trade program through the
3911 legislative process, the Obama Administration has now
3912 unleashed its Environmental Protection Agency to tackle
3913 climate change with non-transparent, burdensome regulations.
3914 This bureaucratic zeal is not only disastrous for American
3915 consumers and businesses at large but also particularly
3916 threatening to the future of prosperity of black communities.

3917 The Energy Tax Prevention Act of 2011, introduced by
3918 Representatives Upton and Whitfield and Senator Inhofe,
3919 offers our Nation a much-needed reprieve from this EPA
3920 overreach and it is my hope that both Democrats and
3921 Republicans will join this new effort to stop the agency's
3922 power grab of our domestic climate policy. Congress must be
3923 in charge of policymaking for such a serious issue, one that
3924 touches the lives and welfare of virtually every American,
3925 not unelected officials with zero accountability.

3926 The Act aims to protect American jobs and businesses,
3927 especially in light of increasing competition from developing
3928 nations such as China. Again, for the African American
3929 business community and black workers nationwide, EPA's
3930 regulatory overreach will kill their competitiveness and
3931 innovation and impose significant burdens to new employment.

3932 Back in 1979, manufacturing employment here in America
3933 reached its high point, providing jobs to roughly 19.6
3934 million Americans. Since then, we have lost more than 8
3935 million manufacturing jobs. Now, many of the factories that
3936 once employed our workers here in the United States are now
3937 popping up in China, Indonesia and other Asian countries.

3938 When I was a young man, I began my career in Detroit.
3939 Upon revisiting throughout the years, I can attest to how
3940 cumbersome government regulations have come to destroy small
3941 businesses and starve families. EPA's plan to implement
3942 emission regulations will sadly result in far greater strife.
3943 This strife will be borne particularly hard by the African
3944 American labor force, one that has not only been
3945 underrepresented in the workforce historically but also badly
3946 wounded since the financial meltdown. Today 16.5 percent of
3947 African American men and women are out of work and the
3948 situation is only getting worse. According to a new study by
3949 the Economic Policy Institute, the black unemployment rate is

3950 projected to hit a 25-year high by the third quarter of this
3951 year.

3952 Additional EPA proposals that have sought to tighten air
3953 quality standards with regard to ozone exemplified mammoth
3954 business-destroying implications as well. For instance, the
3955 National Federation of Independent Business found that as
3956 many as 675 counties across the United States would violate
3957 the proposed standards, triggering job-killing mandates,
3958 costly compliance fees and financial penalties for businesses
3959 in those areas. Just imagine how businesses would be forced
3960 to close and how many workers would be laid off if EPA's
3961 broader proposal to implement a regulatory cap-and-trade
3962 scheme is successful.

3963 Long story short: The environment belongs to everyone.
3964 For EPA to think that it can use the Clean Air Act to now ram
3965 through cost-prohibitive climate regulation is something I
3966 will not stomach and it certainly is not something that the
3967 African American business community is prepared to accept
3968 either. While paying a higher heating this month or doling
3969 out money for gasoline on the way into the office from McLean
3970 or Bethesda may mean little to government bureaucrats, people
3971 living paycheck to paycheck and small businesses trying to
3972 get by simply cannot afford it, especially now.

3973 I applaud all members of the legislature who are working

3974 hard to make sure that EPA does not enact a cap-and-trade
3975 scheme and therefore are standing up for not only America's
3976 economic future but also for the well-being of our Nation's
3977 African American community specifically.

3978 Again, thank you for this opportunity to testify here
3979 this morning on the important of the Energy Tax Prevention
3980 Act and halting EPA's regulatory overreach. I look forward
3981 to answering any questions you may have.

3982 [The prepared statement of Mr. Alford follows:]

3983 ***** INSERT 3 *****

|

3984 Mr. {Whitfield.} Thank you, Mr. Alford.

3985 Mr. Rowlan with Nucor Corporation, you are recognized

3986 for 5 minutes.

|
3987 ^STATEMENT OF STEVE ROWLAN

3988 } Mr. {Rowlan.} Thank you. I am Steve Rowlan, General
3989 Manager of Environmental Affairs for Nucor Corporation.
3990 Thank you, Chairman Whitfield and Vice Chairman Sullivan, for
3991 this invitation to testify today on the impact of greenhouse
3992 gas regulations on our industry and other industries in our
3993 Nation's economy.

3994 Nucor is the largest steel producer and recycler in the
3995 United States. We employ over 20,000 teammates in 23 States
3996 and produce steel products for use in road, bridges,
3997 automobiles, appliances, buildings and a range of other
3998 markets.

3999 The impact of the great recession on the steel industry
4000 was swift and severe. In August of 2008, steel capacity
4001 utilization was over 90 percent. By January 2009, capacity
4002 utilization had plummeted to 36 percent. In a mere 5 months,
4003 the industry went from experiencing strong growth and
4004 excellent market conditions to the worst economy many of us
4005 in the industry have ever seen. Despite how bad that market
4006 got, Nucor did not lay off a single worker.

4007 The economic conditions for the steel industry are
4008 improving. Capacity utilization has increased and we are

4009 seeing a return in demand. However, the strength and
4010 duration of the economic recovery remains to be seen.
4011 Greenhouse gas regulations are adding to this uncertainty.

4012 U.S. steel producers are in a highly competitive global
4013 market that will only get more competitive in the future. We
4014 face unfair practices from steelmakers in countries like
4015 China, and increasingly, we are not competing against other
4016 companies, but against governments, governments who bring
4017 their full weight to bear to ensure the success of their
4018 domestic industry through the use of subsidies, generous
4019 loans and other protectionist measures. I would say that is
4020 a pretty strong headwind to compete against. And the
4021 uncertainty created by our government's many regulatory
4022 proposals only adds to that headwind and diminishes the
4023 competitiveness of many U.S. industries.

4024 From an environmental perspective, America is the best
4025 place in the world to make steel. Our industry has reduced
4026 its energy-intensity by 30 percent since 1990, and reduced
4027 greenhouse gas emissions by 35 percent over the same time
4028 period while increasing overall production. This
4029 significantly exceeds the Kyoto Protocol targets. In fact,
4030 the U.S. steel industry has the lowest CO2 emissions per ton
4031 in the world. What is more, companies like Nucor have made
4032 steel the most recycled product in the world. As the

4033 Nation's largest recycler, Nucor kept more than 17 million
4034 tons of scrap metal from cars, appliances and other discarded
4035 products out of landfills in 2010. The recycled scrap is
4036 then melted down through the use of electrical energy and
4037 made into new steel products.

4038 Because greenhouse gas emissions are a global issue,
4039 regulation through the Clean Air Act threatens both our
4040 competitiveness and the environmental benefit that results
4041 from making steel so cleanly in the United States.
4042 Ironically, these very regulations and practices that are
4043 intended to improve the environment actually result in
4044 increased global emissions and more environmental impact than
4045 if the industry had remained in the United States.

4046 The problems these regulations create manifest
4047 themselves in the permitting process and other ways.
4048 Everyone expresses concern about permitting and the impact
4049 these rules have on our ability to build industrial projects
4050 that create jobs and improve people's livelihoods. However,
4051 this is not a new problem. Over time, we have created a
4052 system that is comprised of endless reviews, hearings,
4053 allegations, lawsuits and continued modeling that has turned
4054 our permitting process into a slow, frustrating experience
4055 that has eliminated the certainty necessary for the
4056 expenditure of capital. I have been quoted as saying it is

4057 like being in a hamster wheel. The lack of availability of
4058 affordable energy also remains a real obstacle.

4059 Due to the continual halting of permits for new,
4060 traditional sources of energy generation and constantly
4061 promoting the development of expensive so-called green
4062 energy, we as a Nation are essentially pricing ourselves out
4063 of the industrial market. Mechanisms such as greenhouse gas
4064 rules, regional cap-and-trade programs, renewable energy
4065 standards and other permit battles are creating an
4066 environment where affordable energy, the lifeblood of
4067 industry, is becoming a rare commodity. For example, I
4068 modeled a facility that would recycle a million tons of steel
4069 and I looked at it in areas that had a renewable energy
4070 standard versus areas that had no renewable energy standard,
4071 and the difference in electrical cost was \$52 million a year.
4072 As I presented that to the people in that particular State, I
4073 asked where we would build that facility, and they said not
4074 in our State. That is why you see industry moving to areas
4075 that have affordable and abundant energy.

4076 It looks like I am about out of time. We have something
4077 said about a permit that was recently issued to Nucor. I
4078 will tell you that we did receive a permit for a
4079 significantly diminished project versus the \$2.1 billion we
4080 were going to invest. That permit, however, for that

4081 project, which will be phase 2, is still not fully issued.

4082 It is stayed pending some further actions. Thank you for

4083 your time.

4084 [The prepared statement of Mr. Rowlan follows:]

4085 ***** INSERT 4 *****

|

4086 Mr. {Whitfield.} Thank you, Mr. Rowlan.

4087 At this time I recognize Mr. Pearce for 5 minutes, and

4088 Mr. Pearce is Director of Manufacturing for FMC.

|
4089 ^STATEMENT OF JAMES PEARCE

4090 } Mr. {Pearce.} Mr. Chairman, Ranking Member Rush and
4091 members of the committee. My name is Jim Pearce, and I am
4092 the Manufacturing Director for FMC's Alkali Division, and I
4093 thank you for holding the hearing on this important topic.

4094 FMC is a diversified chemical company manufacturing
4095 products for the food and pharmaceutical industries, for
4096 lithium batteries and energy storage. Our FMC products are
4097 used in a wide range of industrial usage and new applications
4098 to improve the environment.

4099 In Green River Wyoming, where I live and work, we are
4100 the world's largest producer of sodium carbonate, better
4101 known as soda ash. The largest use of soda ash is in glass
4102 manufacturing, including food, juice, beer and wine
4103 containers, fiberglass, and flat glass for autos, houses and
4104 buildings. It is also used in a number of household products
4105 such as a water softener, and it is the primary ingredient in
4106 powdered home laundry detergents. In Wyoming, we produce
4107 soda ash from naturally occurring trona ore that is mined
4108 from underground deposits. The four companies that comprise
4109 the so-called trona patch in Sweetwater, Wyoming employ over
4110 2,100 people and account for roughly 90 percent of the

4111 domestic soda ash production in the United States and 25 of
4112 total global soda ash production. In addition, there are
4113 some 100 dockworkers in Portland, Oregon, and we estimate an
4114 additional 8,300 jobs nationwide that are dependent on our
4115 industry.

4116 Mr. Chairman, today American soda ash production is one
4117 of the good news stories in manufacturing. Our industry is a
4118 prime example of how government trade and lands policies can
4119 work to help sustain a U.S. manufacturing base. At FMC, we
4120 have improved our energy efficiency of our soda ash
4121 operations by 10 percent over the past 10 years, and as an
4122 entire company we have met our commitment to the Chicago
4123 Climate Exchange Program reducing our greenhouse gas
4124 emissions by 10 percent from 2003 to 2010. For FMC, energy
4125 efficiency simply represents smart business.

4126 The current U.S. approach to regulating greenhouse gases
4127 not only fails to incentivize us to achieve greater energy
4128 efficiency, but over time it may lead U.S. natural soda ash
4129 producers to lose business to our off-shore rivals, mainly
4130 the Chinese, who produce their soda ash synthetically.
4131 Synthetic soda ash generates an average of 30 percent greater
4132 greenhouse gas emissions per ton than does soda ash mined
4133 from natural resources.

4134 Mr. Chairman, our jobs growth in the natural soda ash

4135 industry is fueled by exports. The U.S. natural soda ash
4136 industry contributes over \$875 million in surplus to the
4137 overall U.S. balance of trade, and our export sales have
4138 grown at 6-1/2 percent per year over the last 28 years. This
4139 represents a significant contribution to the President's goal
4140 of increasing U.S. exports. It also contributes to job
4141 growth. FMC recently announced that we will be adding 100
4142 new jobs in Green River as a result of export growth,
4143 directly exports. Domestic soda ash producers export 52
4144 percent of what we produce, 52 percent. That means that one
4145 of our every two jobs is directly attributable to export
4146 sales.

4147 Keeping our lead is not something that we take for
4148 granted, nor has Congress. For example, the Congress saw fit
4149 to reduce the royalties that we pay on soda ash, realizing
4150 that the export increase would result in higher Treasury
4151 revenues, yet the pressure to remain competitive continue to
4152 grow. As an example, in 1990 China imported about 1 million
4153 tons per year of soda ash. Today, they are the world's
4154 largest producer of soda ash and export about 2.5 million
4155 tons per year.

4156 We have serious concerns about our future and our
4157 competitive position if not required to make non-economic
4158 decisions based on domestic regulations that our

4159 international competitors do not have to comply with. We do
4160 not understand why U.S. manufacturers should be required to
4161 make costly changes when less-efficient and higher greenhouse
4162 gas-emitting foreign competition does not.

4163 A Southeast Asian glass manufacturer will not buy from a
4164 U.S. soda ash producer whose prices are high simply because
4165 of U.S. regulations. Rather, they will buy from the lower-
4166 cost foreign competition that produces more greenhouse gas
4167 emissions.

4168 We ask Congress to take the long view on this matter and
4169 understand that acting in isolation may place the domestic
4170 soda ash industry at a significant competitive disadvantage
4171 while increasing the overall greenhouse gas global emissions.
4172 We would hope that Congress would fully debate the energy
4173 policies and drive energy efficiency in a way that not only
4174 maintains jobs but grows them along with exports.

4175 Thank you very much for this opportunity.

4176 [The prepared statement of Mr. Pearce follows:]

4177 ***** INSERT 5 *****

|

4178 Mr. {Whitfield.} Thank you, Mr. Pearce.

4179 Mr. Cousins, you are recognized for 5 minutes, of Lion

4180 Oil Company.

|
4181 ^STATEMENT OF STEVE COUSINS

4182 } Mr. {Cousins.} Chairman Whitfield, Ranking Member Rush,
4183 members of the subcommittee. My name is Steve Cousins. I
4184 serve as Vice President of Lion Oil Company. I am a chemical
4185 engineer and I have spent my 33-year career at Lion Oil.

4186 My company's survival and our employees' jobs are
4187 threatened by the Environmental Protection Agency's moves to
4188 regulate greenhouse gas under the Clean Air Act. We believe
4189 these actions by the EPA are contrary to the plain wording of
4190 the Clean Air Act, are unwise and endanger America's economic
4191 and national security. This is why it is so important that
4192 you approve the Energy Tax Prevention Act of 2011 to stop EPA
4193 from moving forward with its regulations.

4194 Lion Oil is in El Dorado, Arkansas. We have been in
4195 business for 88 years. We produce 80,000 barrels a day of
4196 gasoline, diesel and asphalt. We sell to customers in seven
4197 States, and we have 600 people at our unionized El Dorado
4198 plant. We employ indirectly approximately 1,800 other people
4199 that support our company. We are in rural delta county where
4200 unemployment runs about 10 percent.

4201 I can give you one personal example of how EPA's current
4202 regulatory path has already inflicted real pain on the people

4203 in our small town. Lion Oil undertook a major expansion,
4204 several hundred million dollars, starting in 2007. The
4205 projected created 2,000 construction jobs in a town with only
4206 20,000 people in it. It was a real shot in the arm for our
4207 economy. Unfortunately, economic risk prevented us from
4208 reaching our goal. It left us with a much smaller project
4209 that provided much fewer jobs. The uncertainty and the
4210 potentially prohibitive costs associated with both at that
4211 time cap-and-trade legislation and also EPA's looming
4212 greenhouse gas legislation were critical factors leading us
4213 to delay completion of this expansion.

4214 Ironically at the very same time construction jobs were
4215 being terminated in El Dorado, Arkansas, in India, more than
4216 75,000 workers were embarking on a 3-year project to build a
4217 brand-new state-of-the-art refineries 15 times larger than
4218 our plant. It is designed purely for export purposes. Every
4219 drop of gasoline and diesel they produce is going to end up
4220 in the United States or the European Union. And while our
4221 Arkansas union workers average over \$23 an hour in wages, in
4222 India those same workers make about \$5 an hour.

4223 It is going to take a crystal ball to determine exactly
4224 how the EPA enforces efficiency standards on refineries. We
4225 think that that is a likely thing we heard the Administrator
4226 testify to, and it sounds like a great idea but it sets up a

4227 scenario that we see where a small plant like ours is
4228 compared to plants five to ten times our size. Economies of
4229 scale always favor larger plants, the same way a 747 airliner
4230 uses a lot less fuel per passenger mile than a Piper Cub
4231 because it is larger and can be designed at far higher
4232 efficiency standards. Our plant, if we are held to the
4233 largest plants in the world to the same efficiency standards,
4234 then there is no cost that will allow us to achieve this. It
4235 would be out of reach and it will put us out of business.
4236 EPA has traditionally not shown the kind of flexibility that
4237 you would have to have to allow for those differences.

4238 In spite of our alarm at EPA's current path, Lion Oil is
4239 not in favor of turning back to the clock on environmental
4240 progress. We are very proud of what we have done. Since
4241 1996, we reduced emissions from our facility by 73 percent
4242 while actually increasing plant throughput but it has come at
4243 a very high cost. Expenditures at our small facility has
4244 topped \$200 million in that time period in new environmental
4245 equipment with more than \$19 million in increased operating
4246 costs. These costs are for the most part things that foreign
4247 refineries do not have to bear, and while many of these
4248 improvements offer real tangible environmental benefits, that
4249 is not true for EPA's plan to regulate greenhouse gases.
4250 Reducing U.S. greenhouse gases unilaterally, which is all EPA

4251 has the ability to do, will not reduce global concentrations
4252 of greenhouse gases at all, not significantly, and will most
4253 likely result in the export of U.S. jobs to countries not
4254 interested in greenhouse gas limits. This is exactly why the
4255 EPA does not need to be in the greenhouse gas regulation
4256 business.

4257 Under the Energy Tax Prevention Act of 2011, our elected
4258 representatives in Congress will have the ability to create a
4259 balanced and workable energy policy that does not
4260 disadvantage American workers. Thank you.

4261 [The prepared statement of Mr. Cousins follows:]

4262 ***** INSERT 6 *****

|

4263 Mr. {Whitfield.} Thank you, Mr. Cousins.

4264 At this time I recognize Mr. Carter for 5 minutes.

|
4265 ^STATEMENT OF LONNIE CARTER

4266 } Mr. {Carter.} Chairman Whitfield, Ranking Member Rush
4267 and members of the subcommittee, my name is Lonnie Carter and
4268 I am the President and Chief Executive Officer of Santee
4269 Cooper, the South Carolina Public Service Authority. While I
4270 am currently serving as the Chairman of the Board of
4271 Directors of the American Public Power Association, my
4272 comments and presence here today solely represent those of
4273 Santee Cooper.

4274 Santee Cooper has been a resource for improving the
4275 health, welfare and material success of the residents of
4276 South Carolina. Santee Cooper is guided--

4277 The {Chairman.} Excuse me. Is that--

4278 Mr. {Whitfield.} Is your microphone on?

4279 Mr. {Carter.} It has got a little green light that says
4280 it is on. Is that better?

4281 Mr. {Whitfield.} That is better. Thanks.

4282 Mr. {Carter.} It may be that slow, southern accent that
4283 is slowing you down.

4284 We are still handling our mission for improving the
4285 quality of life for the people of South Carolina by providing
4286 low-cost, reliable power and water to our customers while

4287 being good environmental stewards. As South Carolina's
4288 State-owned electric and water utility, we have served 2
4289 million customers either directly or indirectly. We are
4290 accountable for keeping electricity affordable and the lights
4291 on.

4292 Our industry is at a time of unprecedented change and
4293 challenge, the likes of which I have not seen in my 28 years
4294 in this industry, bringing with it uncertainty and high cost
4295 to customers. I am very concerned about the many proposed
4296 EPA regulations and what they may mean in the short and long
4297 term. As a public power entity, we have no shareholders to
4298 share the cost of regulations. We are literally where the
4299 rubber meets the road. We are the State's leader in
4300 renewable energy with 197 megawatts of renewable generation
4301 already online or under contract. They are voluntary
4302 business decisions that successfully balance low cost,
4303 reliability and care for the environment.

4304 Santee Cooper has been a leader in installing
4305 environmental control technology and in fact already reduces
4306 nitrogen oxide by over 90 percent and sulfur dioxide by as
4307 much as 90 percent through SCRs and scrubbing at our
4308 generating stations. We launched a \$113 million
4309 comprehensive energy efficiency campaign for our customers in
4310 2009. We are also a leader in this Nation's reentry into the

4311 nuclear energy arena on tap to build two new nuclear facility
4312 in 2016 and 2019 with our partner, SCANA.

4313 If I were not here today, I would be at an economic
4314 development announcement. One of our largest industrial
4315 customers, Showa Denko Carbon, Inc., is announcing a
4316 multiple-hundred million dollar investment to expand their
4317 facility. This project will create approximately 100 new
4318 jobs. Here is my point. By far the biggest concern going
4319 forward with this project is the uncertainty created by EPA's
4320 greenhouse gas and non-greenhouse gas regulations. This
4321 example highlights the issues with greenhouse gas
4322 regulations. The proposed regulations will result in higher
4323 costs and greater uncertainty for my customers.

4324 EPA also announced its desire to address greenhouse
4325 gases for the power sector through new source performance
4326 standards that will set emission guidelines for existing
4327 facilities. There is currently no off-the-shelf technology
4328 available to address greenhouse gas emissions at a commercial
4329 scale, making it different in like and kind from other
4330 emissions regulated under the Clean Air Act. New
4331 construction projects will likely be significantly delayed
4332 because there is no clarity in how to address greenhouse
4333 gases and PDS permits. EPA's failure to provide the
4334 necessary tools, information and direction will lead to

4335 permits being delayed and complex legal challenges to
4336 permits.

4337 The Clean Air Act simply is not designed to address
4338 greenhouse gas emissions. The policy to limit greenhouse gas
4339 emissions should be set by Congress. Setting a path forward
4340 regulating greenhouse gas emissions under the Clean Air Act
4341 would stifle an already slow permitting process, raise costs,
4342 limit economic development and industrial growth around our
4343 country at a time when we need jobs the most.

4344 EPA also plans to adopt numerous new rules over the next
4345 few years including coal ash, maximum available control
4346 technology standards, cooling water intake rules, air quality
4347 standards for ozone, lead and particulate matter.
4348 Individually, they represent sizable cost impacts. Together,
4349 they could be enough to significantly curtail the economic
4350 development and force many premature closings of low-cost,
4351 reliable power facilities that keep our Nation running.

4352 I support Chairman Upton's proposal that would remove
4353 regulation of greenhouse gases from Clean Air Act. The
4354 secret to success is a balanced and thoughtful approach that
4355 factors in the cost impacts of these proposed regulations to
4356 customers.

4357 Thank you for this opportunity and for your attention,
4358 and I am happy to answer any questions you may have.

4359 [The prepared statement of Mr. Carter follows:]

4360 ***** INSERT 7 *****

|

4361 Mr. {Whitfield.} Thank you very much.

4362 Ms. Blaisdell, you are recognized for 5 minutes.

|
4363 ^STATEMENT OF BETSEY BLAISDELL

4364 } Ms. {Blaisdell.} Thank you. Good afternoon, Chairman
4365 Whitfield, Ranking Member Rush and distinguished members of
4366 the subcommittee. I appreciate the opportunity to testify at
4367 today's hearing. I am here on behalf of the Timberland
4368 Company, which produces boots, clothing and gear for the
4369 outdoors.

4370 I am also here on behalf of BICEP, which stands for
4371 Businesses for Innovative Climate and Energy Policy. We are
4372 a group of major consumer household brand companies such as
4373 Nike, Starbucks, Levi Strauss and Co., Best Buy, Target,
4374 Symantec, Gap, Aspen Ski Company. Timberland and the other
4375 BICEP companies believe that we need strong energy and
4376 climate policies to protect our supply chain, ensure market
4377 certainty as well as to help create jobs, level the playing
4378 field among businesses, enhance economic development and
4379 ensure global competitiveness as we move into the future.

4380 While we prefer Congressional action to executive branch
4381 regulation, the latter is necessary when Congress leadership
4382 is lacking. Current EPA regulations as well as those under
4383 development would help protect our economy as well as human
4384 health and the environment.

