

*John M. Cochran*

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Sen. Blunt  
Sen. Johanns  
Sen. Cochran  
6-9-11  
12:21  
~~12:21~~

Purpose: To provide for the establishment of a committee to assess the effects of certain Federal regulatory mandates.

IN THE SENATE OF THE UNITED STATES—112th Cong., 1st Sess.

**S. 782**

T	<b>AMENDMENT NO</b>	<b>438</b>	ent
Ac	By <u>Inhofe</u>		poses.
Re	To: _____		and
	<u>S. 782</u>		
	<u>17</u>		
A	<b>Page(s)</b>		

GPO: 2010 68-070 (mac)

Viz.:

1 At the end, add the following:

2 **TITLE II—REGULATORY**  
3 **ASSESSMENT**

4 **SEC. 201. SHORT TITLE.**

5 This title may be cited as the “Comprehensive As-  
6 sessment of Regulations on the Economy Act of 2011”.

7 **SEC. 202. DEFINITIONS.**

8 In this title:

9 (1) ADMINISTRATOR.—The term “Adminis-  
10 trator” means the Administrator of the Environ-  
11 mental Protection Agency.

1           (2) COMMITTEE.—The term “Committee”  
2 means the Cumulative Regulatory Assessment Com-  
3 mittee established by section 203(a).

4           (3) FEDERAL REGULATORY MANDATE.—The  
5 term “Federal regulatory mandate” means any reg-  
6 ulation, rule, requirement, or interpretative guidance  
7 that—

8                   (A) is promulgated or issued (or is ex-  
9 pected to be initiated) by the Administrator or  
10 a State or local government during the period  
11 beginning on January 1, 2010, and ending on  
12 January 1, 2020;

13                   (B) applies to 1 or more impacted units;  
14 and

15                   (C) implements any provision or require-  
16 ment relating to—

17                           (i) interstate or international trans-  
18 port of air pollution under section  
19 110(a)(2)(D), 115, or 126(b) of the Clean  
20 Air Act (42 U.S.C. 7410(a)(2)(D), 7415,  
21 7426(b)) with respect to any national am-  
22 bient air quality standard, including—

23                                   (I) any standard that has been  
24 promulgated or proposed before July  
25 1, 2011; and

1 (II) any new or revised standard  
2 for ozone or fine particulate matter  
3 that, as of the date of enactment of  
4 this Act, is currently under review or  
5 development by the Administrator;  
6 and

7 (ii) the attainment, or maintenance of  
8 attainment, of any national ambient air  
9 quality standard, including—

10 (I) any new or revised standard  
11 for ozone or fine particulate matter  
12 that, as of the date of enactment of  
13 this Act, is currently under review or  
14 development by the Administrator;  
15 and

16 (II) any other standard that has  
17 been promulgated or proposed before  
18 July 1, 2011;

19 (iii) new source performance stand-  
20 ards under section 111 of the Clean Air  
21 Act (42 U.S.C. 7411), including any stand-  
22 ards under subsection (d) of that section;

23 (iv) hazardous air pollutants under  
24 section 112 of the Clean Air Act (42  
25 U.S.C. 7412);

1 (v) greenhouse gas emissions under ti-  
2 tles I, II, and V of the Clean Air Act (42  
3 U.S.C. 7401 et seq.), including the require-  
4 ments for—

5 (I) new source performance  
6 standards under section 111 of the  
7 Clean Air Act (42 U.S.C. 7411), in-  
8 cluding any standards under sub-  
9 section (d) of that section; and

10 (II) preconstruction review per-  
11 mits under section 165 of the Clean  
12 Air Act (42 U.S.C. 7475);

13 (vi) cooling water intake structures  
14 under section 316(b) of the Clean Water  
15 Act (33 U.S.C. 1326(b));

16 (vii) effluent guidelines for regulating  
17 the discharge of pollutants under section  
18 304 of the Clean Water Act (33 U.S.C.  
19 1314);