4385 Mr. Chairman, we couldn't agree more with a couple of
4386 statements you made in your press releasing highlighting your
4387 premises for introducing the legislation that is the topic of
4388 today's hearing. That is, number one, Congress, not EPA
4389 bureaucrats, should be in charge of setting America's climate
4390 change policy, and secondly, a 2-year delay of EPA's cap-and-
4391 trade agenda provides no meaningful certainty for job
4392 creators, fails to protect jobs and puts decision-making in
4393 Congress on a critically important economic issue past voters
4394 and the election year.

4395 Indeed, Congress should be setting America's climate
4396 policy, and the 2-year delay would create more uncertainty
4397 and lead to other problems, as you correctly point out. I
4398 will come back to these points in a moment.

4399 You are probably wondering why Timberland and the other
4400 BICEP companies care about climate and energy policies. We
4401 care because our supply chains are affected by current and
4402 projected climate impacts while materials for Timberland
4403 products as well as Levi and Gap jeans, Nike Sneakers,
4404 Starbucks coffee plantations, they all depend on water. If
4405 there is less water due to the projected climate change
4406 impacts, we all struggle to produce our products and meet the
4407 demands of our consumers and we will continue to suffer as
4408 weather events grow in severity and frequency, which

4409 interrupt our ability to move products to consumers. This
4410 costs us both time and money. Moreover, and this is very
4411 important, our employees and consumers are demanding that we
4412 take actions to reduce greenhouse gas emissions.

4413 For a global company, addressing climate change is no
4414 small task. We need policies that will create long-term
4415 market certainty that parallels our planning timelines. I
4416 realize some entities want no action at all. However, many
4417 more companies recognize that we need to act to address this
4418 critically important economic issue we are facing right now,
4419 and acting sooner rather than later is more prudent and
4420 cheaper in the long run and will help avoid the worst
4421 potential projected impacts and hopefully help avoid more
4422 costly scenarios down the road that might occur if we do
4423 nothing in the near term. Failure to act would be more
4424 costly to our businesses and consumers down the road. Thus,
4425 for Timberland and other BICEP companies, acting to address
4426 climate change is a business imperative.

4427 Timberland is taking steps to be a leader in
4428 sustainability. In 2006, we actually voluntarily capped our
4429 own greenhouse gas emissions. Since then we have reduced our
4430 emissions for our facilities and operations by more than 40
4431 percent, which has saved us over \$1 million a year, which is
4432 a significant savings for a company like ours during this

4433 tough economy. Investing in renewable energy in States like
4434 California has proven to be an effective hedge for rapidly
4435 rising utility costs. Energy efficiency in our corporate
4436 facilities and stores has cut energy consumption by more than
4437 30 percent with a payback of under 2 years, usually under
4438 one. Nutrition labels on our product communicate our
4439 progress to consumers. These labels combined with
4440 Earthkeepers footwear, which is designed to have a smaller
4441 climate impact, have helped drive remarkable growth while
4442 many of our competitors have struggled to survive.

4443 In your home State of Kentucky, Mr. Chairman, after
4444 several years of conversation with the local utility, we
4445 finally negotiated a deal to source electricity from a
4446 certified small-scale hydropower facility on the Kentucky
4447 River. We pay a premium for that power, but the benefits far
4448 outweigh the costs. Our climate impact is dramatically
4449 reduced and the local community benefits from having an
4450 emissions-free renewable source of power that is a scenic
4451 learning lab for children in and around Danville.

4452 While Congress could be creating America's climate
4453 policy and while most businesses prefer this route, because
4454 Congress has failed to do so, we must fall back on EPA's
4455 authority and regulations. Preventing EPA from exercising
4456 its authority or rolling back any of its actions would cost

4457 the economy in human health in terms of illness and often
4458 results in lost work days and more. More specifically, in
4459 2005 alone the Clean Air Act protections helped avoid 13
4460 million lost work days, thereby helping maintain our Nation's
4461 economic productivity.

4462 On the second point in your press release, again, we
4463 agree, a 2-year delay on EPA's regulation of greenhouse gas
4464 emissions would enhance uncertainty in the marketplace and
4465 hinder job creation as well as delay critical decisions that
4466 Congress should in fact be making. So rather than going
4467 after EPA's ability to regulate including repealing a number
4468 of its current actions, Congress should act responsibly and
4469 develop sound energy and climate policy. Some of America's
4470 largest businesses stand ready to work with you, to work with
4471 Congress to develop responsible policies in this area. In
4472 lieu of such action, however, EPA must be allowed to do its
4473 job, and let me reiterate, we would like to be here. Many
4474 U.S. businesses including the BICEP companies in fact do
4475 prefer EPA regulation to no protections at all, as I
4476 previously mentioned.

4477 I look forward to constructive policy debates moving
4478 forward that focus on the best ways in which businesses can
4479 work with you to develop sound energy policies, policies with
4480 which many business would resoundingly agree. Let us work on

4481 a bipartisan basis to produce sound energy policies we can
4482 all be proud of and which virtually everyone on and off
4483 Capitol Hill recognize will help move us toward a better path
4484 for job creation, economic growth and global competitiveness.

4485 Thank you, Mr. Chairman.

4486 [The prepared statement of Ms. Blaisdell follows:]

4487 ***** INSERT 8 *****

|
4488 Mr. {Whitfield.} We have two votes on the House Floor.
4489 We have about 3 minutes left to vote, so we are going to go
4490 over there. We are going to take a break and hopefully be
4491 back by 2:00 and then we will get to the questions and then
4492 we will go right to the third panel. So why don't you all go
4493 have a glass or lemonade or something.

4494 [Recess.]

4495 Mr. {Whitfield.} I would like to call the hearing back
4496 to order, please, and I am very sorry you all had to wait a
4497 little bit longer while we finished these votes, but I want
4498 to thank you for your testimony, and I will start off with
4499 questioning here and then we will go on down the line.

4500 First of all, Mr. Rowlan, I just want to follow up one
4501 thing. You mentioned something about \$52 million a year in
4502 additional costs in renewable mandate States versus non-
4503 renewable mandate States. Would you clarify that for me one
4504 more time?

4505 Mr. {Rowlan.} I was speaking to a business group, and I
4506 was showing the impact of a renewable energy standard on
4507 their utility rates, which is something that concerns us
4508 significantly.

4509 Mr. {Whitfield.} Right.

4510 Mr. {Rowlan.} Economical power is the lifeblood of

4511 industry, and I looked at several northeast States and some
4512 other States scattered throughout the country that had an RES
4513 standard, and then I compared that with, I think it was South
4514 Carolina and Arkansas without an RES standard, took the
4515 average commercial rate that we would have been charged, and
4516 the difference from the high end to the low end was \$52
4517 million annually.

4518 Mr. {Whitfield.} Wow.

4519 Mr. {Rowlan.} And that is just for the average amount
4520 of power for what we would be considered a medium-sized
4521 facility for us.

4522 Mr. {Whitfield.} Well, I know in Kentucky we do not
4523 have a renewable mandate, and our electricity rates are
4524 around 7 cents per kilowatt hour, which is pretty good. But
4525 you point out a good issue because the key for the United
4526 States and our growing economy is to maintain a global
4527 competitiveness, be competitive in the global marketplace,
4528 and if we unilaterally start adopting some of these rules
4529 like Ms. Jackson has on greenhouse gases, which even she
4530 admitted is not going to have any dramatic impact on
4531 greenhouse gases, and other countries are not taking any
4532 action, so it is really putting us at a disadvantage.

4533 Ms. Blaisdell, I know that you support her actions, and
4534 you came up and we talked a little bit about Danville,

4535 Kentucky. Do you all have a plant in Danville, Kentucky?

4536 Ms. {Blaisdell.} We have a distribution center.

4537 Mr. {Whitfield.} Oh, a distribution center. How many
4538 plants do you all have in the United States?

4539 Ms. {Blaisdell.} Are you talking about how many
4540 facilities or how many--

4541 Mr. {Whitfield.} Where you actually make the product.

4542 Ms. {Blaisdell.} We do not own a manufacturing plant in
4543 the United States. Most of the products that we manufacture
4544 come from factories we outsource from.

4545 Mr. {Whitfield.} From which countries?

4546 Ms. {Blaisdell.} All over the world. We do source from
4547 the United States as well.

4548 Mr. {Whitfield.} Oh, okay.

4549 Ms. {Blaisdell.} We just don't own any in the United
4550 States.

4551 Mr. {Whitfield.} Oh, okay. Well, time is running out
4552 here, but I just want to kind of summarize in my view what
4553 Ms. Jackson said. She placed a lot of emphasis on the
4554 importance of certainty, and she also placed a lot of
4555 emphasis on being reasonable, and I really find myself
4556 puzzled by that because she also said really there is no
4557 technology available to control greenhouse gases, and then
4558 she said so the only thing we can do is that we can deal with

4559 efficiency, and then our friend Mr. Doyle from Pennsylvania
4560 said well, you know, that seems perfectly reasonable, but in
4561 my view, companies are going to try to be as efficient as
4562 they can be in order to compete in the marketplace, and
4563 basically what we are doing here is, we are having government
4564 bureaucrats go in and say this is what you need to do to be
4565 efficient. And even if the State implementation plan or
4566 State enforcers say you do this, this and this to be
4567 efficient, there is not anything to preclude EPA from coming
4568 back and overruling them or changing it or whatever. And
4569 then you get to under the preventing significant
4570 deterioration the best available control technology, and it
4571 is my understanding that the State implementers or State
4572 regulators could conceivably even require you to switch your
4573 fuel; instead of coal or oil or natural gas, whatever, we
4574 want you to use wind power, that there was not anything in
4575 there that would prohibit that.

4576 And I just find it almost impossible to believe that she
4577 would refer to that as being certain, there is certainty
4578 here, and so the business people like that. I mean, the real
4579 issue is, we have a high unemployment rate. We are trying to
4580 compete in the global marketplace. We do want certainty, and
4581 in my view, there is not any way--at least she did say this.
4582 She said we have to have coal, for example, and natural gas

4583 and nuclear and all of that because as I said in my opening
4584 statements, our energy demands are going to double by the
4585 year 2035. And so I am assuming you all would agree with
4586 what I am saying. Ms. Blaisdell may not agree. Yes, sir.

4587 Mr. {Rowlan.} I will give you a real interesting
4588 example. We heat our steel up to roll it into a shape, and
4589 that is called a reheat furnace, and the Clean Air Act BACT
4590 for the burners in that is what is called reduce NOx or low
4591 NOx burner, which requires us to actually be less efficient.
4592 We actually limit the heat on it so that we create less NOx.
4593 So we are using more energy in order to keep NOx down. As we
4594 get into a greenhouse gas rule, are faced with the exact
4595 opposite of that. We are tied up in, do you raise NOx so
4596 that you lower CO2 or do you raise CO2 so that you keep NOx
4597 down. And that is the paradox that we are in.

4598 We also are caught up with that in CO, our CO emissions.
4599 Typically we put some oxygen with them as they come out of
4600 our furnace and convert them to CO2 so now if we limit our
4601 CO2 by not putting the oxygen in and burning it off
4602 afterwards, we are going to raise our CO, which is a criteria
4603 pollutant. So there is a lot of really difficult questions
4604 that would have to be asked if this were to go forward under
4605 the Clean Air Act, and frankly, I don't think some of the
4606 people are prepared to give us answers on it or make the

4607 decision.

4608 Mr. {Whitfield.} Right. Well, I agree with you.

4609 Mr. Rush, I will recognize you for 5 minutes.

4610 Mr. {Rush.} Thank you, Mr. Chairman.

4611 Attorney General Abbott, first of all, I want to
4612 congratulate you on some of the standards and your activities
4613 and your accomplishments as it relates to alternative energy.
4614 I understand from your testimony that your State is number
4615 one in the use of wind energy, and I certainly want to
4616 congratulate you and your State for those efforts. I know
4617 that you have a cheerleader here in Mr. Barton and so I am
4618 not going to congratulate you too much because I don't want
4619 to take some of his thunder away from.

4620 Suffice it to say that in spite of scholarly debates
4621 over the proper standards of judicial review of agency action
4622 or inaction under section 706 of the APA, in light of the
4623 Chevron Doctrine, the federal courts including the Supreme
4624 Court have been deferential to an agency's statutory
4625 interpretation where those interpretations are reasonable.
4626 This Chevron level of deference exceeds even the level of
4627 deference an appellate court must accord to trial courts
4628 under the de novo standard. De novo can be triggered when
4629 trial courts interpret laws like the Clean Air Act. Can you
4630 explain how the Supreme Court, that the outcome is wrong in

4631 the Massachusetts v. EPA decision? Were they deferring to
4632 the EPA's interpretation? Can you explain why and how the
4633 Supreme Court got it wrong?

4634 Mr. {Abbott.} Will I explain how the Supreme Court got
4635 it wrong?

4636 Mr. {Rush.} Yes, your interpretation, from your point
4637 of view, how is the Supreme Court's decision wrong.

4638 Mr. {Abbott.} Well, I think the Supreme Court decision
4639 is wrong because I don't think that it requires the EPA to
4640 regulate greenhouse gases but the fact of the matter is, I
4641 think under the Supreme Court's decision, it still did not
4642 mandate that the EPA must conclude that greenhouse gases pose
4643 an endangerment and it still provided certain other latitude
4644 for operating room for the EPA to operate as has been
4645 discussed in testimony throughout the course of the day.

4646 Mr. {Rush.} So are you saying that they were wrong
4647 because they did not mandate it? Is that what is wrong with
4648 the Supreme Court decision?

4649 Mr. {Abbott.} Well, yes.

4650 Mr. {Rush.} The reason why I ask that question is
4651 because you say on page 7 of your testimony that in
4652 Massachusetts v. EPA, the Supreme Court said it need not and
4653 does not reach the question whether carbon dioxide is the
4654 kind of air pollutant the EPA must regulate under the Clean

4655 Air Act, but my copy of the Supreme Court's decision says
4656 something a little different. I will bring your attention to
4657 section 7, paragraph 2 on page 32. It says, ``In short, the
4658 EPA has offered no reasoned explanation for its refusal to
4659 decide whether greenhouse gases cause or contribute to
4660 climate change. Its action was therefore arbitrary,
4661 capricious or otherwise not in accordance with law. This is
4662 the matter that I am referring to. ``We need not and do not
4663 reach the question of whether on remand EPA must make an
4664 endangerment finding or whether policy concerns can inform
4665 EPA's action in the event that it makes such a finding.'' So
4666 you said that they did not and they are saying something
4667 altogether different.

4668 Mr. {Abbott.} Actually what I am hanging my hat on is
4669 that very sentence that you read, and I may have articulated
4670 inappropriately but what I meant to articulate is exactly
4671 word for word what that sentence says.

4672 Mr. {Rush.} Okay. All right.

4673 Mr. {Abbott.} And that is that they basically don't
4674 reach the question whether or not the--

4675 Mr. {Rush.} But you conclude that--

4676 Mr. {Abbott.} --EPA must--

4677 Mr. {Rush.} But you are concluding that the Supreme
4678 Court was somehow wrong? I don't understand. I am trying

4679 to--

4680 Mr. {Abbott.} I disagree with the Supreme Court's
4681 ruling but it is the Supreme Court's ruling, and so we must
4682 operate under it.

4683 Mr. {Rush.} Thank you.

4684 Mr. Rowlan, on Friday EPA--no, that is quite all right,
4685 Mr. Chairman. I yield back.

4686 Mr. {Whitfield.} I recognize Mr. Upton of Michigan for
4687 5 minutes.

4688 The {Chairman.} Thank you again, Mr. Chairman. I
4689 regret I wasn't here for many of your presentations. We have
4690 another subcommittee that is meeting at the same time and so
4691 a number of us were there, and as you know, we had votes on
4692 the House Floor as well.

4693 In the previous panel, I talked about the impact on
4694 Michigan with the job impact. In fact, there has been
4695 independent study that showed that Michigan's GDP would drop
4696 by \$18 billion, destroy 96,000 jobs, reduce household incomes
4697 by nearly \$1,600, and the concern that many of us have is if
4698 we allow EPA to pursue these regulations, we would have added
4699 cost. We heard from your testimony in terms of the impact on
4700 you all but I just wonder if you can summarize for me from
4701 your individual and somewhat unique perspective, I know it
4702 will be tougher for Illinois Farm Bureau because I don't know

4703 where those farmers--I mean, you are not going to go
4704 someplace else, you are going to keep the land there in
4705 Illinois, I would imagine. But as it relates to your
4706 industry, if these regulations are imposed, where do you
4707 think things are headed for your particular industry as it
4708 relates to the jobs that are provided? Are they going to go
4709 to India and China? Are they just going to close down? What
4710 is your individual opinion in terms of what will happen to
4711 the groups of similar industries as it relates to us having
4712 these regulations and not having them in other places around
4713 the world?

4714 Mr. {Alford.} Yes, sir. There is definitely going to
4715 be a transfer of wealth. I think there is a national
4716 security issue here where we Americans are number one in the
4717 world economically now but we could go to sixth, seventh,
4718 eighth or ninth, and if we go to ninth, we are vulnerable to
4719 new enemies who look at us as someone who could be taken
4720 over, and I think we are at a fork in the road here. We
4721 better take the right way, and I think the EPA view or
4722 attitude towards the American worker is that of a pawn on a
4723 chessboard: expendable and no need to worry. I think that
4724 is a terrible attitude.

4725 Mr. {Rowlan.} I would say that it is already happening.
4726 I hear a lot of people ask for examples of companies going

4727 overseas. I explained it this way one time to some economic
4728 development people when EPA said that non-attainment would
4729 not impact them, and EPA said we have never heard of a
4730 company picking up and leaving an area because it was non-
4731 attainment, and I said that is because you don't even make
4732 the first cut. You are cut out and you are excluded, and
4733 that is what this lack of decisiveness and this constant 2
4734 years, 1 year, when is this coming, when is this rule
4735 hitting, when is PM 2.5, when is ozone. That constant
4736 barrage causes you to take your capital and move someplace
4737 where you have got a level of certainty. This facility that
4738 I have worked on in Louisiana, in the time it has taken me to
4739 not completely get a permit, a full facility of that size has
4740 been constructed, permitted and is operating in China.

4741 Mr. {Cousins.} When I first started working in the
4742 refining industry, there were about 350 U.S. refineries.
4743 Today there are about 150. There hasn't been a single
4744 refinery built in this country in 30 years. There have been
4745 many build in the Pacific Rim, China, India. I mean, there
4746 is no guesswork. That is what is going to happen.

4747 Mr. {Carter.} I would turn your attention really to two
4748 areas. One is, as I have had the opportunity to meet with
4749 CEOs in a class actually for a weeklong class where the
4750 majority or the vast majority, out of 25, I think only six of

4751 us were U.S. citizens, which probably should be very telling
4752 in itself, and one of the things I learned from that group,
4753 much to my dismay, was just how they look down on us and when
4754 they look at making investments because of our permitting
4755 process and the fact that is lengthy and litigious and very
4756 poorly defined as it relates to almost every aspect of the
4757 way you permit a new plant, which makes us very
4758 uncompetitive, and what I have put in my testimony today is
4759 just another example of that, not just limited to what we
4760 deal with with EPA.

4761 A good solid example as it relates to what we are
4762 dealing with here is the issue over biomass. As I indicated
4763 in my testimony, we have contracted for a number of biomass
4764 facilities but they are having difficulty getting financing
4765 for those projects because they don't know what the
4766 permitting requirements are going to be for their facilities.
4767 Now, that is real. That means those jobs aren't going
4768 forward.

4769 The {Chairman.} And I know my time is expired so that
4770 just means why we need a real decision which this draft
4771 legislation does versus a simple extension where you sit on
4772 pins and needles. I yield back my time.

4773 Mr. {Whitfield.} Mr. Inslee for 5 minutes.

4774 Mr. {Inslee.} Thank you. Mr. Rowlan, thank you for

4775 being here with Nucor. We have a facility in Seattle. You
4776 run a very efficient business. You have found ways to make
4777 steel with great efficiencies. I will compliment you on
4778 that, and that is all this proposed regulation does for power
4779 companies was to ask them to be efficient like Nucor has
4780 been, the kind of decisions you have made to make cost-
4781 effective investments in efficiency. You have done that at
4782 Nucor. All this regulation does is ask utilities to do the
4783 same thing. That is why eight major utilities wrote a letter
4784 to the Wall Street Journal last month urging the adoption of
4785 these regulations so that they could have certainty so that
4786 they could move forward.

4787 I want to talk about this Dirty Air Act and bring it to
4788 real life. I want to show a brief video of an 11-year-old
4789 young lady named Megan Foster from North Carolina. She is a
4790 child with asthma who is a very, very fast runner but has
4791 difficulty when her asthma is triggered, which we know can be
4792 done by ozone. Can we just play this clip briefly, and then
4793 I want to ask you gentlemen a question.

4794 [Video]

4795 Mr. {Inslee.} Thank you. Now, the Environmental
4796 Protection Agency pursuant to law and the U.S. Supreme Court
4797 and common sense has fulfilled their obligation to people
4798 like Megan to try to protect her and millions of other kids

4799 from pollutants that exacerbate asthma, and we are here today
4800 to consider a bill that would eliminate the ability of the
4801 Environmental Protection Agency to help children like Megan
4802 Foster, and I would like to know about your views and what
4803 science you can present to us about this issue. The EPA has
4804 determined that the science shows that pollutants, carbon
4805 dioxide and a variety of other climate-changing gases, have
4806 the capacity to injure human health including gases that
4807 exacerbate asthma including exacerbating ozone conditions.

4808 So I just want to quickly go down the road and ask you
4809 if you can present to this committee a single peer-reviewed
4810 scientific journal that shows that these gases that are
4811 subject to this regulation do not result in damage to human
4812 health associated with climate change, and if you give us a
4813 yes or no, if you say yes, I am going to ask you what it is.
4814 But let us just first go down yes or no. Mr. Abbott, do you
4815 have a single peer-reviewed study like that?

4816 Mr. {Abbott.} I haven't conducted that research.

4817 Mr. {Inslee.} Do you know of any, anywhere in the
4818 world?

4819 Mr. {Abbott.} I haven't looked into it.

4820 Mr. {Inslee.} Thank you. Mr. Alford?

4821 Mr. {Alford.} I haven't looked. Don't know.

4822 Mr. {Inslee.} Mr. Rowlan?

4823 Mr. {Rowlan.} I am not aware of it.

4824 Mr. {Inslee.} Mr. Pearce? Thank you.

4825 Mr. {Pearce.} I'm not aware.

4826 Mr. {Inslee.} Mr. Cousins?

4827 Mr. {Cousins.} No.

4828 Mr. {Inslee.} Mr. Carter?

4829 Mr. {Carter.} No.

4830 Mr. {Inslee.} Ms. Blaisdell?

4831 Ms. {Blaisdell.} No.

4832 Mr. {Inslee.} Now, I think this is pretty intriguing

4833 because this story gets written like a ``he said, she said''

4834 stuff by the press all the time. He said these gases are

4835 bad, these changes change the climate, she said they didn't,

4836 or in this case ``he'' meaning Senator Inhofe. It is time to

4837 start writing the truth about the science on this issue.

4838 You gentlemen that represent the effort to repeal the

4839 Clean Air Act and pass the Dirty Air Act can't produce one

4840 single peer-reviewed scientific journal, and you are asking

4841 the United States Congress to eliminate the ability of the

4842 Environmental Protection Agency to protect kids like Megan

4843 Foster. Now, I think that is preposterous that you would

4844 come in and us to do this without presenting some science to

4845 us. Now, if you can find some, you can send it to me. I am

4846 interested in it. I have looked for it, so have the

4847 scientists that we have hired to do this including those at
4848 the U.S. Navy, and you know what? They can't find any
4849 because there is none, and I just hope that we eventually
4850 will do what the law requires, which is to follow science and
4851 protect the Megan Fosters of the world and do a very
4852 commonsense thing, which is to do just what Nucor Steel has
4853 done and that is about the efficiencies in the utility
4854 business, and if we do that, we are going to do some good
4855 things.

4856 Thank you. I would yield back.

4857 Mr. {Whitfield.} I recognize the gentleman from Texas
4858 for 5 minutes.

4859 Mr. {Barton.} Thank you.

4860 I hate to take up too much of my 5 minutes but I have
4861 got to respond to what my good friend from Washington just
4862 said. CO₂ is not an irritant for asthma. My good friend
4863 just asked if there was any peer-reviewed science that showed
4864 the negative. There is no peer-reviewed science that shows
4865 the positive, okay? Now, CO₂ is a component of ozone, and
4866 ozone is a regulated criteria pollutant under the Clean Air
4867 Act, but if you are intolerant to ozone, you are going to be
4868 intolerant to ozone at one part per billion. If you are not
4869 ozone intolerant, you can be subjected to a thousand parts
4870 per billion and not be affected, and there is just as much

4871 scientific evidence that asthmatics are much more affected by
4872 rat feces and roach infestments in tenements as there is of
4873 the actual air quality. So it may be politically correct to
4874 show a figure of a young, innocent asthmatic child. My son
4875 when he was growing up was asthmatic, so I know a little bit
4876 about this from a personal perspective.

4877 But to use that and then somehow say that what we are
4878 trying to do here in protecting the American economy and
4879 keeping jobs in America is somehow going to hurt the public
4880 health is just flat not true. We are not changing one
4881 standard in the Clean Air Act. We are not changing the
4882 definitions of the criteria pollutants. We are simply
4883 rectifying a 5-4 decision of the U.S. Supreme Court that gave
4884 the EPA the right to look at CO2 if they wanted to. The
4885 Obama Administration wanted to. They put out their
4886 endangerment finding, which I think is fatally flawed, and
4887 the result is, we are trying to do the legislative intent
4888 which is clarify what the Clean Air Act actually meant. If
4889 Chairman Upton and Subcommittee Chairman Whitfield want to
4890 come back at a later date and regulate CO2, they will put
4891 that bill before the subcommittee and the full committee.
4892 But first let us make sure that we express the will of the
4893 people through the Constitutional authority that we have on
4894 CO2.

4895 Now, I want to go to Mr. Abbott, the great Attorney
4896 General from the State of Texas. You are the chief law
4897 enforcement officer of the state. Is that correct?

4898 Mr. {Abbott.} Yes, sir.

4899 Mr. {Barton.} And I know you are not a clean air expert
4900 but you are knowledgeable about it. There are six criteria
4901 pollutants under the Clean Air Act. Is the State of Texas
4902 noncompliant on lead anywhere in the State?

4903 Mr. {Abbott.} Not that I know of.

4904 Mr. {Barton.} Are they noncompliant in SO2 anywhere in
4905 the State?

4906 Mr. {Abbott.} Not that I know of.

4907 Mr. {Barton.} Are they noncompliant on nitric oxide
4908 anywhere in the State?

4909 Mr. {Abbott.} Not that I know of.

4910 Mr. {Barton.} Are they noncompliant on carbon monoxide
4911 anywhere in the State?

4912 Mr. {Abbott.} Not that I know of.

4913 Mr. {Barton.} Are they noncompliant anywhere in the
4914 State of Texas on particulate matter?

4915 Mr. {Abbott.} Not that I know of.

4916 Mr. {Barton.} Now, ozone, they are in non-attainment
4917 ozone. Where are the three areas in Texas that are
4918 noncompliant for ozone?

4919 Mr. {Abbott.} I am not sure.

4920 Mr. {Barton.} Well, I do. I know. Houston is in
4921 noncompliance, Port Arthur is in noncompliance and the
4922 Dallas-Fort Worth area is in noncompliance under the new
4923 standard. Now, under the Clean Air Act of 1992 or 1990, the
4924 EPA put out regulations for air quality that Texas begin to
4925 comply with, and since that time Texas has issued over 100
4926 permits to private industry in Texas. They all got
4927 invalidated in December of this year. Is that not correct?

4928 Mr. {Abbott.} That is correct.

4929 Mr. {Barton.} Were they invalidated because they were
4930 in noncompliance for any of these criteria pollutants
4931 including ozone?

4932 Mr. {Abbott.} No.

4933 Mr. {Barton.} Why were they invalidated?

4934 Mr. {Abbott.} Well, they were invalidated because of
4935 the SIP call and FIP calls that were issued by the EPA.

4936 Mr. {Barton.} So they were invalidated because the EPA
4937 changed their mind or just didn't like the way Texas was
4938 doing things?

4939 Mr. {Abbott.} They were invalidated because the EPA
4940 basically took over the Texas air permit system.

4941 Mr. {Barton.} They took over, but they didn't take it
4942 over because we are in noncompliance?

4943 Mr. {Abbott.} Correct.

4944 Mr. {Barton.} Okay. Has EPA alleged that we are in
4945 noncompliance?

4946 Mr. {Abbott.} Not that I am aware.

4947 Mr. {Barton.} I am not aware of that either. So there
4948 are two issues with regards to what is happening in Texas.
4949 One is compliance with the existing Clean Air Act, and we
4950 have just shown that with the exception of ozone in three
4951 areas, we are in compliance. The other is, these new
4952 greenhouse gas regulations. Why has the State refused, or
4953 maybe I should say what has the State of Texas done with
4954 respect to the EPA mandate on these new CO2 regulations?

4955 Mr. {Abbott.} Well, I can tell you from the legal
4956 perspective. I can't tell you from the TCEQ perspective.

4957 Mr. {Barton.} Well, tell me from the legal perspective.

4958 Mr. {Abbott.} From the legal perspective, there are
4959 basically six different rulings that were made by the EPA,
4960 and as a result there are six different legal actions filed
4961 by the State of Texas in response. One involves the
4962 endangerment finding. Another involves the tailoring rule.
4963 Another involves the timing rule. Another involves the
4964 tailpipe rule, and one involves the SIP call and the sixth
4965 would involve the FIP call.

4966 Mr. {Barton.} I will ask the rest of my questions in

4967 writing. Thank you, Mr. Chairman.

4968 Mr. {Whitfield.} Yes, sir.

4969 Mr. Green, 5 minutes.

4970 Mr. {Green.} Thank you, Mr. Chairman. I would like to
4971 welcome our panel and particularly our Attorney General. You
4972 will all have a little different questions from this side of
4973 the aisle but you at least have the same Texas accent that
4974 Joe and I have.

4975 I want to welcome you to the committee, and we heard,
4976 the topics we are discussing today at the hearing are
4977 complicated and wide range of views. Some of our views are
4978 similar, and neither of us believes the EPA regulation of
4979 greenhouse gases is the right solution to our energy and
4980 climate change challenges. We are both interested in
4981 improving the economy and creating jobs, specifically keeping
4982 those jobs in Texas. I would like to talk to you about an
4983 area where our views may diverge a little bit. On December
4984 23rd, EPA issued an interim final order that allowed EPA to
4985 assume responsibility for the Texas air permit program with
4986 regard to greenhouse gases. EPA has stated it took the
4987 action because under your guidance, the State of Texas
4988 indicated it would not include greenhouse gas and emissions
4989 pollution in air permits. Is that correct? Was it only
4990 greenhouse gases?

4991 Mr. {Abbott.} Would you state the predicate again?

4992 Mr. {Green.} Texas took this action and indicated it
4993 would include greenhouse gas emissions pollution in the air
4994 permits.

4995 Mr. {Abbott.} Right.

4996 Mr. {Green.} And it is my understanding that Texas is
4997 the only State that refused to modify its air program. Is
4998 that true?

4999 Mr. {Abbott.} That is my understanding.

5000 Mr. {Green.} That the other 49 States including some
5001 who are suing the EPA like Texas is over the endangerment
5002 finding have taken some action to move forward to comply with
5003 the new requirements.

5004 Mr. {Abbott.} Well, I can't be clear about what the
5005 other States are doing. Here is my understanding, and that
5006 is the EPA sent out a letter requesting responses from all
5007 the States. Many States responded. Maybe some States said
5008 they would go along. I can't guarantee you that all States
5009 responded and all States said they would comply. Texas is
5010 the only State that made clear that we would not comply with
5011 the greenhouse gas regulations.

5012 Mr. {Green.} I think, at least our information is the
5013 other 49 said yes, they would, and believe me, I explained to
5014 people, we are up here all the time about American

5015 exceptionalism issues worldwide. Come to Texas and we will
5016 explain to you Texas exceptionalism, and that is something we
5017 all have.

5018 Mr. {Abbott.} I could make clear, Texas is not the only
5019 State that is challenging the EPA's greenhouse gas
5020 regulations.

5021 Mr. {Green.} That is true. Yes, there are a number of
5022 States that are filing suit. Given your position, I
5023 understand the consequences would have been if EPA had not
5024 assumed responsibility for these air permits, if Texas wasn't
5025 willing to start it, even though the lawsuit is filed and
5026 that is the way you do it, you go to the courthouse, and for
5027 decades the Clean Air Act has required certain sources to
5028 obtain air permits before construction begins on a new
5029 facility. These permits called PSD permits were required to
5030 start building. My question is, would it be legal to build a
5031 facility without one of these permits when the law requires
5032 it? So if Texas was not enforcing it--I have the Houston
5033 ship channel. I have five refineries and more chemical
5034 plants than I can count. My concern was, Texas is not
5035 enforcing it. If we wanted to expand those plants, and thank
5036 goodness over the last 15 years most of the plants have been
5037 expanded, that we would not without having a permit processed
5038 whether it is through the State of Texas enforcing a

5039 regulation that they don't agree with and going to court or
5040 the EPA taking over those air permits. Is that generally
5041 what would happen?

5042 Mr. {Abbott.} Well, I think generally what you are
5043 saying may be true. This is outside my area of expertise.
5044 However, what I think is that had the EPA not issued the SIP
5045 and FIP calls, it is my understanding Texas would have been
5046 able to continue on with the permitting process.

5047 Mr. {Green.} Well, we will figure that out, but my
5048 concern was that if Texas would not do it--and I have plants
5049 that are always in the process of trying to expand. And you
5050 know how competitive the chemical industry is, for example,
5051 that, you know, if they are trouble with--if they are not
5052 going to build a facility in East Harris County if they are
5053 worried they won't have that permit available, you know, pr
5054 they won't be able to get permission to build it, they would
5055 build it someplace else and ship those chemicals back to us.
5056 That is where I don't mind going to the courthouse. That is
5057 what a lot of us did for a living. I just worry that I don't
5058 want to put my plants at a disadvantage because of the battle
5059 between the State and EPA.

5060 Mr. {Abbott.} Right.

5061 Mr. {Green.} That is my concern.

5062 Mr. {Abbott.} I want to make clear that we stand

5063 foursquare with you on that proposition. We want the
5064 businesses in your district as well as the businesses across
5065 the State of Texas not to be at any disadvantage whatsoever.
5066 We want to make sure they have access to the permits they
5067 need in order to operate their business. We want to make
5068 sure that we continue to attract jobs to the great Houston
5069 and Texas area but, as you know. Texas has done a better job
5070 of creating jobs than all of the other States in the country.
5071 One reason why we have been so successful in that regard is
5072 because Texas has a more reasonable regulatory system and has
5073 not had to deal with every evolving changing rule like what
5074 they are seeing coming out of the EPA now.

5075 Mr. {Green.} I am out of time and I know the Chair is
5076 going to gavel me, but I served 23 years in the legislature,
5077 and we always enforced our clean air permits even when I was
5078 there based on the EPA saying the State of Texas could
5079 enforce it. We always had to jump through the hoops from the
5080 federal government, you know, 18 years ago and 20 years
5081 before that, and I know it is frustrating but EPA has had
5082 that authority over Texas I know for the last 38 years.

5083 Thank you, Mr. Chairman.

5084 Mr. {Whitfield.} Mr. Shimkus, 5 minutes.

5085 Mr. {Shimkus.} Thank you, Mr. Chairman. The full
5086 committee is named the Energy and Commerce Committee, so our

5087 focus is energy issues and commerce issues. The Democrats
5088 who want to make this into a science argument ought to go to
5089 the Science Committee. That is why we have a Science
5090 Committee. If they want to debate science, go to the Science
5091 Committee. We want to talk about energy. We want to talk
5092 about commerce. That is why I hold up my coal miners. One
5093 thousand of them in one mine, 1,000 coal miners in one mine
5094 lost their jobs. This is replicated in Illinois, 14,000,
5095 State of Ohio, 35. These are real job losses. If you want
5096 to talk about public health, the worst thing you do for
5097 public health is not have a job and be poor and in poverty.
5098 The best thing for human health is to have a job and maybe a
5099 job that provides health care, although we are attacking that
5100 too in those provisions.

5101 So this hearing is focusing on jobs, and as I laid out
5102 in the previous panel that when you raise energy costs, you
5103 hurt the ability to create jobs and sustain jobs. I do
5104 believe in supply and demand. I do believe that if more
5105 capital is required to produce that electricity that cost
5106 gets passed on.

5107 Now, it is curious that Ms. Blaisdell is here, and I
5108 have your testimony, and you are not only here with respect
5109 to Timberland but also BICEP. Is that correct? And BICEP is
5110 the Business for Innovative Climate Energy Policy, so you all

5111 like this climate debate, right? I mean, you are supporting-
5112 -

5113 Ms. {Blaisdell.} Sir, we don't like climate change. We
5114 are here to support aggressive legislation.

5115 Mr. {Shimkus.} Okay. Right. So you would have
5116 supported Waxman-Markey, putting a price on carbon and
5117 addressing climate.

5118 Ms. {Blaisdell.} We support addressing climate.

5119 Mr. {Shimkus.} Great. Okay. Now, it is curious that
5120 you and these folks do that because in articles in May 2002,
5121 many companies that are in this Business for Innovative
5122 Climate and Energy Policy, guess where your products are
5123 produced? China. I will quote this article May 9, 2002:
5124 ``While companies such as Gap, Guess and Ralph Lauren have
5125 long farmed out production overseas in China,'' also Levis
5126 they mention here. Now, your company is not immune from
5127 this. In an article by Business Daily Update, except for
5128 your answering to the question, March 27, 2006, article is,
5129 ``Unbeknownst to many''--talking about Timberland--``actually
5130 operated 45 factories throughout the country since the
5131 1990s.'' Forty-five factories throughout the country, that
5132 country being China. So wouldn't it be to your advantage to
5133 force higher utility rates on manufacturers in this country
5134 while taking advantage of low power rates in China along with

5135 low labor rates, along with low environmental standards? In
5136 fact, following up on an article August 7, 2009, on
5137 Timberland, who you represent, ``Two mainland suppliers of
5138 outdoor clothes manufacturer Timberland have consistently
5139 breached environmental regulations, two NGOs said
5140 yesterday.'' This is Chinese environmental regulations. You
5141 have to be pretty bad to violate Chinese environmental
5142 regulations.

5143 Now, I find it just incredible that you would come here
5144 supporting hard action on climate change, raising the cost of
5145 doing business while your production is in these very same
5146 countries that will never comply, do not pay the same wage
5147 rate and do not have any environmental standards, and I am
5148 glad that the Minority asked you to come because it
5149 highlights the hypocrisy of this debate, that you can stand
5150 here and you can call for increased regulations and costs
5151 while your company outsources manufacturing and we don't have
5152 jobs, and with that, Mr. Chairman, I yield back my time.

5153 Mr. {Whitfield.} Thank you, Mr. Shimkus.

5154 Ms. {Blaisdell.} May I please reply?

5155 Mr. {Whitfield.} I want to ask unanimous consent that
5156 we enter into the record at this point, these are documents
5157 relating to Mr. Waxman's introducing into evidence the
5158 Stephen Johnson issue on the endangerment finding, and these

5159 are the complete set of documents from the government, and
5160 then I understand Mr. Inslee had a document he would like to
5161 enter into the record.

5162 Mr. {Inslee.} Yes. Thank you. I just would like to
5163 introduce two documents. One is actually the endangerment
5164 finding that reads ``Climate change is expected to worsen
5165 regional ground-level ozone pollution. Exposure to ground-
5166 level ozone has been linked to respiratory health problems
5167 ranging from decreased lung function and aggravated asthma to
5168 increased emergency department visits, hospital admissions
5169 and even premature death.'' That is one. The second is this
5170 letter I referred to in my questioning from 1,800 doctors,
5171 and the third is testimony by Dr. Mark Jacobson of Stanford,
5172 who presented testimony in April to the Select Committee that
5173 specifically addressed the health impacts of CO2 on
5174 respiratory illness. Thank you, Mr. Chair, for your
5175 courtesy.

5176 Mr. {Whitfield.} Without objection.

5177 [The information follows:]

5178 ***** COMMITTEE INSERT *****

|
5179 Mr. {Whitfield.} At this time I recognize Mr. Walden
5180 for 5 minutes.

5181 Mr. {Walden.} Mr. Chairman, I thank you for that, and I
5182 am going to yield my 5 minutes to the distinguished gentleman
5183 from Texas, Mr. Barton.

5184 Mr. {Barton.} I thank the gentleman from Oregon, and I
5185 will root for the Ducks at least one time next year because
5186 you are yielding to me.

5187 Mr. {Walden.} If it is in the BCS, I will especially
5188 appreciate that.

5189 Mr. {Rush.} Mr. Chairman, let me just ask a question.

5190 Mr. {Whitfield.} Excuse me just one minute.

5191 Mr. {Rush.} The previous member made some pretty
5192 significant and strong remarks to Ms. Blaisdell, and she did
5193 not have a chance to respond at all on the record, so I think
5194 that she should be allowed to respond to some of the sharp
5195 remarks.

5196 Mr. {Whitfield.} Do you want to respond, Ms. Blaisdell?

5197 Ms. {Blaisdell.} Yes, please.

5198 Mr. {Whitfield.} All right.

5199 Ms. {Blaisdell.} So my first response would be that
5200 addressing our own greenhouse gas emissions hasn't created
5201 additional costs for our company. In fact, as I mentioned in

5202 my testimony, it saved us over \$1 million a year, which makes
5203 us more competitive, and we do employ close to 2,000 people
5204 in the United States, so all those jobs he talked about in
5205 China, he is denying the fact that we actually do employ
5206 quite a few people here and in fact in many of the States
5207 that you represent.

5208 One of the concerns I have about the conversation we
5209 have had so far is that we have talked about the cost of
5210 action and we haven't talked about the cost of inaction,
5211 which I why I believe I am here. Our industry is very
5212 different than the industries represented. There is a
5213 significant cost of inaction in the outdoor industry and for
5214 brands whose supply chain rely on raw materials that we can't
5215 necessarily source in this country, so I would like to bring
5216 that to light.

5217 Mr. {Whitfield.} Well, I would just say that we
5218 appreciate your comments but I think most of us certainly
5219 agree with Mr. Shimkus, that if you are doing work in China
5220 and you are violating environmental regulations in China, to
5221 be coming over here and saying we need stronger regulations
5222 is a little bit--

5223 Ms. {Blaisdell.} Sir, I don't understand what
5224 violations he is talking about so I will have to explore what
5225 he submitted.

5226 Mr. {Whitfield.} We will try to get that to you and
5227 maybe you can get back to us in writing about that.

5228 Ms. {Blaisdell.} I would be happy to.

5229 Mr. {Whitfield.} Mr. Walden.

5230 Mr. {Walden.} Thank you, Mr. Chairman. Again to Mr.
5231 Barton.

5232 Mr. {Barton.} Thank you.

5233 Attorney General Abbott, is Texas air quality improved
5234 or diminished during the period since Texas implemented its
5235 flexible permitting program under the Clean Air Act
5236 Amendments as implemented by regulation in 1992?

5237 Mr. {Abbott.} I don't have the information on Texas
5238 health quality.

5239 Mr. {Barton.} You don't have information that our air
5240 quality is actually improved?

5241 Mr. {Abbott.} I thought you said health quality.

5242 Mr. {Barton.} Air quality.

5243 Mr. {Abbott.} Absolutely air quality has improved.

5244 Mr. {Barton.} Significantly?

5245 Mr. {Abbott.} Significantly, yes.

5246 Mr. {Barton.} So we have not diminished our air quality
5247 under our permitting program?

5248 Mr. {Abbott.} I will tell you the information I do
5249 have, and that is the information that as I understand, it

5250 was provided by TCEQ, the Texas Commission on Environmental
5251 Quality, as well as information that we received from the
5252 governor's office. One point is that industrial ozone and
5253 NOx have steadily declined since 2000. Another is that ozone
5254 is down 22 percent while NOx is down 46 percent. Another is
5255 that electricity generators in Texas have the 11th lowest NOx
5256 emissions in the United States. But I think equally
5257 important, and that is without any kind of greenhouse gas
5258 mandates from D.C., Texas on its own has since 2004, no other
5259 State has cut more power sector CO2 output than the State of
5260 Texas. Also, as you know very well, we have installed wind
5261 power at a rate more than any other State in the United
5262 States and I think we would rank either fourth or fifth of
5263 all the countries in the entire world, and, as I understand
5264 it, Texas has one of the two largest absolute declines in
5265 greenhouse gas outputs of any State.

5266 Mr. {Barton.} I just want the record to show that Texas
5267 has issued all these permits since 1992. They have been in
5268 compliance with the Act. Our air quality has improved yet
5269 our economy has grown, and just arbitrarily here in the last
5270 6 months they have come in and invalidated the existing
5271 permits. We are not talking about new permits under the CO2
5272 regulations, we are talking about existing permits.

5273 Now, specifically, Attorney General, with regard to this

5274 pending legislation, do you support the draft Energy Tax
5275 Prevention Act of 2011?

5276 Mr. {Abbott.} There are reasons why we think this
5277 legislation is a good idea. First and foremost, in the big
5278 picture we are a Nation of laws, and that is one thing that
5279 has separated this country from all other countries in the
5280 world, in fact, made the United States the envy of all
5281 countries in this world, and that is that we as a Nation base
5282 our decisions on the law, not the whims of different people,
5283 and a challenge that the State of Texas is having with the
5284 EPA is that we feel that the EPA is acting in a way
5285 unconstrained by the Clean Air Act passed by the United
5286 States Congress, unconstrained by other laws such as the APA,
5287 and causing industry as well as States to have to deal with a
5288 moving target, and we think that the rule of law is essential
5289 in this country and we want to see the EPA comply with the
5290 rule of law. And along those lines Texas has six lawsuits on
5291 file right now challenging the legality of the greenhouse gas
5292 rules that were created by the EPA.

5293 Mr. {Barton.} If this bill were to become law, how
5294 would that impact the litigation that the State currently has
5295 against the EPA?

5296 Mr. {Abbott.} As the Attorney General of Texas, I am
5297 here to tell you that if your legislation passes, it will

5298 mean that Texas will be dismissing those six lawsuits against
5299 the EPA.

5300 Mr. {Barton.} And that is a good thing?

5301 Mr. {Abbott.} Anything that gets rid of lawsuits is a
5302 good thing.

5303 Mr. {Barton.} I agree with that.

5304 My last question is to the general panel. If we had to
5305 implement these greenhouse gas regulations which hopefully we
5306 won't but if we did, is there the technology currently on the
5307 shelf to cost-effectively implement the greenhouse gas
5308 regulations as proposed by the EPA?

5309 Mr. {Alford.} I daresay no.

5310 Mr. {Rowlan.} No.

5311 Mr. {Cousins.} For our industry, we looked at the 2008
5312 ANPR that the EPA released as a guide for possible greenhouse
5313 gas regulations, and we have evaluated every one of those
5314 technologies at various times in the past to do efficiency
5315 improvements. Those things are all cost-prohibitive for us.

5316 Mr. {Barton.} My time has expired. I again want to
5317 thank my friend from Oregon for his courtesy.

5318 Mr. {Whitfield.} At this time I recognize Mr. Burgess
5319 for 5 minutes.

5320 Dr. {Burgess.} Thank you, Mr. Chairman, and Attorney
5321 General Abbott, thank you for spending the day with us. I

5322 think there was some--I know it is difficult because the
5323 Administrator is not here any longer but it seems like there
5324 was some confusion when we were talking about the problem
5325 that Texas is having currently with the flexible permitting
5326 and her discussion of regulating greenhouse gases under the
5327 Clean Air Act. Those are two very serious issues but they
5328 are separate issues. Is that not correct?