20 (viii) the handling and disposal of coal  
21 combustion residuals under subtitle C or D  
22 of the Solid Waste Disposal Act (42  
23 U.S.C. 6921 et seq.);

1 (ix) the regulation of fuels under title  
2 II of the Clean Air Act (42 U.S.C. 7521  
3 et seq.);

4 (x) regional haze or reasonably attrib-  
5 utable visibility impairment under section  
6 169A or section 169B of the Clean Air Act  
7 (42 U.S.C. 7491, 7492); and

8 (xi) any other environmental regula-  
9 tions expected to have a significant impact  
10 on the electric power sector, the petroleum  
11 refining sector, the petrochemical produc-  
12 tion sector, pipeline facilities regulated by  
13 the Department of Transportation or the  
14 Environmental Protection Agency, explo-  
15 ration, production, or transportation of oil  
16 and natural gas, or any other manufac-  
17 turing sector.

18 (4) IMPACTED UNIT.—The term “impacted  
19 unit” means—

20 (A) any electric generating unit that sells  
21 electricity into the grid;

22 (B) any industrial, commercial, or institu-  
23 tional boiler or process heater;

1 (C) any petroleum refining facility that  
2 produces gasoline, heating oil, diesel fuel, jet  
3 fuel, kerosene, or petrochemical feedstocks;

4 (D) any petrochemical facility;

5 (E) any hydrocarbon exploration, extrac-  
6 tion, manufacturing, production, or transpor-  
7 tation facility; or

8 (F) any biofuel facility.

9 **SEC. 203. CUMULATIVE REGULATORY ASSESSMENT COM-**  
10 **MITTEE.**

11 (a) **ESTABLISHMENT.**—There is established within  
12 the Department of Commerce a Committee, to be known  
13 as the “Cumulative Regulatory Assessment Committee”.

14 (b) **COMPOSITION OF COMMITTEE.**—The Committee  
15 shall consist of the following officials (or designees of the  
16 officials):

17 (1) The Secretary of Agriculture.

18 (2) The Secretary of Commerce.

19 (3) The Secretary of Defense.

20 (4) The Chairperson of the Council of Eco-  
21 nomic Advisers.

22 (5) The Secretary of Energy.

23 (6) The Administrator.

24 (7) The Chairperson of the Federal Energy  
25 Regulatory Commission.

1 (8) The Secretary of Labor.

2 (9) The Administrator of the Office of Informa-  
3 tion and Regulatory Affairs.

4 (10) The President and Chief Executive Officer  
5 of the North American Electric Reliability Corpora-  
6 tion.

7 (11) The Chief Counsel for Advocacy of the  
8 Small Business Administration.

9 (c) LEADERSHIP; OPERATIONS.—The Secretary of  
10 Commerce shall—

11 (1) serve as the Chairperson of the Committee;  
12 and

13 (2) be responsible for the executive and admin-  
14 istrative operation of the Committee.

15 (d) IDENTIFICATION OF FEDERAL REGULATORY  
16 MANDATES.—Not later than 30 days after the date of en-  
17 actment of this Act, the Administrator shall provide to the  
18 Committee a list of Federal regulatory mandates.

19 (e) DUTIES.—

20 (1) ASSESSMENT.—

21 (A) IN GENERAL.—The Committee shall  
22 perform an assessment of the cumulative energy  
23 and economic impacts of the Federal regulatory  
24 mandates in accordance with this subsection,

1 including direct, indirect, quantifiable, and  
2 qualitative effects on—

3 (i) employment, including job levels in  
4 each segment of the economy and each re-  
5 gion of the United States, including coal-  
6 producing regions;

7 (ii) economic development, including  
8 production levels and labor demands in  
9 manufacturing, commercial, and other sec-  
10 tors of the economy;

11 (iii) the electric power sector, includ-  
12 ing potential impacts on electric reliability,  
13 energy security, and retail electricity rates;

14 (iv) the domestic refining and petro-  
15 chemical sector, including potential im-  
16 pacts on supply, international competitive-  
17 ness, wholesale and retail transportation  
18 fuels, and heating oil and petrochemical  
19 prices;