5329 Mr. {Abbott.} That is correct.

5330 Dr. {Burgess.} And currently when I was discussing with
5331 her the report of the Business Roundtable, they pointed out
5332 that this would be one thing that would be extremely
5333 deleterious to Texas. Similar conditions exist in other
5334 States and no other State is being required to perform what
5335 Texas is being required to perform under their removal of the
5336 flexible permitting. Is that correct?

5337 Mr. {Abbott.} That is my understanding.

5338 Dr. {Burgess.} And then to the issue of regulation of
5339 greenhouse gases, she is correct that Texas right now is not
5340 proceeding with setting up those guidelines. Is that
5341 correct?

5342 Mr. {Abbott.} That is correct also.

5343 Dr. {Burgess.} And so as a consequence, the EPA feels
5344 it is necessary for that job to be done, and we can argue
5345 about the rightness or wrongness of that but that is indeed a

5346 separate issue when she says that since Texas wasn't doing
5347 its job, the EPA had to do the job for Texas but that in no
5348 way applies to the flexible permitting process that is going
5349 on down in the Gulf Coast area?

5350 Mr. {Abbott.} That is correct.

5351 Dr. {Burgess.} And these are difficult concepts to deal
5352 with. Mr. Barton talked about the air quality issues that
5353 have occurred since the enactment of the Clean Air Act, and
5354 while to be certain there are still significant challenges
5355 for us in the Dallas-Fort Worth metropolitan area, there are
5356 challenges in the Houston metropolitan area. When you look
5357 at the overall air quality, there has been improvement since
5358 1992.

5359 If you look as what has happened to population growth,
5360 particularly in the Dallas-Fort Worth metropolitan area, with
5361 which I am most familiar, you have only got to look at what
5362 is happening with Congressional redistricting and the fact
5363 that Texas is going to have four more seats in the next
5364 Congress to understand what is happening to our population in
5365 the Lone Star State. It is exploding. I have the 10th
5366 largest Congressional district in the country, 280,000
5367 residents over and above what I should have with the normal
5368 Congressional allotment, so it is a phenomenal development
5369 that air quality has improved while our population has in

5370 fact expanded many times over what it was in 1992. Do you
5371 think that is a fair assessment?

5372 Mr. {Abbott.} Based on information I have, you are
5373 exactly right and that is that air quality in Texas has
5374 continued to improve despite the growing population.

5375 Dr. {Burgess.} Well, just in your experience in working
5376 with the EPA, is that an easy situation or a difficult
5377 situation? Has the EPA been open to your suggestions and
5378 your observations or is it a closed door and the cake is
5379 already baked, we don't need your input?

5380 Mr. {Abbott.} For more than a decade, I would say Texas
5381 has had a fairly collaborative, cooperative working
5382 relationship with the EPA. I can tell you that my office
5383 directly has been working side by side with the EPA to hold
5384 polluters accountable and has been quite successful in that
5385 regard. It seems as though over the past 18 months or so the
5386 challenges in dealing with the EPA have escalated
5387 dramatically and it has been a lot more difficult.

5388 Dr. {Burgess.} And that has just been my observation as
5389 well, and I was wondering if other people were noticing that
5390 as well.

5391 Mr. Rowlan, if I could, let me ask you a question, and
5392 again, I appreciate you being here. You are headquartered in
5393 my hometown in Denton, Texas, and we are all so grateful for

5394 your great efforts there. We are grateful for your great
5395 efforts with the University of North Texas and the research
5396 program that you have there. I think you have developed the
5397 largest frame testing machine west of the Mississippi. Is
5398 that an accurate statement? Well, we heard from
5399 Administrator Jackson that there are so many of these things
5400 that--and I am a believer in efficiency, and no one, I think,
5401 should be in favor of wasting energy but can you really
5402 capture the return on investment necessary to do the things
5403 that you are going to be required to do by simply latching on
5404 to those increases in efficiency? Are they going to pay for
5405 themselves over time?

5406 Mr. {Rowlan.} Well, we pursue those continually. We
5407 actually have energy intensity goals within our own company.
5408 We are pursuing improving our efficiency constantly, because
5409 if we don't, we are going to run into problems with our
5410 international competition. There are projects throughout the
5411 country, and I am aware of one steel mill that was shut down,
5412 however, for tenths of a cent per kilowatt-hour. When you
5413 consume as much energy as we do, the cost of energy becomes a
5414 huge impact for us and so as that starts to escalate, we are
5415 no longer able to compete because we are really close to the
5416 physical reality of what we can do with the equipment that we
5417 have got and the technology that presently exists and even

5418 the technology that is coming on now.

5419 Dr. {Burgess.} Thank you for your answer. I yield back
5420 my time. Thank you, Chairman.

5421 Mr. {Whitfield.} Mr. Waxman is recognized for 5
5422 minutes.

5423 Mr. {Waxman.} Thank you, Mr. Chairman. We have heard
5424 quite a bit of criticism of EPA at today's hearing. We have
5425 heard that EPA is out of control and that simple commonsense
5426 measures like requiring newly built facilities to be energy
5427 efficient will be burdensome to the economy. But there are
5428 other voices who are not fairly represented here today. Many
5429 in industry believe that EPA is acting reasonably and taking
5430 modest first steps to combat a serious problem.

5431 On Friday, EPA held the first of a series of five
5432 listening sessions on new source performance standards that
5433 it plans to propose later this year for power plants and
5434 refineries. I think it is worth pointing out that EPA is
5435 beginning the process of crafting these new standards by
5436 hearing from industry. At Friday's session, Eric Svenson of
5437 PSEG, a major utility company, said this about the climate
5438 change: ``We obviously would prefer to have seen legislative
5439 action but absent legislative action, we support regulatory
5440 action,'' which by the way is my view.

5441 Mr. Rowlan, were you aware that this major utility

5442 supports EPA's regulation?

5443 Mr. {Rowlan.} Was I aware that they support regulation?

5444 Mr. {Waxman.} Yes.

5445 Mr. {Rowlan.} Yes, I would be aware of that.

5446 Mr. {Waxman.} Don Neal of Calpine, another utility,

5447 said this: ``Calpine has been a long supporter of EPA

5448 regulating greenhouse gases under the Clean Air Act and

5449 certainly the NSPS is an extension of doing that so we

5450 applaud EPA in doing this.''

5451 Mr. Carter, were you aware that at least one major

5452 utility is applauding EPA's program?

5453 Mr. {Carter.} Yes, sir.

5454 Mr. {Waxman.} Okay. Well, the public wouldn't have

5455 known about these statements either because these witnesses

5456 weren't invited to testify. In fact, we wanted these

5457 companies to come and testify but we were told by the

5458 Majority that they would not allow our request to hear from a

5459 coalition of businesses who develop energy-efficiency

5460 projects at major manufacturing facilities like, for example,

5461 steel plants. One member of this coalition recently helped a

5462 northern Indiana steel plant install technology to capture

5463 and harness the manufacturer's waste heat to generate 220

5464 megawatts of power. That is more clean electricity than all

5465 of the solar panels connected to the U.S. electric grid, and

5466 that recycled energy saves the plant \$100 million every year.

5467 Since we can't hear this testimony for ourselves, Mr.

5468 Chairman, I would ask that the written statement of the

5469 Alliance of Industrial Efficiency be placed in the record.

5470 Mr. {Whitfield.} Without objection.

5471 [The information follows:]

5472 ***** COMMITTEE INSERT *****

|
5473 Mr. {Waxman.} Thank you.

5474 Ms. Blaisdell, in your testimony you say that EPA
5475 regulations would help protect the economy. By the way, I
5476 heard earlier in this hearing you were accused by one of my
5477 colleagues on the Republican side of the aisle that you would
5478 be at a competitive advantage if these EPA regulations go
5479 through. Do you have any comment on that? Would you be at a
5480 competitive advantage if we regulate as EPA is proposing to
5481 do here in the United States?

5482 Ms. {Blaisdell.} I am not familiar with how we would
5483 be--

5484 Mr. {Waxman.} Press your mic.

5485 Ms. {Blaisdell.} It is on. I am sorry. I don't know
5486 how we would be at a competitive advantage.

5487 My other concern about his remarks is, he implied that
5488 energy costs grow our jobs overseas, and that is not the case
5489 is in our industry, so I want that to be clear for the record
5490 as well.

5491 Mr. {Waxman.} Well, your company has been abiding by a
5492 self-imposed limit on its carbon pollution, and I would like
5493 you to tell the committee about your company's experience.
5494 Have your investments in efficiency produced cost savings,
5495 and if so, do you think other companies are likely to

5496 experience similar savings?

5497 Ms. {Blaisdell.} Our initiatives which have involved
5498 investing in renewable energy and in energy efficiency have
5499 saved our company money, over a million dollars a year, which
5500 is significant. We are a \$1.4 billion company, so especially
5501 during a tough economy, that has been significant for us.
5502 And I do believe that other companies can benefit by taking a
5503 more critical look. I am sad to say that without leadership
5504 from Congress that many companies just aren't looking hard
5505 enough, and this could help.

5506 Mr. {Waxman.} And when somebody comes forward to
5507 suggest that maybe we can look harder to save money by doing
5508 what is right in efficiency which would make the company even
5509 more competitive, you are bullied by saying that you are part
5510 of some international conspiracy because you also have
5511 activities offshore. I don't think that is right.

5512 EPA has acted reasonably so far. We have heard from
5513 Administrator Jackson that the agency plans to continue
5514 working with business to develop commonsense standards. Let
5515 us allow the Clean Air Act to do what it has always done:
5516 improve the air we breathe and make our families healthier
5517 while the economy grows. Thank you, Mr. Chairman.

5518 Mr. {Whitfield.} Yes, sir.

5519 Mr. Sullivan, you are recognized for 5 minutes.

5520 Mr. {Sullivan.} Well, I thought it was interesting, Ms.
5521 Blaisdell, that you said that your company did these things
5522 voluntarily, and I think that is great, and you have
5523 efficiencies and everything. That is what these
5524 businesspeople do voluntarily. They do a lot of things like
5525 that too. You weren't mandated to do things, and I think
5526 that is the big difference, and that is what we are talking
5527 about here today.

5528 I appreciate all of you coming. I am sure you like the
5529 people in my district in Oklahoma are scared to death about
5530 what could happen to your businesses and the people that you
5531 work for, that you know their families and you know them very
5532 well, and it is frightening.

5533 I would like to ask you, Mr. Cousins, a question. You
5534 mentioned that while you were having trouble expanding your
5535 refinery, in India a refinery was built 15 times larger than
5536 your refinery and it took about 3 years. Could we build such
5537 a refinery in the United States today, in today's regulatory
5538 climate? And how long would the permitting for such a
5539 facility take? You mentioned the Indian refinery took 3
5540 years to build. Would it take you longer?

5541 Mr. {Cousins.} Oh, I am not an expert on obtaining
5542 permits but I don't believe it would be possible to permit
5543 that refinery in the United States if you had all the time in

5544 the world, and I would--they have been trying to build a
5545 refinery at least at one time outside of Phoenix. I know
5546 that project has been going on for 10 years. I don't believe
5547 they have permits.

5548 Mr. {Sullivan.} And we haven't built a refinery in this
5549 country in, what, 30 years?

5550 Mr. {Cousins.} Over 30 years.

5551 Mr. {Sullivan.} And we probably need some, don't we?

5552 Mr. {Cousins.} Well, you would think. Actually we
5553 either need them here or they are just going to keep building
5554 them overseas.

5555 Mr. {Sullivan.} Have we ever domestically produced oil
5556 that we had to actually send somewhere else to be refined in
5557 this country?

5558 Mr. {Cousins.} I am not sure if any--we don't drill any
5559 oil. We just buy oil on the market. It could be that some
5560 Alaskan crude was sold. I don't know, but I am not aware of
5561 any significant oil exports.

5562 Mr. {Sullivan.} Your company has delayed a major
5563 project due to EPA's greenhouse gas regulations. Can you
5564 please explain how this business decision was made? How were
5565 the costs of these regulations calculated?

5566 Mr. {Cousins.} It is business uncertainty. We went
5567 about halfway through an expansion project of several hundred

5568 million dollars. In the climate of Waxman-Markey at the time
5569 and the fact that even if it was defeated as it was--well,
5570 Waxman-Markey wasn't, but if climate change was defeated, we
5571 didn't perceive the demand or the margins to justify the
5572 expansion we were in, not sure enough to bet our entire
5573 company's survival on it, and the debt load we would have
5574 carried would have put us in that situation. We actually had
5575 to terminate the project at the cost of 14,000 man-weeks of
5576 construction that was not completed in our town, so that is a
5577 couple of thousand jobs for weeks and weeks.

5578 Mr. {Sullivan.} I will start this with all the
5579 witnesses. What potential EPA regulations coming down the
5580 pike are you most concerned about from a business
5581 perspective? General Abbott?

5582 Mr. {Abbott.} From a business perspective, what
5583 regulations?

5584 Mr. {Sullivan.} Yes.

5585 Mr. {Abbott.} Well, the greenhouse gas regulations are
5586 the ones that are posing a huge problem.

5587 Mr. {Sullivan.} And in Texas, you are hearing that from
5588 everybody, huh?

5589 Mr. {Abbott.} Well, as I visit with people across the
5590 State, frankly, it is the overall uncertainty that seems to
5591 be emanating from the EPA, not knowing what the standards are

5592 going to be and how to plan for the future.

5593 Mr. {Sullivan.} Mr. Alford?

5594 Mr. {Alford.} Congressman, I am also a member of the
5595 board of directors of the U.S. Chamber of Commerce, and I
5596 chair the regulatory affairs committee for them, and this
5597 greenhouse gas business is about 70 percent of the
5598 discussion, and I believe the Chamber has filed a series of
5599 lawsuits against EPA concerning that.

5600 Mr. {Sullivan.} Mr. Rowlan?

5601 Mr. {Rowlan.} While I agree that greenhouse gas is a
5602 big issue and has a lot of impact, I would not discount or
5603 put anything below that with respect to the new one-hour
5604 criteria pollutant standards that we are getting along with
5605 several MACT standards. We are getting hammered from every
5606 which direction. So I think they are all right there. If
5607 one doesn't catch you, the other one does, and it is almost
5608 like a game of gotcha.

5609 Mr. {Sullivan.} And the economy is bad enough, you
5610 know, with all this. Mr. Pearce?

5611 Mr. {Pearce.} I would say the greenhouse gas.

5612 Mr. {Sullivan.} Mr. Cousins?

5613 Mr. {Cousins.} With my written testimony, I included a
5614 slide that showed a blizzard of EPA regulatory initiatives.
5615 We are concerned about all of them, but the PSD and the NSPS

5616 portions of the greenhouse gas regulations are the most
5617 immediate concern.

5618 Mr. {Sullivan.} Mr. Carter?

5619 Mr. {Carter.} I would say the greenhouse gas
5620 regulations but we should not ignore the other items that are
5621 coming out of EPA today because some of them may actually
5622 have a faster impact on utilities in the immediate term. And
5623 the reason is, is that we do not have commercially available
5624 technology to look at our plant, and what we have created is
5625 a system where there is a great deal of uncertainty because
5626 even if Ms. Jackson, who I have a lot of respect for, even if
5627 she goes forward, she does not prevent the legal challenges
5628 much like we saw on the CARE rule. If you are familiar with
5629 the CARE rule, it was in place for years and then it got
5630 vacated and now it is being completely rewritten. That is
5631 pretty scary if you are in my business.

5632 Mr. {Sullivan.} That is a very good point.

5633 Ms. Blaisdell, are there any regulations that concern
5634 you and your company?

5635 Ms. {Blaisdell.} They don't. Actually the EPA has been
5636 quite helpful to our company, not hurtful.

5637 Mr. {Sullivan.} There are no regulations that concern
5638 you at all about EPA?

5639 Ms. {Blaisdell.} The greenhouse gas regulations do not

5640 concern our company. They don't apply. We don't emit over
5641 100,000 tons.

5642 Mr. {Sullivan.} Thank you, sir.

5643 Mr. {Whitfield.} Mr. Scalise, you are recognized--no, I
5644 am sorry. Mr. Terry, you are recognized for 5 minutes.

5645 Mr. {Terry.} Thank you, Mr. Chairman.

5646 Ms. Blaisdell, thank you for being here, and I don't
5647 know what, somebody on our side of the aisle evidently
5648 insulted you, but that is not the way it is supposed to work
5649 here. I appreciate that Timberland is voluntarily
5650 undertaken, and I know several businesses in the Omaha
5651 metropolitan area that I represent that have voluntarily
5652 undertaken a variety of energy efficiencies in their business
5653 too, and we like that. I love it. What I don't like is the
5654 EPA just assuming that they have legislative powers, and that
5655 that is what this is about.

5656 But I do want to make it clear, Betsey, that unlike the
5657 gentleman that was asking you questions, I am not going to
5658 call your boss and ask that you be fired for coming here and
5659 speaking your mind nor like somebody else on the Minority
5660 side, I am not going to write a letter to a regulatory agency
5661 asking that they investigate Timberland because you are here.
5662 I actually think it adds, and I want to state that for the
5663 record because that is exactly what happened to one of our

5664 Minority witnesses at a cap-and-trade global warming hearing,
5665 and it was a constituent of mine so I am always going to
5666 stick up for that person.

5667 Getting to Nucor, Mr. Rowlan, thank you. Nucor
5668 facility, not in my district, but an hour-and-a-half drive
5669 and I have been up there, I have seen the operation, and
5670 would join with Mr. Inslee in saying thank you for the
5671 efficiencies. I think it is a well-run business. Like
5672 Timberland, I appreciate that you have undergone voluntary
5673 measures to reduce your energy costs and emissions.

5674 Likewise, let me ask you this question under the clean air
5675 law. Even with all of the efficiencies that you have
5676 adopted, will one of your recycling plants like the one in
5677 Norfolk emit more than 250 tons of CO2 in a calendar year?

5678 Mr. {Rowlan.} Most definitely. We are caught up, all
5679 of our steel mills like the one in Nucor are caught up.

5680 Mr. {Terry.} Is there any way of getting your plants
5681 considering the smelting, melting processes, to be under 250
5682 tons of CO2 in a given calendar year?

5683 Mr. {Rowlan.} There is no physical law I am aware of
5684 that could ever cause that to happen.

5685 Mr. {Terry.} And you are aware that that is what your
5686 company, Nucor, would be under the exempted area where it
5687 would be not 100 tons in a year but 250 tons would be what is

5688 currently written in the Clean Air Act?

5689 Mr. {Rowlan.} We are already a major stationary source.

5690 Mr. {Terry.} You understand that rule very well.

5691 Mr. {Rowlan.} I understand and live that rule.

5692 Mr. {Terry.} And you probably since you understand the

5693 rule know that EPA directors just can't willy-nilly change

5694 that part of the statute. Is that your understanding?

5695 Mr. {Rowlan.} I would believe that that was the case,

5696 and I hope Congress--

5697 Mr. {Terry.} If an EPA director can just start willy-

5698 nilly throwing out, okay, the statute says very clearly and

5699 your history has been that under the major emitter rule that

5700 you would qualify under the exemption of 250 tons and then

5701 she comes around and says something different and enforces

5702 that. Does that give you more or less certainty in the

5703 industry?

5704 Mr. {Rowlan.} If we use the 250 tons?

5705 Mr. {Terry.} No, if someone, the EPA, this EPA director

5706 says it is 100,000, the next one starts saying it is 50,000

5707 or 10, if that is the power that they have, does that provide

5708 you certainty?

5709 Mr. {Rowlan.} It gives me no certainty at all. I defer

5710 to what the Attorney General from Texas said. We are a

5711 Nation of laws and I don't see that it is consistent with the

5712 law at that point.

5713 Mr. {Terry.} I appreciate that.

5714 And then Mr. Alford, I have some charts regarding the
5715 study that you have done or your organization that shows the
5716 job losses, and I am just wondering what the criteria were
5717 generally to determine that in 2015 you would have a million
5718 and a half jobs lost and by 2030 it would be pushing
5719 2,500,000 jobs lost just due to this rule. Because we heard
5720 from Lisa Jackson that it is going to be actually a job
5721 creator, but you are showing job losses. How do we jibe
5722 those two?

5723 Mr. {Alford.} Well, we spent some good money on that
5724 study from Charles River Associates. That is a very
5725 reputable firm based here in Washington, D.C., and that was
5726 done early 2009. We have shown it to the world, and we have
5727 not had one person or entity challenge those studies that are
5728 in that study, the charts.

5729 Mr. {Terry.} So you are standing behind your study?

5730 Mr. {Alford.} Absolutely.

5731 Mr. {Terry.} All right. Thank you very much.

5732 Mr. {Whitfield.} Thank you, Mr. Terry.

5733 At this time I recognize Mr. Scalise for 5 minutes.

5734 Mr. {Scalise.} Thank you, Mr. Chairman.

5735 Mr. Rowlan, I first want to thank you for the commitment

5736 you made to create jobs in America but specifically in
5737 southeast Louisiana, and we really appreciate the presence of
5738 Nucor. I think you were here when I had a conversation with
5739 Ms. Jackson about her report, that she stated that these
5740 regulations will create jobs, and I think she tried to use
5741 Nucor as a poster child for how these new regulations will
5742 actually grow the economy and yet I know in your testimony,
5743 you talked about the opposite, and believe me, yours is not
5744 an isolated example. I hear this day in, day out of
5745 companies that talk about the burdens of EPA and how it runs
5746 more jobs out of the country, and I know in your testimony
5747 you talked about the larger presence of American jobs that
5748 would have been created here if not for the threat of EPA.
5749 So I wanted to first thank you, of course, but also give you
5750 an opportunity to talk about that specifically in her
5751 comments of using you all as the poster child for how this is
5752 working so well yet it seems to contradict what is actually
5753 happening in reality.

5754 Mr. {Rowlan.} Well, are you speaking of our Nucor
5755 Louisiana project, and yes, we had originally planned to
5756 build, I think it was the first two blast furnace operation
5757 permitted under the Clean Air Act along with coke ovens and
5758 cinder plants and produce 6 million tons of pig iron. We now
5759 have reduced that project and that is moved off to phase 2 if

5760 we do get the final permit on that.

5761 Mr. {Scalise.} So you are still waiting on a permit
5762 from EPA?

5763 Mr. {Rowlan.} That permit has been issued but it is
5764 stayed until the litigation over it is completed. There are
5765 a couple of lawsuits going on right now against Louisiana
5766 Department of Environmental Quality. The replacement project
5767 was a direct reduced iron project, and so that people can
5768 understand, if you say we were going to build pickups at the
5769 original facility, what we ended up making are, I don't know,
5770 bicycles or something like that. This is a different
5771 product. It is still iron but it is a different product, and
5772 it is significantly different in the overall employment
5773 impact. I think we had--

5774 Mr. {Scalise.} Can you touch on that? What would the
5775 jobs have been versus what they will be here in America?

5776 Mr. {Rowlan.} I believe the original was around 1,000
5777 jobs when the full project was in, and we are around 150 jobs
5778 right now. I think that is right. And then there was about
5779 2,000 construction jobs originally and we are at about 500
5780 construction jobs right now, around 2.1 billion and we are
5781 around 750 million right now.

5782 Mr. {Scalise.} So you are talking about well over a
5783 billion and a half dollars roughly that was lost in

5784 investment, 1.25 billion maybe that was lost in investment--

5785 Mr. {Rowlan.} --not moving forward with it at this
5786 point. It is still in phase 2. We would hope to be able to
5787 do that at some point.

5788 Mr. {Scalise.} What is the average pay for those jobs,
5789 the thousand you were originally anticipating versus the 150
5790 now? What is the average pay of those jobs?

5791 Mr. {Rowlan.} Our publicized average pay at a Nucor
5792 facility is \$70,000 a year.

5793 Mr. {Scalise.} Gee, whiz. Well, these are great jobs,
5794 and unfortunately, a lot less of them right now because of
5795 the regulations. Again, I have heard the story time and time
5796 again and, you know, EPA will come out and say the
5797 regulations are creating jobs. Maybe what they are not
5798 realizing is, it is jobs in China and India that they are
5799 creating, not here in America. So I appreciate what you are
5800 doing. I share your frustration, and we are going to
5801 continue to work through and get real clarity so that
5802 businesses can go forward.

5803 Mr. Cousins, there was some comment earlier by another
5804 member talking about how the Energy Tax Prevention Act would
5805 somehow lead to increased dependence on Middle Eastern oil.
5806 Of course, this Administration's policies have led to an
5807 increased dependence on Middle Eastern oil and higher gas

5808 prices. The bill, in my opinion, would actually at least
5809 give some sustainability and hopefully we can then get to a
5810 point where we reduce our dependence, but do you see anything
5811 in the legislation that would increase this country's
5812 dependence on Middle Eastern oil?

5813 Mr. {Cousins.} No, not at all. I think acts already
5814 carried on by Congress and by the EPA, CAFE standards
5815 increase have cut fuel use quite a bit. Renewable fuel
5816 standard is putting 36 billion gallons of non-gasoline into
5817 the gasoline and diesel supply through the next few decades.
5818 I think everything is tending toward a reduction.

5819 Mr. {Scalise.} And in fact, when Administrator Jackson
5820 agreed with that comment, I thought it undermined the
5821 credibility to say that a bill that prevents EPA from
5822 shutting jobs out of America, running more refineries to
5823 India and other places, for her to suggest that that increase
5824 our dependence on foreign oil when actually it is EPA's
5825 actions that increase the dependence.

5826 And the final question, can you talk in terms of the
5827 jobs that you haven't been able to create, the expansion that
5828 you haven't been able to do because of EPA's regulations?

5829 Mr. {Cousins.} Well, as I said earlier, we were partway
5830 through a multi hundred million dollar expansion in a small
5831 town. There were about 14,000 man-weeks, which would be one

5832 person working for 14,000 weeks on the job to complete the
5833 construction, or 2,000 people working for 2 months. We just
5834 had to stop, and those people were terminated, and that is a
5835 big hit in a county where we lost 2,000 jobs out of 40,000
5836 workers in a poultry operation that shut down.

5837 Mr. {Scalise.} Well, hopefully we can pass this
5838 legislation and save those jobs. I appreciate your
5839 testimony. I yield back.

5840 Mr. {Whitfield.} Thank you.

5841 Mr. Olson of Texas for 5 minutes.

5842 Mr. {Olson.} Thank you, Mr. Chairman, and I can assure
5843 the witnesses and all the people here watching this hearing
5844 that I am the last Texan that is going to speak today, and we
5845 are Texans, we are very proud and please bear with us.

5846 But I would like to speak to General Abbott, and first
5847 of all, sir, I would like to thank you for what you have done
5848 for our State to create an environment that we do have some
5849 stability, some predictability, some certainty, and I greatly
5850 appreciate that.

5851 One of the things all of us when we go back home, one of
5852 the biggest concerns our constituents have is jobs, jobs,
5853 jobs, and as my colleague Gene Green said, our State has had
5854 the good fortune of creating half the private sector jobs
5855 since our economy went into a recession, half the ones here

5856 in America. My colleagues Joe Barton and Mike Burgess have
5857 told us about the success of the flexible permitting system.
5858 Our air is demonstrably cleaner. There is no doubt about
5859 that. We have the facts. And I know personally because I
5860 moved to Houston in 1972, and our general grew up in Houston
5861 as well and it wasn't such a clean town. I mean, you could
5862 not see downtown from 20 miles out when I came out of Clear
5863 Lake and headed towards downtown. Now that is the exception
5864 maybe one or two days during the summer that that exists.
5865 Most every day you can see downtown, so that is just
5866 demonstrably cleaner from my own personal experience. Our
5867 process has worked. You would think we would be a role model
5868 for the country, here is how we can get through this, here is
5869 how we can have a cleaner environment and a good environment
5870 for business and be clean. But it concerns me that what is
5871 doing with this excessive regulation, how that is coming into
5872 our economy in Texas.

5873 Attorney General Abbott, do you see a tipping point
5874 here? I mean, if they keep going forward down this line with
5875 all this, you know, the flexible permitting, some of the
5876 hydraulic fracturing issues, some of the other issues, you
5877 know, the ozone standards, do you see a turning point here
5878 where the environment that the federal government creates
5879 starts killing jobs in our State?

5880 Mr. {Abbott.} Well, a couple things. If I could pick
5881 up on one of your earlier comments, first of all, to help
5882 people understand, people see Texas challenging the EPA both
5883 regulatorily and with lawsuits, but I want to emphasize a
5884 point that you made, and that is that Texas takes pride in
5885 trying to achieve the best. That includes achieving the best
5886 possible environment and health environment for our citizens,
5887 and as a result, that is one reason why we have worked so
5888 hard and achieved so much in improving air quality in your
5889 district and across the State of Texas, and we stand
5890 committed to continuing to achieve improvements in air
5891 quality and the environment, but that doesn't meant that we
5892 are going to stand aside or roll over if we believe that the
5893 EPA is imposing its will in a way that is contrary to the
5894 law.

5895 You mentioned a tipping point, and there is another
5896 phrase you could also use in tandem, and that is a slippery
5897 slope. We are very concerned about the slippery slope. I
5898 think it was Representative Terry who brought up earlier in
5899 the context of the tailoring rule, and we are very concerned
5900 about what the tailoring rule could turn into once it starts
5901 moving on a slippery slope where it gives latitude to the EPA
5902 to decide what the standards may be. It could shift from
5903 today to 5 years from now to 10 years from now and it could

5904 very well bring in Nucor and some other industries within the
5905 ambit of what they are able to emit.

5906 But I think we are at a tipping point also because if
5907 these greenhouse gas regulations by the EPA go into place or
5908 upheld, we are a tipping point in two ways. One, it mean
5909 that the EPA does have carte blanche to make up its own rules
5910 as they go along and that they are saying they are not
5911 confined by the terms of the Clean Air Act that was passed by
5912 the United States Congress. But also we are at a tipping
5913 point in the sense of what it is going to mean for our jobs,
5914 our economy and the future of this country when we have out-
5915 of-control regulations that are crushing the attempt to
5916 expand our economy at a time that we most desperately need it
5917 to grow.

5918 Mr. {Olson.} Thank you for that answer, Mr. Attorney
5919 General. You are a great public servant.

5920 I have about run out of time. Thank you to all the
5921 witnesses. I appreciate your views and perspectives.

5922 Mr. {Whitfield.} Mr. McKinley, you are recognized for 5
5923 minutes.

5924 Mr. {McKinley.} Thank you. I am coming from the
5925 perspective of the coal fields of West Virginia and what the
5926 EPA has done in the coal fields, the uncertainty that is
5927 coming to them from water, fly ash, dust, revoking

5928 retroactively permits. Then I see the next fight looming on
5929 the horizon is not going over into another segment with the
5930 EPA and the uncertainties that they bring with their
5931 regulatory extremism. We have all heard in West Virginia job
5932 killers, the extreme, irrational lack of common sense. It is
5933 bad enough for us in the coal fields. What happens when it
5934 sweeps across America controlling the greenhouse gases? So
5935 you all have--understand, there are still 15 million people
5936 unemployed and until the uncertainty is removed, I have got
5937 to think you are reluctant to take on more responsibility.
5938 So we are going to continue having 15 million people
5939 unemployed in America. That is not where I want us to be as
5940 a country.

5941 So now, having framed that, you have all been listening
5942 for hours here of testimony today. I am just curious, are
5943 any of you more confident in what you have heard from either
5944 the other side or here that things are going to be okay,
5945 allow the EPA to continue down this path of regulating the
5946 greenhouse gases? Can each of you just, are you more
5947 comfortable now after you have heard 2 hours?

5948 Mr. {Abbott.} Let me say that I grew more comfortable
5949 when I saw this bill, this Act being proposed by this
5950 subcommittee. The concern that we had in Texas was the
5951 imposition of the greenhouse gas regulations. We perceive

5952 that the most meaningful way, the most meaningful pathway in
5953 order to protect the future was not by our litigation fights
5954 in the courthouse against the EPA but by action by this body.
5955 The promise of the future rests with regard to this potential
5956 legislation, and we hope that it passes because we believe it
5957 will provide certainty and clarity for the environment
5958 regulation side of the world.

5959 Mr. {McKinley.} Thank you. Mr. Alford?

5960 Mr. {Alford.} I have optimism in that Carol Brown has
5961 left the Administration, which I believe was pulling or
5962 pushing Ms. Jackson, who is a fine lady and a fine American,
5963 but the cap-and-trade bill died. The American people
5964 rejected it. It is gone. You can't have it. So you can't
5965 go around through chicanery or deception or end around or
5966 making the EPA a runaway freight train to make it happen, and
5967 we have got to stand tall and be resolved to fight it again.

5968 Mr. {Rowlan.} I can't say that I have more certainty.
5969 I think I will watch for the votes. I think my issues always
5970 go back to this, and it is whether--I am a technical person
5971 and an engineer by training, and when I look at it, I always
5972 look at what is the end result that you are trying to
5973 achieve, and everything that I have seen with respect to the
5974 regulation of greenhouse gases, nothing ever accomplishes the
5975 end goal of lowering the global concentration, and so the

5976 question I ask is, why do we do it if it not going to
5977 accomplish what we state is the end goal? And I have gone on
5978 record as saying if we are doing it and we are just doing it
5979 to hurt ourselves and we don't accomplish a lowering of the
5980 global concentrations, we are on a fool's errand.

5981 Mr. {McKinley.} Thank you.

5982 Mr. {Pearce.} I am encouraged by what this legislation
5983 and I am encouraged by the support that we have heard for it
5984 today, but I am concerned that if we don't pass this, if it
5985 is not legislative, what kind of ticket that does that write
5986 for the EPA and other areas? It sets a precedent.

5987 Mr. {Cousins.} The Energy Tax Prevention Act gives us a
5988 fighting chance. Without it, the future is quite grim.

5989 Mr. {Carter.} I am encouraged because we are
5990 considering this piece of legislation. That is why I am here
5991 today. I would point out that there are things that we can
5992 do that could be done if we want to adopt policy that will
5993 allow electric utilities to move forward fewer emissions like
5994 the things that we are doing--new nuclear plants, which still
5995 have a great deal of hurdles in front of them, not from a
5996 technology perspective but from a regulatory perspective. I
5997 can speak directly to that as being part of that restart.

5998 Also, industry or entities like us, we need to make sure
5999 we have the comparable incentives so that we can move into,

6000 you know, what I would call other green types of resources
6001 and clear some of the regulatory hurdles associated with
6002 those also.

6003 Ms. {Blaisdell.} I think this legislation encourages
6004 inaction, and I don't believe that that creates more
6005 certainty, and in fact, it could lead to more patchwork of
6006 State regulations, which I can't speak to greenhouse gas
6007 patchwork of State regulations because that hasn't applied to
6008 our company yet other than to say I know from experience with
6009 other patchwork of regulations that that is not good for our
6010 company. I imagine that wouldn't be good for the companies
6011 that are represented here as well.

6012 Mr. {Whitfield.} Mr. Gardner, you are recognized for 5
6013 minutes.

6014 Mr. {Gardner.} Thank you, Mr. Chairman, and thank you
6015 to the witnesses for being here today, taking time away from
6016 work and for participating in this hearing. I really
6017 appreciate it.

6018 Mr. Cousins, I have a question for you from your
6019 testimony earlier today. During Administrator Jackson's
6020 testimony, she said that the economy was doing great, and
6021 when I pushed back a little bit on that question, she said
6022 just the rural economy is doing great, and you had mentioned
6023 that in your county you are facing some significant

6024 unemployment. Could you describe that again?

6025 Mr. {Cousins.} Well, our county has about 43,000 people
6026 in it, and we lost almost 2,000 jobs in one blow when a
6027 poultry operation shut down in our area. Our unemployment is
6028 double digit, and that is hardly thriving to our way of
6029 thinking.

6030 Mr. {Gardner.} And is it your view, Mr. Cousins, that
6031 regulations like this will hurt rather than help the
6032 employment situation in your county?

6033 Mr. {Cousins.} Absolutely.

6034 Mr. {Gardner.} And a question for Mr. Rowlan or Mr.
6035 Pearce. There was some discussion during the Administrator's
6036 testimony that these regulations are actually creating jobs,
6037 that the more we have regulations, the more jobs are created,
6038 and she also mentioned, and I think it was \$2 trillion in
6039 money that is sitting out waiting to be invested and she
6040 believe that because of this regulation that that money would
6041 start moving back into the economy and being invested. Are
6042 any of you planning on investing because of this regulation?
6043 Ms. Blaisdell?

6044 Ms. {Blaisdell.} The cost of inaction for us means that
6045 our supply chain will suffer and our ability to deliver
6046 products to our consumers will suffer as well.

6047 Mr. {Gardner.} Mr. Carter or Mr. Alford, anybody else

6048 want to comment on that?

6049 Mr. {Alford.} Some of my stronger members are going to
6050 Ghana, Kenya, China. I have got a board member going to
6051 Mongolia next month. They are looking elsewhere, and I think
6052 that is sad.

6053 Mr. {Gardner.} And a question, do you believe that
6054 regulations create jobs?

6055 Mr. {Alford.} Regulations, I believe, are intended to
6056 prevent crime and fraud and adherence to good corporate
6057 responsibility. That is it.

6058 Mr. {Gardner.} I thank you. And I wanted to ask a few
6059 more questions based on some statements that were made here
6060 in the committee, following up on that last question. The
6061 EPA analysis mentioned by some on this committee had said
6062 that just one of EPA's Clean Air Act standards has kept about
6063 200,000 people occupied, 200,000 person-years of labor over
6064 the past 7 years, and in your opinion, doesn't this mean that
6065 this means the EPA is keeping people employed? I mean, what
6066 would you say to somebody who actually is trying to bring
6067 capital investment into this country, given the regulatory
6068 structure that we are facing today? Mr. Abbott or Mr.
6069 Alford?

6070 Mr. {Abbott.} Along that line, it is good for jobs in
6071 the legal sector. We will need more lawyers to handle more

6072 legal work. But other than that, of course, with the way
6073 that greenhouse gases work and if we have regulations here in
6074 the United States and there are not similar regulations
6075 around the world, logically it seems like it is going to
6076 force industry, jobs, employers across the border into Mexico
6077 or Canada or to China and India and other parts of the world.

6078 Mr. {Gardner.} Thank you, Mr. Chairman. I yield back
6079 my time.

6080 Ms. {Blaisdell.} Can I respond as well?

6081 Mr. {Whitfield.} Sure.

6082 Ms. {Blaisdell.} I think without a lack of certainty,
6083 what ends up happening is what we are seeing right now in
6084 China where they are actually producing renewable energy
6085 systems because we didn't create any certainty here, a long-
6086 term demand for those alternative energy sources. We haven't
6087 talked about those jobs today. That could have been U.S.
6088 jobs.

6089 Mr. {Whitfield.} Mr. Griffith, you are recognized for 5
6090 minutes.

6091 Mr. {Griffith.} I think Mr. Rowlan wanted to add
6092 something to that comment, I will ask you to say whatever it
6093 is you were thinking.

6094 Mr. {Rowlan.} As you know in my testimony I said that
6095 affordable energy is the lifeblood of industry, and renewable

6096 energy has to be affordable. If it isn't affordable, then
6097 all it does is displace a job because the price of your
6098 energy goes up as we talked about, and I was privy to some
6099 research that should be coming out shortly that in the last
6100 couple of years there has been 333 projects, energy
6101 generation projects that have been stalled, shut down or
6102 otherwise abandoned in this country, 111 coal-fired power
6103 plants, 22 nuclear plants, 21 transmission projects, 38 gas
6104 and platform projects and 140 renewable projects that haven't
6105 even gotten through. Eighty-nine of those were wind, four
6106 were wave, 10 were solar, seven were hydro and 29 were
6107 biomass. Now, if you sit and we said we got all that energy
6108 and let us just take the affordable part of it and not the
6109 renewable unaffordable part of it, if we got that energy,
6110 look at the jobs that would begin to create because that
6111 energy goes out and that creates industry which builds
6112 things, which makes jobs and that just continues to roll
6113 forward.

6114 But the sad part of this is, 45 percent of those 333
6115 projects are renewable projects and we can't even get them
6116 permitted without the greenhouse gas rules. Now, let us add
6117 another brick onto that burden and let us see if that mule
6118 can walk.

6119 Mr. {Griffith.} Thank you.

6120 General Abbott, I am a lawyer or a recovering lawyer.
6121 Now that I am doing this, I can't practice anymore. But I
6122 have read the Massachusetts v. EPA decision, and you
6123 obviously have too, and I looked at that next-to-last
6124 sentence where it says ``We hold only that the EPA must
6125 ground its reasons for action or inaction in the statute.''
6126 Now, earlier today when I was speaking with Ms. Jackson, she
6127 indicated that the reason that they had changed instead of it
6128 being 100 of 250 to 100,000 in their tailoring was because if
6129 they had enforced the law as written, it would be absurd, and
6130 I agreed with her on that. But I guess my question to you
6131 is, is that she said that they felt that because it was going
6132 to be an absurd result, that they had the authority to change
6133 the rule, so to speak, and I went to law school, I never got
6134 that class, and I am just wondering if I missed something
6135 over the years or maybe you knew, is there authority for a
6136 bureaucracy to change the law because they end result would
6137 be absurd or is that the duty of the legislative branch of
6138 government?

6139 Mr. {Abbott.} As I understand it, their legal argument
6140 is based upon what would be called the absurdity doctrine.
6141 As understand it, the absurdity doctrine is not a valid legal
6142 doctrine for them to base their decision on and it is more
6143 like a hope and a prayer that they can get away with changing

6144 the clear language established by Congress in the Clean Air
6145 Act. This is a way in which there is an evasion of the law
6146 and a creation of new law by the EPA.

6147 Mr. {Griffith.} And in that vein, am I not correct that
6148 once she made the determination that there was an
6149 endangerment, she needed to apply the rules to all 6 million
6150 businesses that would come under the 100 or 250 regulation
6151 and that by not doing so if someone were to sue, all 6
6152 million in that universe would come under the law and that
6153 that would create chaos, I mean, not just damage the economy
6154 but create sheer chaos in the economy, and isn't it then
6155 better that we pass this legislation so that we can then have
6156 that argument in the halls of Congress instead of having the
6157 fear that at some point in the future a court is going to
6158 rule that you have to apply it to all--whatever rules they
6159 come up with apply to all 6 million in the universe and that
6160 6 million is of course her number.

6161 Mr. {Abbott.} Right. You are absolutely correct. Our
6162 great concern is that the tailoring rule is going to be
6163 challenged, not just from our side but also from those who
6164 really want to decrease those thresholds, thereby making
6165 schools, farms, hospitals, small businesses, literally
6166 thousands upon thousands of job creators and employers across
6167 the country suddenly subject to these limitations, almost

6168 stifling overnight our economy.

6169 Mr. {Griffith.} And the solution would be passage of
6170 this bill?

6171 Mr. {Abbott.} The solution has to be the passage of
6172 this bill.

6173 Mr. {Griffith.} I thank the gentleman and yield back
6174 whatever time I have left.

6175 Mr. {Whitfield.} Mr. Griffith, thank you very much, and
6176 I want to thank the panel. We genuinely appreciate your
6177 taking time to come and talk to us about practical issues as
6178 we try to balance environment protections, health care and
6179 economic development, and your testimony on job creation was
6180 very important and we appreciate it, and so I will dismiss
6181 this panel. Ms. Blaisdell, I asked them to get these
6182 newspaper articles that Mr. Shimkus referred to, if you all
6183 would like to see them.

6184 We will call up the fourth panel, and on the fourth
6185 panel we have Peter Glaser, a partner with Troutman Sanders,
6186 Dr. Margo Thorning, Senior VP and Chief Economist, American
6187 Council for Capital Formation, Mr. Philip Nelson, President
6188 of the Illinois Farm Bureau, Mr. Fred Harnack, General
6189 Manager, U.S. Steel Corporation, Mr. James Goldstene,
6190 Executive Officer, California Air Resources Board, and Dr.
6191 Lynn Goldman, American Public Health Association. I want to

6192 thank you all very much for being with us. We appreciate
6193 your patience. We are going to declare you honorary members
6194 of the Energy and Commerce Committee because you have been
6195 here so long. And then at this time Mr. Glaser, I will call
6196 upon you for your 5-minute opening statement, and then we
6197 will get to questions after that. Mr. Glaser, thank you for
6198 being here.

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6199 ^STATEMENTS OF PETER S. GLASER, PRESIDENT, TROUTMAN SANDERS
6200 LLP; DR. MARGO THORNING, SENIOR VICE PRESIDENT AND CHIEF
6201 ECONOMIST, AMERICAN COUNCIL FOR CAPITAL INVESTMENT; PHILIP
6202 NELSON, PRESIDENT, ILLINOIS FARM BUREAU; FRED T. HARNACK,
6203 GENERAL MANAGER, ENVIRONMENTAL AFFAIRS, U.S. STEEL
6204 CORPORATION; JAMES N. GOLDSTENE, EXECUTIVE OFFICER,
6205 CALIFORNIA AIR RESOURCES BOARD; AND DR. LYNN R. GOLDMAN,
6206 AMERICAN PUBLIC HEALTH ASSOCIATION

|
6207 ^STATEMENT OF PETER S. GLASER

6208 } Mr. {Glaser.} Thank you very much, Mr. Chairman.
6209 Members of the committee, I appreciate the opportunity to
6210 testify here today. My written testimony, which is very
6211 detailed, provides an analysis from a legal standpoint of why
6212 the Clean Air Act is such a poor vehicle for addressing
6213 greenhouse gas emissions, and I will just summarize some of
6214 my points there.

6215 I want to emphasize at the outset that I am not
6216 representing any of my clients here today. I am not being
6217 compensated for this testimony, and the views I express here
6218 are my own and do not necessarily reflect the views of my
6219 clients.

6220 I also want to say at the beginning that my testimony
6221 has nothing to do with the science. Whatever you feel about
6222 the science either way, if you believe in the science one
6223 direction or another, my testimony still works.

6224 The main problem with regulating greenhouse gas
6225 emissions under the Clean Air Act, even if you think that
6226 greenhouse gases is something that the country needs to
6227 regulate, is that the statute was not designed for that
6228 purpose, and as a result, EPA's regulatory aims do not
6229 comfortably fit within the programs that are in the Clean Air
6230 Act. We know this because EPA itself has said that
6231 regulating greenhouse gases under the literal language of the
6232 statute, as we have heard many times today, creates an absurd
6233 result. If you use the statute, you get an absurd result,
6234 and the only way to avoid this is for EPA to tailor the
6235 statute itself. You have to change the statute.

6236 Just putting aside legal arguments about whether or not
6237 EPA could do that, the problem is that EPA has been forced to
6238 engage in this kind of creative legal interpretation in this
6239 area and in several other areas that are set forth in my
6240 testimony, and all of this shows is that EPA is trying to
6241 make the statute do something that it was not designed to do.
6242 And so what you get from this are lawsuits and you get
6243 regulatory uncertainty, and in the end what might happen if

6244 EPA is wrong is that you end up unleashing regulation on a
6245 very, very large number and variety of small emitters.

6246 Indeed, we may be facing more absurd consequences of
6247 trying to regulate under this statute. As EPA confronts a
6248 petition to regulate greenhouse gases under the National
6249 Ambient Air Quality Standards. I actually thought the single
6250 most disturbing thing that I heard today having sat here all
6251 day was the Administrator's statement that in fact they may
6252 get forced into establishing a greenhouse gas National
6253 Ambient Air Quality Standard. Unfortunately, the only legal
6254 precedent on the books on this would seem to be point to a
6255 necessity that they do that. This is set forth in more
6256 detail in my testimony. That would create truly severe
6257 economic consequences under a program that could never be
6258 complied with. That is very concerning.

6259 Now, importantly, and there has been some discussion of
6260 this today, EPA has not done an overall comprehensive
6261 assessment of the cumulative costs and benefits of all of the
6262 greenhouse gas regulation that it has in mind nor has EPA set
6263 forth its overall plan of regulation where it lists out in
6264 advance for everybody to see what the requirements will be,
6265 what categories of sources that they intend to regulate, what
6266 programs they intend to regulate under and what the full
6267 regulatory timetable is. We heard the Administrator say

6268 today that they are taking this on a rule-by-rule basis but
6269 that they can't anticipate what all the rules will be because
6270 they don't know what all the rules will be. We heard her say
6271 that they got petitions, multiple petitions to regulate
6272 different sources. They don't know how they are going to act
6273 on that. We heard her say that they are going to be doing
6274 cost-benefit analysis but only in the context when they get
6275 to actual rules.