20 (v) State and local governments, in-  
21 cluding potential impacts on governmental  
22 operations and local communities from any  
23 reductions in State and local tax revenues;

24 (vi) small businesses (as defined in  
25 section 601 of title 5, United States Code),

1 including economic and regulatory impacts  
2 that could force the shutdown or limit the  
3 growth of small businesses;

4 (vii) agriculture, including economic  
5 and regulatory impacts that could force the  
6 shutdown, or limit growth or productive  
7 capacity, of the agricultural industry in the  
8 United States, including the domestic fer-  
9 tilizer manufacturing industry; and

10 (viii) energy-intensive, trade-exposed  
11 industry (as defined in North American In-  
12 dustry Classification System codes 31, 32,  
13 and 33) (including the beneficiation or  
14 processing (including agglomeration) of  
15 metal ores (including iron and copper  
16 ores), soda ash, or phosphate, petroleum  
17 refining, and petrochemicals production),  
18 including economic and regulatory impacts  
19 that could force the shutdown, or limit  
20 growth of productive capacity, of the  
21 United States manufacturing industry.

22 (B) COMPREHENSIVE ANALYSIS.—The as-  
23 sessment shall include a comprehensive anal-  
24 ysis, for the period beginning on January 1,

1           2012, and ending on December 31, 2025, of the  
2           following matters:

3                   (i) The impacted units that would  
4                   likely retire due to the cumulative compli-  
5                   ance costs of the Federal regulatory man-  
6                   dates.

7                   (ii) The amount by which average re-  
8                   tail electricity prices are forecasted to in-  
9                   crease above inflation as a result of—

10                           (I) the cumulative compliance  
11                           costs of the Federal regulatory man-  
12                           dates;

13                           (II) the retirement of electric  
14                           generating units that are impacted  
15                           units described in clause (i); and

16                           (III) other direct and indirect im-  
17                           pacts that are expected to result from  
18                           the cumulative compliance obligations  
19                           of the Federal regulatory mandates.

20                   (iii) The amount by which average re-  
21                   tail transportation fuel and heating oil  
22                   prices are forecasted to increase above in-  
23                   flation as a result of—

1 (I) the cumulative compliance  
2 costs of the Federal regulatory man-  
3 dates;

4 (II) the retirement or closure of  
5 domestic refineries that are impacted  
6 units described in clause (i);

7 (III) the likely foreign-sourced  
8 replacement for the transportation  
9 fuels and heating oil supplies loss  
10 caused by the retirements or closures  
11 identified under subclause (II); and

12 (IV) other direct and indirect im-  
13 pacts that are expected to result from  
14 the cumulative compliance obligations  
15 of the Federal regulatory mandates.

16 (iv) The amount by which average pe-  
17 trochemical prices are forecasted to in-  
18 crease above inflation as a result of—

19 (I) the cumulative compliance  
20 costs of the Federal regulatory man-  
21 dates;

22 (II) the retirement or closure of  
23 domestic petrochemical facilities that  
24 are impacted units described in clause  
25 (i);

1 (III) the likely foreign-sourced  
2 replacement for the petrochemical  
3 supplies loss caused by the retire-  
4 ments or closures identified under  
5 subclause (II); and

6 (IV) other direct and indirect im-  
7 pacts that are expected to result from  
8 the cumulative compliance obligations  
9 of the Federal regulatory mandates.

10 (v) The direct and indirect adverse  
11 impacts on the economies of local commu-  
12 nities that are projected to result from the  
13 retirement of impacted units described in  
14 clause (i) and increased retail electricity,  
15 transportation fuels, heating oil, and petro-  
16 chemical prices that are forecasted under  
17 clause (ii), including—

18 (I) loss of jobs, including jobs  
19 that would be lost that relate directly  
20 or indirectly to coal production or pe-  
21 troleum refining;

22 (II) reduction in State and local  
23 tax revenues;

24 (III) harm to small businesses;

25 (IV) harm to consumers;

1 (V) reduction in—

2 (aa) the production and use  
3 of coal; and

4 (bb) the domestic production  
5 of transportation fuels, heating  
6 oil, and petrochemicals in the  
7 United States; and

8 (VI) other resulting adverse eco-  
9 nomic or energy impacts.