6276 Now, all this is despite the fact that they have a 5-
6277 year plan. EPA has a 5-year strategic plan, and goal number
6278 one of the 5-year strategic plan is taking action on climate
6279 change and air quality. So presumably they have a plan but
6280 they have not told us in advance what the specific elements
6281 of the plan are. As a result of all of this, we are in the
6282 process, we have started down this path of one regulation
6283 after another, but before we decided to do that in the first
6284 place, we never assessed what the overall cost and
6285 consequences and benefits were going to be, and this to be
6286 should be very concerning because it contributes to the large
6287 uncertainty of where exactly the Nation is going.

6288 You know, one flaw with proceeding on a rule-by-rule
6289 basis and trying to determine what the costs and benefits of
6290 regulation are can be seen in their first foray into
6291 greenhouse gas regulation. Their first foray, of course, was

6292 the motor vehicle, the tailpipe rule. In the tailpipe rule,
6293 they assessed the costs of the tailpipe rule on the motor
6294 vehicle industry. They also said that the tailpipe rule
6295 automatically and as a matter of law triggers greenhouse gas
6296 regulation of large, stationary sources. But there was no
6297 study as to what those regulations were going to be and what
6298 the cost was going to be. So as we have started out as of
6299 January 2nd in regulation greenhouse gases under these
6300 programs, we still have no overall assessment of whether the
6301 benefit will exceed the cost.

6302 Mr. {Whitfield.} If you would summarize, Mr. Glaser?

6303 Mr. {Glaser.} Sure. I think the overall question for
6304 this committee is what part of government should make the
6305 critical policy choices that are inherent in determining how
6306 the Nation uses energy. To me, this is the main issue before
6307 this committee. Should it be EPA under a statute that they
6308 are relying on that was enacted in 1970 or should it be
6309 Congress? Thank you.

6310 [The prepared statement of Mr. Glaser follows:]

6311 ***** INSERT 9 *****

|

6312 Mr. {Whitfield.} Thank you very much.

6313 Dr. Thorning, we look forward to your testimony.

|
6314 ^STATEMENT OF MARGO THORNING

6315 } Ms. {Thorning.} Thank you, Mr. Chairman, and thank you,
6316 Ranking Member Rush, and I apologize for misidentifying in
6317 you my written testimony. I would like to correct that for
6318 the record.

6319 Thank you very much for the chance to appear before you.
6320 I just want to talk about five points in my testimony.
6321 First, the U.S. economy is recovering sluggishly. GDP grew
6322 only at 2.9 percent last year. The unemployment rate remains
6323 stubbornly high at 9 percent. And investment right now is
6324 about \$354 billion less than it was in the fourth quarter of
6325 2007. Investment spending is responsible for most of the
6326 drop in gross domestic product over the last 2-1/2 years or
6327 so. So clearly that is a key issue.

6328 Looking at the historical data, each \$1 billion drop in
6329 investment spending is associated with a job loss of 15,500
6330 jobs, and vice versa. Each \$1 billion increase is
6331 responsible for over 15,000 new jobs.

6332 The second point, regulating greenhouse gases under the
6333 Clean Air Act is likely to have a negative impact on overall
6334 business spending. When a business is contemplating a new
6335 investment, they look at the risk of that new investment.

6336 They may add a risk premium to their cost of capital,
6337 anywhere from zero to as much as 50 percent or more, assuming
6338 that the risk premium associated with investments that are in
6339 industries regulated by EPA might be 30 to 40 percent. We
6340 looked at the impact of that on business investment in the
6341 quarter or so of investment that is accounted for by these
6342 regulated entities that are regulated by EPA. We conclude
6343 that there could be a fall in investment spending annually of
6344 between \$25 and \$75 billion. When you feed those numbers
6345 into IMPLAN, input-output model, you get--it is an input-
6346 output model that accounts for all the dollar flows across
6347 all sectors in the United States. When you feel those drops
6348 in investment which we assumed either \$25 billion annually or
6349 \$75 billion, you get a decrease in jobs of approximately
6350 476,000 to, on the high side, 1.4 million fewer jobs annually
6351 and you get a loss of GDP of between 47 billion and 141
6352 billion annually. Interestingly, the job numbers that we
6353 obtained by looking at the historical data were about 15,5000
6354 jobs tabulate very nicely with the IMPLAN results which
6355 suggest that for each \$1 billion drop in investment, we lost
6356 about 17,000 jobs. So using two completely different
6357 approaches, we get the same impact for this drop in
6358 investment spending that we expect will occur as a result of
6359 these regulations.

6360 Fourth, mandating energy efficiency, as EPA seems to
6361 want to do under the BACT guidelines is unlikely to lead to
6362 job growth. First, as many companies testified in the panel
6363 just before us, they have already made energy efficiency
6364 investments. They do it when it makes economic sense, and
6365 when it is time to replace their capital stock if they can a
6366 more energy-efficient investment that makes sense, they do
6367 it. They don't need a government mandate to make them
6368 increase energy efficiency. And second, the argument that
6369 market failures and inefficiencies or technical barriers are
6370 responsible for companies not taking up energy-efficient
6371 investment is, I think, unfounded. Companies do make those
6372 investments. Overall, the results suggest that mandating
6373 energy efficiency is not going to be a net job generator.

6374 And fifth, the BACT guidelines issued in November are
6375 not likely to reduce uncertainty and they will not reduce the
6376 risk premium in the cost of capital that companies
6377 contemplating investment or expansion face because, for
6378 example, the specific standards for BACT are not established
6379 by the new guidelines. That means industries don't really
6380 know what will be required. And another example, the
6381 permitting agencies are required to retain discretion to
6382 determine BACT on a case-by-case basis subject to EPA or
6383 court review. Thus, regulated entities will encounter

6384 different requirements depending on the individual State
6385 regulator's approach.

6386 So in conclusion, I think using economic analysis, it
6387 suggests that regulating GHGs under the Clean Air Act is
6388 likely to slow investment, slow job growth and not have any
6389 impact on global greenhouse gas concentrations.

6390 Consequently, it makes little sense for EPA to proceed down
6391 this path. Thank you.

6392 [The prepared statement of Ms. Thorning follows:]

6393 ***** INSERT 10 *****

|

6394 Mr. {Whitfield.} Thank you, Dr. Thorning.

6395 Mr. Nelson, you are recognized for 5 minutes.

|
6396 ^STATEMENT OF PHILIP NELSON

6397 } Mr. {Nelson.} Mr. Chairman, members of the
6398 subcommittee, good afternoon. I am Philip Nelson. I am a
6399 fourth-generation grain and livestock farmer from Seneca
6400 Illinois. I am also President of the Illinois Farm Bureau
6401 and a member of the Board of Directors of the American Farm
6402 Bureau Federation. I am appearing today on behalf of the
6403 American Farm Bureau Federation.

6404 I am pleased to testify in support of the Energy Tax
6405 Prevention Act of 2011. It is one of several bills from both
6406 sides of the aisle in both the House and the Senate that are
6407 designed to allow our elected representatives in Congress to
6408 decide how and to what extent our Nation will address
6409 regulation of greenhouse gases. Farm Bureau opposes the
6410 regulation of greenhouse gases by the Environmental
6411 Protection Agency under the Clean Air Act and we commend the
6412 chairman for giving this matter a high priority.

6413 Farmers and ranchers receive a double economic jolt from
6414 the regulation of greenhouse gases from stationary sources.
6415 First, any costs incurred by utilities, refiners,
6416 manufacturers and other large emitters to comply with the
6417 greenhouse gas regulatory requirements will be passed on to

6418 consumers of those products, including farmers and ranchers.
6419 To a large degree, farmers and ranchers cannot pass along
6420 these increased costs of production. Farmers and ranchers
6421 will also incur direct results as a result of the regulation
6422 of greenhouse gases by EPA. For the first time, many farm
6423 and ranch operations will likely be subject to direct new
6424 source review/prevention of significant deterioration
6425 construction permits and Title V permit requirements under
6426 the Clean Air Act. For example, Title V of the Clean Air Act
6427 requires that any stationary source including farms and
6428 ranches that emits or has the potential to emit more than 100
6429 tons of a regulated pollutant per year must obtain an
6430 operating permit. To meet this requirement, thousands of
6431 farms and ranches will be required to obtain the Title V
6432 operating permits. EPA itself estimates that just at the
6433 expense of obtaining Title V operating permits, it will cost
6434 production agriculture \$866 million. That does not include
6435 other associated permit costs.

6436 Livestock producers would be especially impacted by
6437 these permit requirements. The USDA has stated that
6438 approximately 90 percent of the livestock produced in this
6439 country are above the permitting thresholds and will be
6440 required to obtain operating permits. Under the EPA
6441 tailoring scheme, farmers and ranchers would still incur

6442 costs passed down from utilities and larger emitters upon
6443 which they depend for energy and fuel. Farmers and ranchers
6444 that meet the low Clean Air Act thresholds will also
6445 eventually be required to obtain permits.

6446 On the other hand, this costly and burdensome regulatory
6447 scheme will produce very little, if any, environmental
6448 benefit. Greenhouse gases are distributed evenly around the
6449 globe so that a ton of greenhouse gases emitted in Illinois
6450 is no different than a ton of greenhouse gases emitted in
6451 China. Regulation of greenhouse gases emitted in Illinois
6452 means little if emissions in China are not similarly
6453 regulated. Unless and until the countries of this world
6454 agree on an international treaty on greenhouse gas emissions,
6455 unilateral regulation of greenhouse gases by EPA will have
6456 little environment effect, a fact publicly acknowledged by
6457 the EPA Administrator. Both the President and the
6458 Administrator of EPA have stated that the regulation of
6459 greenhouse gases by EPA under the Clean Air Act is not an
6460 effective way to address the issue. Most state that they
6461 prefer that the issue be addressed by Congress.

6462 The Energy Tax Prevention Act recognizes this fact and
6463 applies the brakes to this process, thus restoring the
6464 jurisdiction of Congress to develop climate policy. Thank
6465 you.

6466 [The prepared statement of Mr. Nelson follows:]

6467 ***** INSERT 11 *****

|

6468 Mr. {Whitfield.} Thank you, Mr. Nelson.

6469 Mr. Harnack, you are recognized for 5 minutes.

|
6470 ^STATEMENT OF FRED T. HARNACK

6471 } Mr. {Harnack.} Okay. Good afternoon. Mr. Chairman and
6472 members of the committee, thank you for this opportunity to
6473 testify. I will briefly summarize my remarks, and I am
6474 pleased to have supplied a detailed written statement for the
6475 record.

6476 My name is Fred Harnack and I am General Manager of
6477 Environmental Affairs for United States Steel Corporation.
6478 My career spans over 30 years in steel technology and
6479 manufacturing facilities, some of which are located in Mr.
6480 Dingell's and Mr. Doyle's districts. I have witnessed
6481 environmental management practices developed in tandem with
6482 implementation of the Clean Air Act. On balance, the Clean
6483 Air Act has been a force for positive change across
6484 industrial America.

6485 Today, I am especially proud to represent our company
6486 and over 21,000 domestic and 42,000 total employees at U.S.
6487 Steel. My company provides employees and their families
6488 good-paying jobs and benefits that make the American dream
6489 attainable. We also support pension and health benefits for
6490 more than 100,000 retirees and their dependants. Ours is an
6491 industry worth fighting to keep.

6492 I assure you every one of us wants to work, live and
6493 raise our families in a clean and safe environment. We are
6494 committed to making steel with that in mind and install
6495 environmental stewardship through all our business processes.
6496 That said, we believe the time has come to reassess the
6497 complex framework of rules and regulations that hamstring
6498 responsible manufacturers and inhibit economic growth and job
6499 creation.

6500 U.S. Steel is an integrated steel producer. Our process
6501 begins with iron ore, carbon in the form of coke, and
6502 limestone. We transform these materials through a highly
6503 efficient, high-temperature blast furnace to create iron
6504 which, with the addition of recycled steel scrap metal, is
6505 converted to cast steel. We produce flat roll sheet and tin
6506 products and seamless and welded pipe that is used in
6507 automotive, construction, container and energy industry
6508 applications.

6509 As Congress looks for ways to reduce unemployment and
6510 attempt to recover more than 8 million manufacturing jobs
6511 lost since the year 2000, the regulatory burden will be a
6512 target-rich environment. The recent spate of new rules to
6513 regulate greenhouse gas emissions under the Clean Air Act is
6514 a good place to start because these rules have not yet had
6515 the chance to inflict their harm on jobs and the economy.

6516 Greenhouse gas emissions are not like the pollutants
6517 targeted under the Clean Air Act. Regulating these emissions
6518 from stationary sources under the existing Clean Air Act will
6519 not yield the past successes achieved for other pollutants.
6520 In fact, the Clean Air Act makes no provision to address the
6521 anticompetitive regulatory costs imposed on domestic
6522 manufacturers of globally traded goods. This will likely
6523 lead to a perverse outcome that puts the most efficient
6524 American manufacturers at a disadvantage to unburden foreign
6525 producers while actually contributing to a net increase in
6526 global greenhouse gas emissions. I am convinced that
6527 jeopardizing American jobs for a worse environment is not in
6528 our best interest.

6529 Our substantial experience complying with the Clean Air
6530 Act tells us that Title I and Title V programs were probably
6531 never intended to regulate global greenhouse gas emissions.
6532 In our world, this is the proverbial attempt to stick a
6533 square peg in a round hole. The committee's discussion draft
6534 dated February 2, 2011, would prevent substantial economic
6535 harm by removing greenhouse gas emission regulations under
6536 the Clean Air Act.

6537 Over the coming months, we urge Congress to hold
6538 hearings on other aspects of the Clean Air Act. In this
6539 regard, we would suggest five areas worthy of your further

6540 study and investigation. These include first of all the
6541 cumulative impact of Clean Air Act regulations, and I just
6542 wanted to note that my written statement provides a detailed
6543 list of the many new and emerging air pollution rules
6544 applicable to and affecting the steel industry, and you have
6545 heard them many times referred to also today; secondly, the
6546 role and expectations including costs of technology in
6547 controlling various pollutants; third, the efficiency and
6548 effectiveness of U.S. EPA's guidance and testing methods;
6549 fourth, the best strategies for addressing multimedia and
6550 multipollutant impacts; and finally, staffing levels and
6551 competencies in the responsible State and federal regulatory
6552 agencies to ensure permitting can move with the pace of
6553 commerce.

6554 As Americans, we all understand that government
6555 regulation is designed to impose certain responsibilities on
6556 targeted entities. Our collective challenge, however, is to
6557 achieve an optimal balance of cost and benefit. When
6558 companies like mine are required to spend the lion's share of
6559 our capital budgets on infrastructure and satisfying
6560 compliance obligations, it is no wonder that job creation and
6561 America's global competitiveness are handicapped. We
6562 believe, as President Obama recently stated in his State of
6563 the Union address, that we have to make America the best

6564 place on earth to do business, and we at U.S. Steel are eager
6565 to help you achieve this worthy and rewarding goal.

6566 [The prepared statement of Mr. Harnack follows:]

6567 ***** INSERT 12 *****

|

6568 Mr. {Whitfield.} Thank you very much.

6569 Mr. Goldstene, you are recognized for 5 minutes.

|
6570 ^STATEMENT OF JAMES GOLDSTENE

6571 } Mr. {Goldstene.} Thank you. Good afternoon, Chairman
6572 Whitfield, Ranking Member Rush, members of the committee. I
6573 appreciate the invitation to speak today on the proposed
6574 Energy Tax Prevention Act of 2011.

6575 My name is James Goldstene. I am the Executive Officer
6576 of the California Air Resources Board, the primary body
6577 charged with protecting the air quality and air-related
6578 public health in California, and charged with speaking for
6579 the State on air quality and climate change issues. I am
6580 also a member of the Board of Directors of the National
6581 Association of Clean Air Agencies, or NACA, an associate of
6582 State and local clean air agencies across the country.

6583 Today I would like to share with my perspective as a
6584 State agency administrator and as an air quality regulator.

6585 The issue before us today concerns the preemption of the
6586 Clean Air Act, one of the most successful environmental laws
6587 in the history of the United States. For 40 years, the
6588 sensible pollution limits established under the Clean Air Act
6589 have dramatically improved air quality and public health,
6590 saving hundreds of thousands of lives and generating over \$2
6591 trillion in economic benefits for the American people. Let me

6592 start with vehicles. Passenger vehicles are not only
6593 responsible for 20 percent of carbon pollution but the
6594 majority of our oil dependence. Preempting the authority for
6595 EPA to regulate the greenhouse gas emissions of vehicles
6596 would rob this country of one of its most powerful tools, not
6597 just to reduce carbon pollution but also to reduce our
6598 dependence on foreign oil, and to save consumers money.

6599 Simply maintaining the U.S. Department of
6600 Transportation's authority to regulate fuel efficiency is not
6601 adequate. While the fuel economy standards can complement
6602 long-term mobile source greenhouse gas reduction strategies,
6603 they are in no way a substitute for them. The combined fuel
6604 economy and vehicle greenhouse gas emission standards
6605 promulgated by EPA and DOT last year represent an important
6606 and unprecedented partnership. This approach leverages the
6607 strengths of both agencies and combines the related but
6608 different aspects of fuel economy and greenhouse gas emission
6609 standards. As a result, the combined standards achieve 35
6610 percent less pollution and 25 percent less fuel consumption,
6611 compared to relying on CAFE standards alone.

6612 California embraced these joint standards and the
6613 national program wholeheartedly, accepting the federal
6614 program as equivalent to our own program for model years 2009
6615 to 2016. We have continued to carry on this unprecedented

6616 spirit of cooperation and collaboration following the
6617 historic May 2009 Rose Garden agreements, working with both
6618 federal agencies and automobile manufacturers to develop the
6619 next round of standards. California remains committed to the
6620 process of working closely with our partners to do everything
6621 we can to repeat that success for the 2017 to 2025 standards.

6622 We are building on a firmly established precedent and
6623 foundation of national environmental policy. Since the early
6624 1960s, California has established pollution standards for new
6625 vehicles sold in the State predating even the federal
6626 government's effort in this arena, and the pattern has
6627 continued. Since the 1980s, each successive California
6628 standard has gone on to become the national standard. In
6629 that time cars have become 99.7 percent cleaner, all while
6630 the auto industry has innovated to continue providing
6631 consumers with the amazing diversity and quality of
6632 affordable vehicles that we enjoy today. And of course, in
6633 this we are joined by our other States, the so-called section
6634 177 States who have acted like California to address their
6635 own quality and public health concerns with our cost-
6636 effective standards. Preempting California's ability to set
6637 carbon pollution standards for vehicles would also increase
6638 costs to California consumers. These vehicle standards are
6639 one of the most cost-effective measures in California's clean

6640 energy plan, saving consumers an average of \$2,000 over the
6641 life of a vehicle.

6642 With regard to pollution from electricity generators and
6643 factories, EPA is utilizing the tried-and-true framework for
6644 reducing pollution. Far from overreaching, EPA is responding
6645 to the clear mandate of the Clean Air Act, the dictates of
6646 the Supreme Court and fulfilling the clear intent of Congress
6647 that newly identified public health risks from air pollutants
6648 not listed in the Act be addressed. The obligation is clear
6649 and unambiguous.

6650 Contrary to claims of a rush to regulation, EPA has been
6651 proceeding methodically. Clearly, EPA has moved forward in
6652 the past 2 years with a tailored, measured approach. This
6653 permitting process is business as usual for State and local
6654 air quality agencies across the country who are using a well-
6655 known process that has been used for decades. EPA has
6656 provided flexibility for State and local agencies in how to
6657 run the permitting program so that the local regulators can
6658 work with the permit applicants. The claim that permitting
6659 would grind to a halt is simply false. All we want is to
6660 provide certainty for industry to invest and create jobs.

6661 This legislation, however, would forestall needed and
6662 available investment in the energy sector now and threaten
6663 the competitiveness of the American economy in the long run.

6664 We know that when government provides clear signals and a
6665 predictable regulatory environment, industry is quick to
6666 adapt, seize investment opportunity and create good jobs
6667 along with profits. For example, in the face of the current
6668 recession, clean technology has been the fastest-growing
6669 sector in California. Thank you, sir.

6670 [The prepared statement Mr. Goldstene follows:]

6671 ***** COMMITTEE INSERT *****

|

6672 Mr. {Whitfield.} Thank you, Mr. Goldstene.

6673 Dr. Goldman, you are recognized for 5 minutes.

|
6674 ^STATEMENT OF LYNN R. GOLDMAN

6675 } Dr. {Goldman.} Mr. Chairman, thank you so much for the
6676 opportunity to testify about this Act. My name is Lynn
6677 Goldman. I am Dean of the George Washington University
6678 School of Public Health and Health Services, a pediatrician
6679 and a professor of environmental and occupational health.
6680 Today I represent the American Public Health Association, or
6681 APHA. APHA is the Nation's oldest and most diverse
6682 organization of public health professionals in the world
6683 dedicated to protecting all Americans and their communities
6684 from preventable serious health threats and assuring
6685 community-based health promotion and disease prevention
6686 activities that are universally accessible across the United
6687 States. With your content, I will place my written statement
6688 in the record.

6689 For 40 years, the Clean Air Act has safeguarded the
6690 health of all Americans including the most vulnerable. By
6691 EPA's estimate, the first 20 years of the Clean Air Act has
6692 prevented more than 200,000 premature deaths, 672,000 cases
6693 of chronic bronchitis, 843,000 asthma attacks and 189,000
6694 cardiovascular hospitalizations, making it one of the most
6695 successful public health laws of our time.

6696 As you know, in 2007 the U.S. Supreme Court directed EPA
6697 to assess the science in order to decide whether or not to
6698 move forward with efforts to protect the public's health from
6699 the impacts of greenhouse gases. They did so, and they
6700 developed an endangerment assessment. It is because of this
6701 endangerment assessment and our knowledge about the public
6702 health effects of climate change that APHA opposes this
6703 legislation, and we are not alone in this position. In a
6704 December 6, 2010, letter to all Members of Congress, APHA was
6705 joined by the American Lung Association, the American Academy
6706 of Pediatrics, the American College of Preventive Medicine
6707 and other leading national and State public health, medical
6708 and clean air advocates in urging Congress to support moving
6709 forward with protective clean air standards and to oppose any
6710 measure that would delay or block progress toward a healthier
6711 tomorrow for all Americans.

6712 Climate change is a public health issue, and over time
6713 it is one of the greatest threats to human health.
6714 Scientists from across the globe have stated in the strongest
6715 possible terms that the climate is changing and that human
6716 activity is to blame. Scientists have unequivocally
6717 concluded that greenhouse gas is causing global warming and
6718 the United States is the leading contributor to these gases.
6719 The average increase in earth's temperature is causing

6720 extreme weather events and increases and decrease in
6721 temperature and rainfall. These regional weather changes may
6722 create environmental conditions like floods, heat waves,
6723 droughts and poor air quality that are not healthy. Some of
6724 the health effects we may be concerned about are strokes,
6725 injury, malnutrition, respiratory disease and asthma, and
6726 infections such as vector- and rodent-borne diseases. Huge
6727 costs and human suffering are associated with these outcomes.
6728 We are already beginning to see the health impacts worldwide.
6729 Impacts will only worsen if we continue to ignore this
6730 problem.

6731 I can recite more statistics, but let us take childhood
6732 asthma as an example. Already in the United States, asthma
6733 is the largest cause of hospitalizations and lost days of
6734 school for children but as a pediatrician, I also know the
6735 impacts of this disease on an individual child: a child who
6736 grows up unable to breathe without medication, unable to play
6737 outdoors like other children. Climate change is creating
6738 conditions that not only cause more asthma attacks but also
6739 can cause rates of asthma to rise in children. Moreover, the
6740 same activities that emit carbon dioxide also emit a wide
6741 variety of other pollutants that are harmful to health,
6742 pollutants like nitrogen oxides, air toxics and fine
6743 particulate matter. These pollutants also contribute to

6744 various diseases. Along with global warming, they contribute
6745 to formation of ground-level ozone. That is also unhealthy.

6746 So we do need regulations that control greenhouse gas
6747 emissions but these need to be written and implemented
6748 intelligently in a manner that also reduces exposure to other
6749 pollutants that might come from coal-fired power plants, that
6750 might come from automobiles. Control of pollution from power
6751 plants also increases the healthfulness of air in communities
6752 that are near those plants. These facilities are often
6753 closer to low-income communities that suffer
6754 disproportionately from air pollution.

6755 Measures to control air pollutants under the Clean Air
6756 Act need to work together as a whole to protect health.
6757 Cherry picking amongst these ignores the fact that health
6758 effects are associated with multiple classes and sources of
6759 pollution and is not consistent with science. Another way we
6760 can improve is by increasing energy efficiency. When we
6761 reduce our use of energy, we reduce emissions of the
6762 pollutants associated with energy and other harmful
6763 substances.

6764 In closing, I should say that this bill would do nothing
6765 to reduce uncertainty. There is a problem, a clear and
6766 present public health threat from climate change. There are
6767 no answers to this problem in this legislation. Until

6768 Congress is putting forward solutions, there will be a to of
6769 uncertainty in this country about where we are heading with
6770 this problem. Thank you very much.

6771 [The prepared statement of Dr. Goldman follows:]

6772 ***** INSERT 13 *****

|
6773 Mr. {Whitfield.} Thank you very much for your
6774 testimony. We appreciate once again your taking the time to
6775 be with us today.

6776 I would say, Dr. Goldman, that all the testimony I heard
6777 today made it very emphatically clear that there would be
6778 great uncertainty by EPA continuing to try to regulate
6779 greenhouse gases, and I would also say that on the light-duty
6780 motor vehicle standards which EPA has promulgated, this
6781 legislation would not change and affects model years 2012
6782 through 2016. Now, the testimony has shown that that
6783 regulation is going to cost \$52 billion to consumers in
6784 America and it is going to lower the temperature 90 years
6785 from now by maybe one one-hundredths of a degree. So what we
6786 are trying to do here is balance. We want to protect health,
6787 we want to protect environment, we want to protect jobs. We
6788 want to provide incentives for investment and we want to be
6789 competitive in the global marketplace.

6790 And Mr. Nelson, when Administrator Jackson was sitting
6791 right there, she said that the greenhouse gas regulations
6792 would really not impact the farming community, but from your
6793 testimony, I think you made it pretty clear that you would
6794 not agree with her statement. Is that correct?

6795 Mr. {Nelson.} That is correct. She made a couple

6796 comments that at this point in time it didn't impact it but
6797 our understanding, there is over 100 farm entities that do
6798 report to EPA at the present time, and--

6799 Mr. {Whitfield.} Well, as you said, it will certainly
6800 affect our electricity costs. There is no question about
6801 that. It will affect your fertilizer costs. There is no
6802 question about that.

6803 Now, the tailoring rule certainly would exempt many of
6804 you, but Mr. Glaser, that tailoring rule, Mr. Glaser, the
6805 tailoring rule is an explicit violation of the specific
6806 language of the Clean Air Act, isn't it?

6807 Mr. {Glaser.} I don't see how you could be any more
6808 clear in the statute than by using a number.

6809 Mr. {Whitfield.} Yes, and the number says 100 or 250
6810 tons per year.

6811 Mr. {Glaser.} One hundred or 250. It doesn't say
6812 100,000.

6813 Mr. {Whitfield.} And she says 100,000. Now, have
6814 lawsuits been filed against the tailoring rule?

6815 Mr. {Glaser.} Yes, they have.

6816 Mr. {Whitfield.} And have lawsuits been filed against
6817 EPA's allegation that the fact that they were required by the
6818 Supreme Court to look at this issue on mobile sources because
6819 they found an endangerment finding there that they are

6820 automatically required to regulate stationary sources. Has
6821 there been a lawsuit filed on that?

6822 Mr. {Nelson.} Yeah. I mean, I have to say that what
6823 has gone on is again, as one of the witnesses said, when you
6824 try to jam a square peg into a round hole, you end up with a
6825 great deal of legal uncertainty and you end up with a great
6826 number of lawsuits including EPA's contention that by finding
6827 that automobile emissions endanger public health and welfare
6828 and therefore regulating automobiles, you then automatically
6829 have to regulate stationary sources. That is also uncertain
6830 and doesn't seem to be a logical reading.

6831 Mr. {Whitfield.} And I might say, we are certainly not
6832 trying to gut the Clean Air Act in any way. We are trying to
6833 break the logjam which was written by a former legal counsel
6834 for the National Resources Defense Council, and he says in
6835 this book that the Clean Air Act was never meant to regulate
6836 greenhouse gases and it does not work in doing so.

6837 Now, Ms. Jackson also admitted today that there is no
6838 technology available to deal with greenhouse gases and that
6839 her rules would not in any way meaningfully reduce greenhouse
6840 gases. But she did say we are going to require efficiencies
6841 to be adopted by stationary sources, and then some people
6842 have said well, you know, there is nothing wrong with that,
6843 that is reasonable, and that is reasonable. I am assuming,

6844 Mr. Harnack, that most businesses want to be as efficient as
6845 they can be and they don't need government bureaucrats
6846 telling them to do that. Is that correct or not?

6847 Mr. {Harnack.} I mean, in our case, that is correct.
6848 We have done a lot of energy efficiency projects. We have a
6849 corporate energy efficiency initiative that has been in place
6850 for many years now, and we think that we have captured a lot
6851 of the low-hanging fruit. Some of the challenges now is that
6852 some of the projects that we have just do not have suitable
6853 return for us to invest very limited capital in based on our
6854 situation and the business climate right now.

6855 Mr. {Whitfield.} But they seem to be working on the
6856 premise that in order to be efficient, the government
6857 regulators have to tell you to be efficient and how to do it,
6858 and if the State regulators make a ruling that you should do
6859 it this way to meet these standards, EPA is not precluded
6860 from coming back later and disagreeing with that and making
6861 you even change that. Is that right, Mr. Glaser?

6862 Mr. {Glaser.} Yes, I completely agree with that. Yes,
6863 sir.

6864 Mr. {Whitfield.} Well, my time has already expired, so
6865 Mr. Rush, I recognize you for 5 minutes.

6866 Mr. {Rush.} Mr. Nelson, as a fellow Illinoisan and as a
6867 supporter of Illinois farms, I certainly want to welcome you

6868 here to this subcommittee, and I understand your concerns
6869 about potential impacts on small agricultural operators if
6870 EPA had not adopted the tailoring rule. Requiring permits
6871 for these sources makes no sense. That is why I was pleased
6872 to hear Administrator Jackson assure us earlier today that
6873 the tailoring rule avoids any energy and greenhouse gas
6874 requirements on small sources including farms. Did you hear
6875 her say that?

6876 Mr. {Nelson.} She did allude to that, but I think the
6877 one thing to keep in mind when she was talking about
6878 agriculture, you know, we are big consumers of energy and we
6879 rely on energy so if indeed you were to put undue regulations
6880 on some of the inputs that we utilize in agriculture, it has
6881 a tremendous impact on production agriculture.

6882 Mr. {Rush.} Well, and being consistent with her
6883 testimony, does any farm have to report under the greenhouse
6884 gases reporting rule?

6885 Mr. {Nelson.} Well, it would depend on a number of
6886 things. If you were not reclassified, and we looked at
6887 stationary sources, livestock would fall under that category
6888 as it stands right now. We have asked that of the EPA of
6889 whether they are going to reclassify stationary sources as it
6890 relates to agriculture. They have not done it as of now.
6891 Being a livestock producer, it creates a huge burden when you

6892 look at the dollars that we are talking of assessing
6893 livestock operations just to stay in business.

6894 Mr. {Rush.} But as of today, there is no farm that you
6895 are aware that has to report under the greenhouse gas
6896 reporting rule as of today, as it stands right now?

6897 Mr. {Nelson.} As it stands right now, some of those
6898 that fall into a certain category, there are approximately
6899 100 based on what we know that do report to the EPA.

6900 Mr. {Rush.} The regs went into effect on January 2nd of
6901 this year. You said there are at least 100 farms who are now
6902 subject to these rules. Is that what you are saying?

6903 Mr. {Nelson.} Yes, and if you require a manure
6904 management system, they do report as of now.

6905 Mr. {Rush.} I want to switch my questioning to Dr.
6906 Goldman. Dr. Goldman, do you believe that it is appropriate
6907 for Congress to pass legislation that substitutes Congress's
6908 views that carbon pollution does not endanger public health
6909 for your and other scientists' interpretation that carbon
6910 pollution does endanger public health?

6911 Dr. {Goldman.} No, I don't believe that would be
6912 appropriate.

6913 Mr. {Rush.} Can you be more concise and tell the
6914 subcommittee why you support the Clean Air Act and the steps
6915 that the EPA is taking to put limits on carbon pollution?

6916 Dr. {Goldman.} I support it because at this point in
6917 time it is the only method that the EPA has for being able to
6918 deal with this very clear and present threat, and that is the
6919 Clean Air Act and, you know, the emissions that cause global
6920 warming are air emissions and they can be regulated under the
6921 Clean Air Act, and EPA has been able to make clear public
6922 health findings that indeed they are threatening the Nation's
6923 health.

6924 Mr. {Rush.} Thank you. Mr. Chairman, I yield back.

6925 Mr. {Whitfield.} Yes, sir. Mr. Shimkus, you are
6926 recognized for 5 minutes.

6927 Mr. {Shimkus.} Thank you, Mr. Chairman, and I am just
6928 going to go quick, but in response to Dr. Goldman's response
6929 to the question, the elected representatives have never
6930 passed any piece of legislation that has been signed into law
6931 to regulate greenhouse gas. I am not asking for a response,
6932 I am just telling you, the elected representatives, the
6933 people who send us here from our districts, we have never, we
6934 have never passed legislation that has gone into law to
6935 regulate greenhouse gas emissions.

6936 If you would put up the picture on the slide there, this
6937 is for my colleague from Illinois, my friend, Mr. Nelson.
6938 This is kind of going off script on greenhouse gases. But
6939 Phil, tell me what is going on there.

6940 Mr. {Nelson.} That is a harvest operation, I believe
6941 combining soybeans.

6942 Mr. {Shimkus.} And that smoke in the back, what is
6943 that? Is that dirty petroleum product?

6944 Mr. {Nelson.} No, that is dust.

6945 Mr. {Shimkus.} Dust made up of?

6946 Mr. {Nelson.} Basically material coming off the plant
6947 after it is--

6948 Mr. {Shimkus.} Dried leaves, stems. They keep the
6949 beans and spread out the chaff, what we would call it.

6950 Mr. {Nelson.} That is correct.

6951 Mr. {Shimkus.} Is there not a fear from the
6952 agricultural community that the EPA is moving to regulate
6953 that activity?

6954 Mr. {Nelson.} Yes, there is, and as a matter of fact, I
6955 made the comments many times if you look even at the Kyoto
6956 Protocol, we would have to equip our harvest machines with
6957 dust collectors if you were going to take it to the nth
6958 degree.

6959 Mr. {Shimkus.} Which would be additional capital
6960 expense or maybe a water trailer and water it down to collect
6961 chaff, chaff. This is dust from leaves and stems in
6962 agriculture. That is pretty close to my home, and I took
6963 that as I was driving back from taking my kids. He was in

6964 the field. I pulled off on the side, took about five photos.
6965 I took that around in October, the election year, to the Farm
6966 Bureau meetings and held it up on my phone and said this is
6967 what--this is what we have in an EPA gone awry when they are
6968 going to spend time, effort, energy regulating chaff, and of
6969 course, in my Congressional district, the people are just
6970 unbelievably astounded that we would do such a thing. So
6971 thank you for that.

6972 Let me just ask, does uncertainty raise the cost of
6973 capital? This is just a traditional, just a business
6974 question. Dr. Goldman, does uncertainty raise--you may not
6975 know. Does uncertainty raise the cost of borrowing money?

6976 Dr. {Goldman.} Not in my area.

6977 Mr. {Shimkus.} The answer is, it definitely does. It
6978 raises the interest, the rate on raising capital. So the
6979 reason why I ask this question is because certainty is what
6980 everybody is talking about. Mr. Goldstene says this produces
6981 more certainty. This greenhouse gas regulation is good for
6982 business. We have more certainty. That is correct, right?
6983 That is your testimony?

6984 Mr. Harnack, do you want to respond? Do you have more
6985 certainty today in U.S. steel production or less?

6986 Mr. {Harnack.} Definitely less, and the one thing--

6987 Mr. {Shimkus.} So the cost of capital increases for

6988 expansion?

6989 Mr. {Harnack.} The cost of capital is something that we
6990 know that there is not an alternative to the integral steel
6991 process presently, and the fact that we require carbon to
6992 create new steel, and, you know, the integrated process is
6993 slightly different than the electric furnace process because
6994 the electric furnace process--

6995 Mr. {Shimkus.} Go quickly.

6996 Mr. {Harnack.} --requires recycled scrap. We mine ore
6997 that is required to make new steel, and there is not enough
6998 recycled scrap in the world to provide steel for all the
6999 applications.

7000 Mr. {Shimkus.} So this creates more uncertainty for
7001 your business?

7002 Mr. {Harnack.} Yes.

7003 Mr. {Shimkus.} And is there more uncertainty for the
7004 Chinese steel mill or less?

7005 Mr. {Harnack.} It doesn't apply to them.

7006 Mr. {Shimkus.} So there is less uncertainty, lower cost
7007 of capital for Chinese steel which would make Chinese steel
7008 more competitive in this country, another aspect.

7009 Mr. Nelson, in the agriculture community, more
7010 uncertainty or less?

7011 Mr. {Nelson.} Absolutely more, and you look at our

7012 competitors in South America and Europe that we compete
7013 against, and you just--the fear of the unknown about how many
7014 more undue regulations are going to make us more
7015 uncompetitive in the environment that we are a part of.

7016 Mr. {Shimkus.} Let me go to our economist. More
7017 uncertainty, less, Dr. Thorning, this premise on how we
7018 create jobs, how do we raise capital?

7019 Ms. {Thorning.} Well, I think definitely more
7020 uncertainty, and the BACT rules released in November really
7021 don't help, so I think it is pretty clear that this
7022 regulation will have a negative impact on jobs and economic
7023 growth.

7024 Mr. {Shimkus.} Thank you very much.

7025 Mr. {Whitfield.} Thank you, Mr. Shimkus.

7026 I recognize the gentleman from Michigan, Mr. Dingell,
7027 for 5 minutes.

7028 Mr. {Dingell.} Mr. Chairman, I thank you for your
7029 courtesy.

7030 This question is to Mr. Goldstene. Does CARB plan on
7031 finalizing California GHG emissions standards before the
7032 federal standards are finalized? Yes or no.

7033 Mr. {Goldstene.} Yes.

7034 Mr. {Dingell.} Thank you. Now, would you tell me and
7035 explain for the record how you and your staff have already

7036 stated fuel economy goals of 50 to 62 miles per gallon before
7037 the information and analysis that is available to complete
7038 that process has been made available to the commission?

7039 Mr. {Goldstene.} Congressman, we have made a public
7040 commitment just recently that we are going to wait to propose
7041 our rule until the beginning of September, which is the same
7042 time that DOT and EPA will propose their rules. We have not
7043 made any public announcements that we have chosen or
7044 predecided what the standard should be. We have been
7045 discussing a range of standards in public workshops, and I
7046 think that is maybe where you are hearing that.

7047 Mr. {Dingell.} So what you are telling me is, you have
7048 stated the fuel economy goals are going to be 50 to 62 miles
7049 per gallon before you have gotten the information and the
7050 analysis necessary to complete the process. Is that right?

7051 Mr. {Goldstene.} No, sir, that is not what I am saying.
7052 I am saying that--

7053 Mr. {Dingell.} Well, what are you telling me then,
7054 please?

7055 Mr. {Goldstene.} What I am saying that is that we are
7056 working with DOT and EPA on a series of studies. We are
7057 waiting to complete those studies, which are going through
7058 peer review, and we will use all the information--

7059 Mr. {Dingell.} I only have 34 seconds here.

7060 Mr. {Goldstene.} Sorry.

7061 Mr. {Dingell.} Have you gotten the information and the
7062 scientific work done to support those numbers? Yes or no.

7063 Mr. {Goldstene.} We have a lot of information that is
7064 being peer reviewed.

7065 Mr. {Dingell.} Do you have the information that would
7066 support that statement in proper form to stand a judicial
7067 review?

7068 Mr. {Goldstene.} We may. It depends on what the final
7069 peer-reviewed studies say and what we--

7070 Mr. {Dingell.} Thank you very much.

7071 Mr. {Goldstene.} --propose as a regulation with DOT and
7072 EPA.

7073 Mr. {Dingell.} We had a little trouble getting the
7074 answer but I do thank you for your kindness. Now, does CARB
7075 conduct analysis on job impact and economic consequences of
7076 the standards that it is considering?

7077 Mr. {Goldstene.} Yes.

7078 Mr. {Dingell.} Would you please submit that analysis on
7079 the fuel efficiency standards that you are suggesting for
7080 purposes of the record, please?

7081 Mr. {Goldstene.} We would be happy to. We haven't
7082 completed them for the new set of standards. We have them
7083 for the prior standards.

7084 Mr. {Dingell.} Now, would you tell us about the extent
7085 of CARB's safety expertise? What safety expertise do you
7086 have? Do you have any responsibility under the California
7087 statutes to deal with the question of safety or not?

7088 Mr. {Goldstene.} No, but that is why we are working
7089 with DOT.

7090 Mr. {Dingell.} Thank you.

7091 Mr. {Goldstene.} And we have jointly funded a study on
7092 this issue.

7093 Mr. {Dingell.} Thank you very much. Now, 2 days ago,
7094 CARB sent letters to the CEOs of all the automobile alliance
7095 asking them to distance themselves from the alliance's
7096 complaint in a letter to Chairman Darrell Issa that the CARB
7097 was moving unilaterally forward in regulatory process. CARB
7098 disputes that claim by saying, ``We recently issued a joint
7099 statement with EPA and NHTSA promising that we would release
7100 proposals for the next set of GHG standards and NHTSA's on
7101 the same date September 1, 2011.'' Now, yes or no, isn't it
7102 true that CARB made a joint statement on timing with EPA and
7103 NHTSA only after the alliance sent the aforementioned letter
7104 to Chairman Issa and only after CARB received a letter and
7105 only after the Obama Administration in response to the letter
7106 asked CARB to stop getting out in front of the federal
7107 process? Yes or no.

7108 Mr. {Goldstene.} There is a lot of questions there. We
7109 have been working with EPA, DOT and the White House on the
7110 next round of standards, and all along we have been making
7111 public statements and commitments that we would not get out
7112 ahead of our partners at EPA and NHTSA.

7113 Mr. {Dingell.} Let me read this again. Two days ago,
7114 CARB sent letters to CEO members of the auto alliance asking
7115 them to distance themselves from the alliance's complaint in
7116 a letter to Chairman Darrell Issa that the CARB was moving
7117 unilaterally forward in the regulatory process. Is that true
7118 or false?

7119 Mr. {Goldstene.} We sent a letter to the CEOs--

7120 Mr. {Dingell.} Good.

7121 Mr. {Goldstene.} --saying--being critical of the
7122 alliance letter to Congressman Issa. Yes.

7123 Mr. {Dingell.} The answer to that is yes. Please, I
7124 have limited time. Now, CARB disputes that claim by saying,
7125 ``We recently issued a joint statement with EPA and NHTSA
7126 promising that we would release proposals for the next set of
7127 GHG standards and NHTSA's on the same date September 1,
7128 2011.'' Is that true?

7129 Mr. {Goldstene.} That is true.

7130 Mr. {Dingell.} Okay. Now--

7131 Mr. {Goldstene.} But that is not new. That was just

7132 putting in writing what we have been saying all along.

7133 Mr. {Dingell.} Please. May I continue?

7134 Mr. {Goldstene.} Yes, sir.

7135 Mr. {Dingell.} Isn't it true that CARB made the joint
7136 statement on timing with EPA and NHTSA only after the
7137 alliance sent the aforementioned letter to Chairman Issa and
7138 only after CARB received the letter and only after the Obama
7139 Administration in response to the letter asked CARB to stop
7140 getting in front of the federal process?

7141 Mr. {Goldstene.} It is true that we sent the letter
7142 after the alliance sent their letter.

7143 Mr. {Dingell.} Thank you. Now, would you tell us if it
7144 is your view that global warming problems should be dealt
7145 with under the Clean Air Act or is there a better way of
7146 dealing with it?

7147 Mr. {Goldstene.} The Clean Air Act is the tool we have,
7148 the tool that EPA has.

7149 Mr. {Dingell.} But is it going to be simple and easy to
7150 do? Is it going to be relatively free from litigation and
7151 questions or is it going to be a very complex grind where you
7152 will have a number of different options and might wind up
7153 with quite different standards for different things in
7154 different States?

7155 Mr. {Goldstene.} I think that the EPA is hoping to

7156 avoid that by using their power under the Clean Air Act.

7157 Mr. {Dingell.} I know, but are they going to be able
7158 to, in your opinion?

7159 Thank you, Mr. Chairman.

7160 Mr. {Goldstene.} I think there is a way to make sure
7161 that you make the rules as easy to understand nationally as
7162 possible, and we have proven that over and over again through
7163 the adoption of our clean car standards in California that
7164 get adopted then by other states and ultimately the federal
7165 government.

7166 Mr. {Whitfield.} I recognize the gentleman from
7167 Michigan for 5 minutes.

7168 Mr. {Dingell.} You have been very kind, Mr. Chairman.
7169 Thank you.

7170 The {Chairman.} Thank you, Mr. Chairman. I will
7171 confess that several years ago I voted against cloning, and
7172 days like today, I wonder why as I have been in a number of
7173 different events and I was sad to miss the testimony by all
7174 of you during this panel, but I have a couple of questions.

7175 Dr. Thorning, you indicated--and I talked to the earlier
7176 panels, in Michigan these regulations have been predicted to
7177 reduce our GDP by \$18 billion, destroy 96,000 jobs, reduce
7178 household incomes by nearly \$1,600. In your testimony, I
7179 believe, or in response to a question, you talked about a

7180 model that showed by 2014 that \$25 to \$75 billion decrease in
7181 capital investment would in fact result in an economy-wide
7182 job loss of somewhere between 476,000 and 1.4 million when
7183 direct and indirect and induced effects are included, and as
7184 a result, GDP would be \$47 billion to \$141 billion less in
7185 2014. Can you expound a little bit about how you came up with
7186 those numbers?

7187 Ms. {Thorning.} Yes. Looking at the regulated
7188 industries that are initially going to come under EPA's
7189 regulations, we concluded that those represented about--that
7190 the investment in those industries normally represents about
7191 25 percent of all U.S. investment on an annual basis, and
7192 then we did some research on how the risk premium for
7193 investment in those industries might be impacted by the
7194 uncertainty surrounding EPA regulations, the tailoring rule,
7195 whether it will stand, you know, so forth, and we concluded
7196 that the risk premium probably would increase between 30 and
7197 40 percent for those industries. Therefore, if those
7198 industries represent approximately 25 percent of all
7199 investment, we concluded that that would represent looking at
7200 historical data a decrease in investment of between \$25
7201 billion a year and \$75 billion a year.

7202 Now, remember that, you know, overall gross private
7203 domestic investment is like \$1.7 trillion, so we thought that

7204 was a pretty conservative estimate and we used a conservative
7205 estimate of the elasticity of response to investment to
7206 changes in the cost of capital, and we ran through that the
7207 IMPLAN model, which is a near-term model good for short-term
7208 predictions, not good for long-term predictions, it produced
7209 results with the direct, the induced and the ancillary
7210 impacts of nationwide job reduction compared to the baseline
7211 forecast of between 476,000 fewer jobs to as many as 1.4
7212 million fewer jobs in the year 2014, and of course, some
7213 industries are more impacted than others, and GDP of
7214 approximately \$47 billion smaller to \$141 billion smaller,
7215 and this is just targeting these industries right now that
7216 are impacted and, you know, the large ones that are included
7217 in EPA's current regulatory regime.