10 (vi) The extent to which the direct  
11 and indirect adverse economic impacts  
12 identified under clause (v) can be miti-  
13 gated through the creation of additional  
14 jobs and new economic growth as a result  
15 of renewable energy projects, energy effi-  
16 ciency measures, and other such energy  
17 construction projects that are projected to  
18 be undertaken in order to meet future en-  
19 ergy demands.

20 (vii) The cumulative effects of Federal  
21 regulatory mandates on the ability of in-  
22 dustries and businesses in the United  
23 States to compete with industries and busi-  
24 nesses in other countries, with respect to

1 competitiveness in both domestic and for-  
2 eign markets.

3 (viii) The regions of the United States  
4 that are forecasted to be—

5 (I) most affected from the direct  
6 and indirect adverse impacts from the  
7 retirement of impacted units and in-  
8 creased retail electricity, transpor-  
9 tation fuels, heating oil, and petro-  
10 chemicals price, as identified under  
11 clause (v); and

12 (II) least affected from such ad-  
13 verse impacts due to the creation of  
14 new jobs and economic growth that  
15 are expected to result directly and in-  
16 directly from the energy construction  
17 projects, as identified under clause  
18 (vi).

19 (ix) The cumulative effects of the  
20 Federal regulatory mandates on the elec-  
21 tric power sector, including—

22 (I) adverse impacts on electric re-  
23 liability that are expected to result  
24 from the retirement of electric gener-  
25 ating units identified under clause (i);

1 (II) the geographical distribution  
2 of the projected adverse electric reli-  
3 ability impacts identified in subclause  
4 (I), according to the regions estab-  
5 lished by North American Electric Re-  
6 liability Corporation; and

7 (III) an assessment of whether  
8 current plans to expand electricity  
9 generation and transmission capabili-  
10 ties for each particular region can be  
11 optimized to mitigate those projected  
12 adverse reliability impacts.

13 (x) Federal, State, and local policies  
14 that have been or will be implemented to  
15 foster a transition in energy infrastructure  
16 in the United States, including those poli-  
17 cies that promote fuel diversity, affordable  
18 and reliable electricity, and energy secu-  
19 rity.

20 (2) CONSULTATION WITH STATE AND LOCAL  
21 GOVERNMENTS.—The Committee shall consult with  
22 representatives of State and local governments—

23 (A) to identify potential adverse cumulative  
24 impacts of the Federal regulatory mandates  
25 that have unique or significant repercussions

1 for each particular region of the United States;  
2 and

3 (B) to investigate opportunities and strate-  
4 gies for mitigating the adverse impacts and re-  
5 percussions identified under subparagraph (A).

6 (3) METHODOLOGY.—The Committee shall—

7 (A) use the best available information and  
8 peer-reviewed economic models in performing  
9 the cumulative regulatory impact assessment  
10 under this subsection; and

11 (B) seek public comment on the cost, en-  
12 ergy, and other modeling assumptions used in  
13 performing the assessment.

14 (4) PUBLIC NOTICE AND COMMENT.—The Com-  
15 mittee shall provide public notice and the oppor-  
16 tunity for comment on a draft cumulative regulatory  
17 impact assessment to be prepared under this sub-  
18 section.

19 (5) REPORT TO CONGRESS AND STATES.—Not  
20 later than January 1, 2012, the Committee shall  
21 submit to Congress and the Governor of each State  
22 a detailed report of the cumulative assessment per-  
23 formed under this subsection.

1 **SEC. 204. SAVINGS CLAUSE.**

2       Nothing in this title confirms, modifies, or otherwise  
3 affects the statutory authority for adopting and imple-  
4 menting the Federal regulatory mandates.