7218 The {Chairman.} Thank you.

7219 Mr. Goldstene, in announcing his new Executive Order on
7220 regulations, President Obama cited one national program as a
7221 good example of eliminating a tangle of regulations. The
7222 tangle was the result of three different agencies--NHTSA, EPA
7223 and CARB--trying to regulate basically the same thing. One
7224 national program eliminated the tangle for 2012 through 2016
7225 by getting EPA and NHTSA to coordinate with each other and by
7226 California agreeing to defer to the federal regulations. It
7227 now appears that for 2017 and beyond, we are in the process

7228 of re-creating the tangle that the one national program
7229 eliminated since California is planning to promulgate a new
7230 set of GHG regs. Why shouldn't it be that California agree
7231 that from now on there will be a national program consisting
7232 of NHTSA and EPA regulations only? Why does California need
7233 to duplicate or move forward with a different plan?

7234 Mr. {Goldstene.} Mr. Upton, as you know, California has
7235 a special mention in the Clean Air Act because our air
7236 quality problems have been so severe over the years and they
7237 are still severe in certain areas of the State like in Los
7238 Angeles and the central valley. So from the perspective of a
7239 State that still has significant air quality problems, we
7240 have to fight to keep our authority to promulgate the rules
7241 that are needed to protect the public health, and these
7242 vehicle standards are one of the ways that we do that. We
7243 are sometimes or often joined by other States under section
7244 177 that can use our rules if they choose to and that
7245 sometimes creates what the auto industry had called a
7246 patchwork quilt, but the fact is, at most you would only have
7247 two standards, and over the past 40 years what we have seen
7248 over and over again is that if the two standards become one
7249 relatively quickly, and that is what just happened with the
7250 2012-2016 standards, and this time unlike before, we are
7251 working very closely with EPA and DOT, using the same

7252 information, relying on the same peer-reviewed studies, and
7253 working hand in hand on developing and designing our rules.
7254 They may come out slightly differently. Our process is
7255 slightly shorter, so we may complete our process before EPA
7256 and NHTSA finish their processes but we are fully committed
7257 to harmonizing them as soon as they are done.

7258 Mr. {Whitfield.} Ms. Capps, you are recognized for 5
7259 minutes.

7260 Mrs. {Capps.} Thank you, Mr. Chairman, and I want to
7261 start out, I have questions for you, Mr. Goldstene, and also
7262 one for Dr. Goldman, and as someone who represents a district
7263 in California where we can look out to see whether the brown
7264 haze is coming up from the L.A. basin on certain days and
7265 have lived there long enough to notice the rise as a former
7266 school nurse of school-age asthma and being aware that there
7267 were certain days in the L.A. basin when frail adults were
7268 told to stay inside and kids couldn't go out on the
7269 playground. That is one of the special things about living
7270 in our State and why I am so appreciative of the work that
7271 you as Executive Officer of the California Air Resources
7272 Board, or CARB, and I want to tell you, I appreciate the
7273 regulation of the marine vessels, which have added a great
7274 deal to their air quality in my part of the State and all
7275 along the coastal areas.

7276 You have some--we have been hearing today about the fact
7277 that addressing climate change will destroy the economy. You
7278 have some practical experience because California is well
7279 underway in implementation of a State law to conduct carbon
7280 pollution. Can we cut carbon pollution, Mr. Goldstene,
7281 without harming the economy? In a few words.

7282 Mr. {Goldstene.} Yes, we can. We have also run
7283 economic analysis like the kind that Dr. Thorning described
7284 using macroeconomic models, and we have used a model called
7285 EDRAM and BEAR. I am sure Dr. Thorning knows those models.
7286 And what we have shown overall in the California economy is
7287 there is a very slight net positive with climate regulations
7288 under our plan economically.

7289 Mrs. {Capps.} Thank you. And a very brief assessment
7290 of how workable EPA's approach is.

7291 Mr. {Goldstene.} I think it is very workable. I have
7292 been here all day, and I have seen the complaints, but the
7293 fact is, I think most of the claims and worry while the worry
7294 is real, I think when you look at the specific details, for
7295 instance, the cost of capital, the cost of capital is
7296 influenced by many, many factors, not just by the possibility
7297 of a regulation.

7298 Mrs. {Capps.} And you are also a member of the board of
7299 directors for the National Association of Clean Air Agencies.

7300 Mr. {Goldstene.} Yes.

7301 Mrs. {Capps.} Just a couple words on your understanding
7302 of whether other States are finding EPA's approach to be
7303 workable as you talk with people from other States.

7304 Mr. {Goldstene.} Yes. There are many States that are
7305 embracing EPA's process and effort. Of course, there are
7306 States that are also concerned about it but I think on the
7307 whole--

7308 Mrs. {Capps.} Overall, are we moving in the right
7309 direction?

7310 Mr. {Goldstene.} Overall, it is moving in the right
7311 direction, but I do think people in other States, my
7312 colleagues and the governors in many other States see the
7313 potential for the great economic innovation that can come
7314 from this and job creation that can come from this kind of
7315 rulemaking.

7316 Mrs. {Capps.} Thank you, Mr. Goldstene.

7317 Dr. Goldman, I recently heard a story about back when
7318 the Clean Air Act was first being debated on the House Floor.
7319 One Congressman quoted a mayor, and this is the quote: ``If
7320 you want to make this town grow, it has got to stink.'' I
7321 think that has been proven wrong. Our economy has not
7322 shriveled over these past years of trying to improve the air
7323 quality. Instead, the GDP has grown 207 percent. My

7324 question to you representing, as you do, the American Public
7325 Health Association, can you please share with us the health
7326 benefits and really the economic benefits as a result of
7327 responsible limits to greenhouse gases, the approach the EPA
7328 is taking?

7329 Dr. {Goldman.} The benefits are potentially quite
7330 enormous, and what we are looking at in terms of threats from
7331 climate change have to do with health impacts from adverse
7332 weather events like flooding and drought, adverse health
7333 impacts from dirty air, and also adverse health impacts from
7334 changing the distribution of disease-bearing vectors like
7335 insects and rodents, and these are all enormous threats. I
7336 think the most immediate ones that we are seeing have to do
7337 with the increasing frequency of severe weather events which
7338 have a major impact on people's health.

7339 Mrs. {Capps.} And with that, I am going to yield back
7340 the balance of my time.

7341 Mr. {Whitfield.} Thank you, Ms. Capps.

7342 Mr. Scalise, you are recognized for 5 minutes.

7343 Mr. {Scalise.} Thank you, Mr. Chairman. First a
7344 question for Mr. Nelson with Farm Bureau. I appreciate you
7345 being here to discuss the importance of the impact of
7346 greenhouse gas regulations and how they would impact
7347 specifically the agriculture industry. I know you know the

7348 essential role that the agriculture industry plays in
7349 America's way of life but also especially as it relates to
7350 our economy and the small businesses that are such the heart
7351 of the agriculture industry. I represent a part of southeast
7352 Louisiana. We have a larger presence of dairy farmers, in my
7353 district, and really concerned about the impact that EPA
7354 regulations would have on these small businesses, you know,
7355 especially as Administrator Jackson has talked about
7356 potentially down the road doing some things there. The dairy
7357 industry in Louisiana contributes about \$115 million to
7358 Louisiana's economy, and those proposed EPA regulations would
7359 devastate many of these small businesses who literally are
7360 operating on the margins. I think you were here when the
7361 Administrator was giving her statements, but since the EPA
7362 Administrator has left the door open to regulation of the
7363 agriculture industry, can you speak specifically to how it
7364 would potentially affect especially those small dairy farms
7365 in districts like mine and yours in Illinois and throughout
7366 the country?

7367 Mr. {Nelson.} Well, really I would address it two
7368 different ways. You have to look at the livestock industry
7369 and what is being proposed or thrown out there in regards to
7370 a Title V permit if isn't reclassified. It will have a
7371 tremendous impact on the dairy industry. I think the numbers

7372 that we are looking at, you know, are \$175 for a dairy cow,
7373 which you just cannot make any money--

7374 Mr. {Scalise.} But it would cost an additional \$175 per
7375 dairy cow if those EPA restrictions were put in place?

7376 Mr. {Nelson.} That is correct.

7377 Mr. {Scalise.} Gee, whiz.

7378 Mr. {Nelson.} And not only that, then you look at the
7379 production side of things as Congressman Shimkus alluded to,
7380 the threats are out there as far as dust permits. We have
7381 got a couple States right now that can't even deal with the
7382 dust standards as it is proposed today, let alone try to make
7383 those twice as stringent as what we are hearing coming out of
7384 the Administration. So it really impacts a number of facets
7385 of agriculture if these regulations proceed forward and are
7386 put in place.

7387 Mr. {Scalise.} And that seems to actually go in sync
7388 with some of the statements that were made on the previous
7389 panel. Mr. Alford, who is the President and CEO of the
7390 National Black Chamber of Commerce, had given some testimony
7391 and he talked about a number of impacts, and they had done a
7392 study, and one thing he looked at, on the poorest 20 percent
7393 of our population, he said this kind of scheme by EPA would
7394 increase the cost of home energy by 45 percent, motor fuel by
7395 25 percent, and he said it would also increase groceries by

7396 35 percent on our Nation's poorest families. So can you
7397 talk about, especially from the agriculture industry, what
7398 would the impact of a 35 percent increase in food prices on
7399 our poorest families in this country have?

7400 Mr. {Nelson.} Right now, consumers have probably the
7401 best bargain in the entire world where we spend about 10
7402 cents out of every disposable dollar for food. You look at
7403 Japan and some of the other developed countries that do have
7404 regulatory frameworks that could parallel some of the things
7405 that are being proposed by this Administration, so you could
7406 easily make the case of doubling what we pay for food.

7407 Under Waxman-Markey, we had a lot of sensitivity with
7408 that bill as it related to what it would do to food prices,
7409 what it would do to energy prices if you didn't sight the
7410 nuclear power plants, if you took almost 59 million acres out
7411 of production, row crop agriculture, what that would do to
7412 the consumer and the grocery store. So, you know, it is
7413 going to have a dramatic impact if indeed we don't use some
7414 common sense to try to look at a regulatory framework that is
7415 workable without really impacting our industry to the degree
7416 that--

7417 Mr. {Scalise.} Thank you. And I know we are trying to
7418 get EPA to look at the job loss impact of all of the things
7419 that they are doing in these regulations but I would be

7420 curious to see if EPA is going to do an impact on the lives
7421 that would be lost if you had a 35 percent increase in the
7422 food that our poorest families by where you literally would
7423 be taking food of the table of American families because of
7424 these regulations on the agriculture industry.

7425 Ms. Thorning, I know I am running low on time but Ms.
7426 Thorning, I am not sure if you had seen the study that we
7427 have seen on the Spain experiment with this kind of, you
7428 know, this cap-and-trade scheme where they regulate and they
7429 talked about all the green jobs that I would create, and of
7430 course it turned out in Spain after they looked at it, all of
7431 the promises of those new jobs turned out to be a mirage and
7432 they ended up losing two jobs for every job they created and
7433 in fact for each new job they created, only 10 percent were
7434 actually permanent jobs, so in essence, you lost 20 full-time
7435 jobs for every real job that you created in this industry.
7436 Have you looked at any of those studies?

7437 Ms. {Thorning.} Yes, I have seen that study. There is
7438 also one done by a German think tank that looks at the cost
7439 of solar energy and electricity prices in Germany. There is
7440 one in Denmark that shows the same thing. The issue is, when
7441 you substitute more expensive energy for cheaper energy, you
7442 might gain some jobs in that sector, you know, the green
7443 energy sector but you are going to lose them overall because

7444 you are making other products, other producers pay a lot more
7445 for energy, and that finding is mirrored in the work that
7446 groups like ours have done with the Department of Energy's
7447 own NIMS model analyzing Waxman-Markey, Kerry-Lieberman. We
7448 always get some more green jobs because, you know, we are
7449 forcing quicker uptake of energy efficiency but overall the
7450 macro models show job loss, and that is a similar conclusion
7451 that you have got--

7452 Mr. {Scalise.} Thank you, and I yield back, Mr.
7453 Chairman.

7454 Mr. {Whitfield.} Mr. Doyle, you are recognized for 5
7455 minutes.

7456 Mr. {Doyle.} Thank you, Mr. Chairman. First, let me
7457 commend you and the ranking member for your stamina and the
7458 panel for your patience, and welcome to all of you. I want
7459 to especially welcome Fred Harnack from U.S. Steel. Just by
7460 way of full disclosure, Fred and I go back quite a bit. He
7461 started out at Edgar Thompson, where my father worked for 30
7462 years. Then over to the Homestead Works plant, an urban
7463 plant in West Mifflin and Mon Valley Works, and Fred probably
7464 has an incredible knowledge of my Congressional district and
7465 the steel industry, which are two things that I hold near and
7466 dear to my heart, and I suspect that we were both crying in
7467 our Iron City beers a little bit on Sunday after that game

7468 was over, but Fred, it is good to have you here.

7469 You know, I follow the steel industry's performance
7470 closely, and I am certainly aware of the current difficulties
7471 that integrated steel mills face. We know the cost of raw
7472 materials has gone up greatly and that continues to affect
7473 the performance of manufacturers, and also it is an industry
7474 that is uniquely affect by it has international trade
7475 pressures too. This is why as we were trying to develop a
7476 comprehensive energy bill, that we were particularly
7477 sensitive about those things and tried to put language in the
7478 bill that would address some of the pressures that industries
7479 like steel had that were carbon intensive but had trade
7480 pressures too.

7481 On the earlier panel, I talked to Administrator Jackson
7482 and I asked her how this new greenhouse gas permitting
7483 process would affect facilities like steel mills, and Fred, I
7484 wonder if you can tell me right now what capacity U.S. Steel
7485 is currently operating at?

7486 Mr. {Harnack.} Presently we are probably somewhere
7487 between 75 and 80 percent. We do have one plant idled and a
7488 number of other facilities are not as full as we would like
7489 them to be.

7490 Mr. {Doyle.} So, you know, all of us are hoping that
7491 the industry reaches a point where you are able to ramp up to

7492 100 percent of our operating capacity but assuming you were
7493 able to ramp up to 100 percent of your operating capacity,
7494 would U.S. Steel be required to apply for a greenhouse gas
7495 permit to cover the increased activity?

7496 Mr. {Harnack.} Presently, we are doing the greenhouse
7497 gas report that is required. We only need to file for the
7498 permits that are above the threshold, and right now that
7499 exists only in our expansion plans in our Minnesota ore
7500 operations. The balance of the facilities are permitted for
7501 the capacity that we publish, and there would not be any
7502 additional needs to permit for that at this time.

7503 Mr. {Doyle.} Right. So in other words, any existing
7504 facility right up to your full capacity, you wouldn't be
7505 affected by this, only if you had an addition, if you put up
7506 a new plant or if you expanded a current facility and got
7507 over that limit that would require a permit?

7508 Mr. {Harnack.} That is right, based on the present
7509 regulatory requirements.

7510 Mr. {Doyle.} So your plants that are currently
7511 operating in the United States, are any of them going to have
7512 to apply for renewals under their Title V permits for non-
7513 greenhouse gas air pollutants under the Clean Air Act?

7514 Mr. {Harnack.} There is--yes, we do have periodic
7515 permit renewals. Actually we are working on two in Allegheny

7516 County right now as well as have just recently obtained them
7517 in our Alabama operation.

7518 Mr. {Doyle.} Now, when you apply for these renewals,
7519 will your new permit have to include any pollution controls
7520 for greenhouse gases?

7521 Mr. {Harnack.} We will be required to provide all the
7522 regulatory information and regulatory requirements as it
7523 develops, you know, by the EPA and the government.

7524 Mr. {Doyle.} So you have to report your emissions but
7525 you are not required to implement any new control
7526 technologies as long as you are not expanding your current
7527 capacity?

7528 Mr. {Harnack.} Only on the newly permitted facilities
7529 that are above the threshold.

7530 Mr. {Doyle.} So as we speak today, even though you are
7531 going through Title V permit renewals, this would not require
7532 you in your existing facilities other than to report to EPA
7533 wouldn't require you to implement any new control
7534 technologies?

7535 Mr. {Harnack.} That is right.

7536 Mr. {Doyle.} So it seems to me as we look at these
7537 rules and, you know, today we are focusing--I mean, this rule
7538 focuses primarily under the tailoring provision coal-fired
7539 and fossil-fired utility plants and oil refineries. Right

7540 now this has no direct impact on the steel industry unless
7541 you would put up a new plant or expand an existing plan. Is
7542 that correct?

7543 Mr. {Harnack.} Based on the present language on the
7544 greenhouse gas requirements but there are other requirements
7545 coming out from EPA that are going to require substantial
7546 modifications.

7547 Mr. {Doyle.} Right, but we are focused today and this
7548 bill focuses on the GHG emissions, not other things. That is
7549 what this focus is.

7550 Mr. {Harnack.} Right.

7551 Mr. {Doyle.} Okay. Thank you very much, Mr. Chairman.
7552 I see I have 8 seconds, and I will yield it back.

7553 Thanks, Fred.

7554 Mr. {Whitfield.} Thank you. Mr. Gardner, you are
7555 recognized for 5 minutes.

7556 Mr. {Gardner.} Thank you, Mr. Chairman, and again,
7557 thank you to the witnesses for being here today.

7558 And Mr. Nelson, I would like to direct this question to
7559 you. In my conversation with Administrator Jackson on
7560 agriculture and agriculture's exemption so what she phrased
7561 it as from this going until 2013, what happens after 2013?

7562 Mr. {Nelson.} Well, that is the good question that
7563 probably needs to be asked because the rules have not been

7564 put into place so there is a lot of speculation as to where
7565 we will be as it gets to that time frame.

7566 Mr. {Gardner.} And so as of 2013 and beyond, this very
7567 well may be a situation where EPA comes in and starts
7568 requiring more permits in agriculture.

7569 Mr. {Nelson.} We believe that that probably will be the
7570 case, I can tell you, and we are not talking about the Clean
7571 Water Act today but just as a for instance, the amount of
7572 regulations that are coming out with nutrient management
7573 plans, MPDES permits, numeric standards, there is a whole
7574 tidal wave of regulatory challenges staring us in the face,
7575 so I think we would expect more of that.

7576 Mr. {Gardner.} And particularly too the greenhouse gas
7577 emissions regulation, and it goes a little bit to the
7578 question directed to Mr. Harnack as well. Costs of direct
7579 regulations, the indirect costs versus direct costs. When we
7580 say that agriculture--when Administrator Jackson says that
7581 agriculture is exempt, your energy costs will increase as a
7582 result of GHG, correct?

7583 Mr. {Nelson.} Yes.

7584 Mr. {Gardner.} The cost of fertilizer will increase as
7585 a result of regulation, correct?

7586 Mr. {Nelson.} Yes.

7587 Mr. {Gardner.} The cost of farm equipment will increase

7588 as a result of the regulation?

7589 Mr. {Nelson.} Yes.

7590 Mr. {Gardner.} Mr. Harnack, will you see costs increase
7591 as a result of the GHG regulation?

7592 Mr. {Harnack.} Yes, we will.

7593 Mr. {Gardner.} And so there are costs that you are
7594 facing whether direct or indirect which goes directly to your
7595 ability to create new jobs in the steel industry or to expand
7596 farms to future generations. Is that correct?

7597 Mr. {Nelson.} That is right.

7598 Mr. {Gardner.} And to Dr. Thorning, I don't know how
7599 familiar you are with the economy of California, but based on
7600 your experience as an economist, what you have seen in the
7601 State of California, the fact that 650 CEOs have said that it
7602 is the least desirable place to do Business, some of the
7603 regulations that we have seen, is California the kind of
7604 business model job creation market that we would like to
7605 export to the rest of the country?

7606 Ms. {Thorning.} I think one would have to look very
7607 carefully at what the impact of AB32 may have had on
7608 companies' desires to stay and manufacture in California. I
7609 think you have to look at the size of their budget deficit,
7610 their very high unemployment rate, their, you know, low
7611 relatively difficulty in the housing market. I don't think

7612 California is a poster child for how we want to go forward.

7613 Mr. {Gardner.} Mr. Goldstene, do you think California
7614 is a jobs creation model for the rest of the United States?

7615 Mr. {Goldstene.} I think there are many aspects of what
7616 is going on in California that should be copied by other
7617 States. We are the technology leader in the country. We are
7618 seeing a huge spike in investment since the passage of AB-32.
7619 People are coming here looking to have us move forward on our
7620 rules, provide the certainty that businesses want and also
7621 provide the certainty that creative, inventive Americans have
7622 proven over and over again to come up with the great ideas
7623 that are adopted here and other places.

7624 Mr. {Gardner.} Dr. Thorning, will the investments that
7625 are required to comply with these kind of regulations,
7626 greenhouse gas regulations, to produce these kinds of jobs,
7627 will they produce enough jobs in the green industry to offset
7628 the jobs lost elsewhere?

7629 Ms. {Thorning.} Well, I think it is highly unlikely
7630 because you are making investments that don't really add
7631 anything to the bottom line. They are being made, you know,
7632 to reduce greenhouse gases. So that is money that can't go
7633 into productivity enhancement investments.

7634 Mr. {Gardner.} So the bottom line is, does this
7635 regulation that we have been dealing with, what this bill

7636 deals with, does it affect our ability to be competitive
7637 globally?

7638 Ms. {Thorning.} I think it does in a negative fashion.

7639 Mr. {Whitfield.} Mr. Griffith, you are recognized for 5
7640 minutes.

7641 Mr. {Griffith.} Mr. Chairman, I just want to thank all
7642 the folks here for going through the day with us. I was not
7643 up here the whole time. At 4 o'clock I finally decided that
7644 I had to break down and eat something, so I went out in the
7645 other room and I was listening to your testimony, and I
7646 appreciate you all being here. I think all the questions
7647 have been asked, Mr. Chairman, so I yield my time back to the
7648 Chair.

7649 Mr. {Whitfield.} Thank you, Mr. Griffith. I want to
7650 thank all of you once again for your valuable testimony and
7651 your time, and we all have a lot of challenges before us. We
7652 don't agree on everything but that is what America is all
7653 about, so hopefully from hearings like this we can craft the
7654 best policies to move forward. So thank you very much.

7655 Mr. {Rush.} Mr. Chairman, before we adjourn, first of
7656 all, I want to thank all the witnesses on this panel and all
7657 the witnesses that preceded this panel, and I certainly want
7658 to let them know that they have really enlightened us. I
7659 haven't agreed on most of the testimony but at least I feel

7660 as though I am better informed, so I really appreciate the
7661 investment of your time. Thank you so very much.

7662 And before we adjourn, I do have an unanimous consent
7663 request but I guess you can dismiss the panel first. They
7664 don't want to hear a unanimous consent request.

7665 Mr. {Whitfield.} Well, without objection, we will--

7666 Mr. {Rush.} I have--

7667 Mr. {Whitfield.} I hate for them to leave before we
7668 leave.

7669 Mr. {Rush.} Well, I just have an unanimous consent
7670 request that statements and letters from the following
7671 organizations be placed in the record: the American
7672 Sustainable Business Council, the Calpine Corporation, the
7673 National Council of Churches, 68 faith communities throughout
7674 this Nation, the Natural Resources Defense Council, the
7675 Northeast States for Coordinated Air Use Management, the
7676 Truman National Security Project, the Union of Concerned
7677 Scientists, who also sent a letter that was also signed by
7678 2,505 scientists and economists, and lastly, yesterday's
7679 letter from Mr. Waxman to Mr. Upton.

7680 Mr. {Whitfield.} And then we would like to enter this
7681 record from the National Association of Realtors, so without
7682 any objection, so ordered.

7683 [The information follows:]

7684 ***** COMMITTEE INSERT *****

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7685 Mr. {Whitfield.} The members will have 10 days to
7686 submit any questions for the record, and the record will be
7687 open for 30 days. Thank you.

7688 [Whereupon, at 5:26 p.m., the Subcommittee was
7689 adjourned.]