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HEARING ON EXAMINING EPA'S PROPOSED CARBON DIOXIDE EMISSIONS
RULES FROM NEW, MODIFIED, AND EXISTING POWER PLANTS

WEDNESDAY, FEBRUARY 11, 2015

U.S. SENATE

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 9:03 a.m. in room 406, Dirksen Senate Building, the Honorable James Inhofe [chairman of the committee] presiding.

Present: Senators Inhofe, Vitter, Barrasso, Capito, Crapo, Boozman, Wicker, Fischer, Rounds, Sullivan, Boxer, Carper, Cardin, Whitehouse, Merkley, Gillibrand, Booker, and Markey.

STATEMENT OF THE HONORABLE JAMES INHOFE, A UNITED STATES SENATOR
FROM THE STATE OF OKLAHOMA

Senator Inhofe. Let me get the unpopular stuff out of the way first. Let me assure my friends on the Democratic side that Senator Boxer did everything she could to change the minds of the Majority on opening statements.

Quite often, I can remember going as long as two hours on opening statements while our witnesses came from far away, had to sit and wait. Instead of that, we are going to have longer time for questions so if individuals want to combine that with opening statements, they can do that.

We are using the early bird rule. I will start with an opening statement.

Administrator McCabe, it is very nice to have you here and we are looking forward to working with you.

By mid-summer, your office plans to finalize three separate rules to reduce carbon dioxide emissions at power plants, which according to your own testimony before the House Energy and Power Subcommittee on June 19, 2014, does nothing to save us from global warming.

That is a quote I will use when it is my turn for questions so that people won't question the accuracy of that.

No one should be surprised. We have been here before. NASA's Dr. James Hansen, the father of global warming theory,

said the Kyoto Protocol will have a little effect on global temperatures in the 21st century and it would take 30 Kyotos, his words, not mine, to reduce warming.

Even when Secretary Chu contradicted Lisa Jackson in July 2009, she was the director of the EPA at that time, she honestly testified that U.S. action would not impact world CO2 levels.

You don't have to go back to that time because I asked her that question sitting right here. I said, we if we are to pass any of these cap and trade bills at that time, would this have the effect of reducing CO2 emissions worldwide? She said no, it would not because this isn't where the problem is. The problem is China, India and so forth. We all know that.

I am going to try to go through this and try to get these points across. Then we will hear from Senator Boxer.

Also, by mid-summer, Ms. McCabe, your office plans to complete the Small Business Advocacy Review, issue a model Federal Implementation Plan and evaluate literally over 5 million public comments to your proposed rules.

The agency has already missed its first statutorily required deadline to finalize its new source proposal by January 8, 2015. I am interested to learn how the EPA expects States to comply with an expedited timeline the agency could not meet.

It should not be a surprise that 31 States have now opposed the Clean Power Plan. Today is EPA's day but we will be inviting

these 31 State representatives, the ones paying for all this stuff, the stakeholders, the ones who have to comply, to a hearing.

In the meantime, we have number of problems with the proposals. I am concerned that your agency intends to impose the most expensive regulations in history, yet failed to achieve your own goals.

According to the economic consulting and analysis firm, NERA, the Clean Power Plan alone, on existing power plants, would cost \$73 billion a year and upwards of \$469 billion over the next 15 years.

It is hard to say on the new source because no one is going to be building a new coal plant. Those are the actual words of the President. He said, "If someone wants to build a coal power plan, they can. It is just that it will bankrupt them." That is clearly the intent of this.

What we are trying to do with regulation is what they have tried to do since 2002 through legislation. The first, we might remember, was the Byrd-Hagel rule in 1997. The vote on the Senate floor was 95-0 not to adopt a Kyoto type.

Then we had the McCain-Lieberman bill in 2002, another McCain-Lieberman bill in 2005, and another bill with Lieberman in 2008. Every one of them went down in defeat in the Senate. These were all Senate bills. They went down in defeat by a

greater margin.

I think you are looking at something now that we want to hear how EPA is steamrolling ahead requesting billions of dollars in proposals which States reject, which ignores the will of Congress, which relies on unreasonable assumption, costs billions of dollars, will increase our energy bill, and not impact global warming.

Senator Boxer?

[The prepared statement of Senator Inhofe follows:]

Senator Boxer. Mr. Chairman, before we start the clock, I want to respond to this idea that nobody can make opening statements except you or me.

I just think it is wrong. For 15 years, we all listened to each other. I want to lodge official opposition of the Democratic minority to limiting opening statements to the Chairman and the Ranking Member.

With the goodwill we have, I hope we can continue to talk.

Senator Inhofe. Let me respond to that before we start your clock rolling.

We talked about that in our conference. We are the majority now. I recall you saying at one time that elections do have consequences, so some of these things are subject to change.

My problem has always been many of the committees, such as the Senate Armed Services Committee, only have the Chairman and the Ranking Member making opening statements. These are large committees.

I can remember sitting as long as two hours listening to each one of us talk and we have people coming in from California and long distances away. With eight minute rounds, which are what we will have, I think each member can take half of that and use that if the member wants to. That is going to be the policy. I know you don't like it.

Senator Boxer. No, we don't like it and don't like gagging

members of this committee. I am sad about it. We have done it for 15 years. Also, part of it is, you and I get to question first.

You speak five minutes, I speak five minutes, the witness speaks, you get eight minutes, and I get eight minutes. By the time we get to our members, it is noon.

Senator Inhofe. I would probably not speak first, but go ahead.

Senator Boxer. Good. Let us start the clock.

Senator Cardin. Mr. Chairman, can I ask consent that my opening statement be included in the record?

Senator Inhofe. Sure.

[The prepared statement of Senator Cardin follows:]

The Chair. All opening statements will be made a part of the record.

Senator Boxer.

STATEMENT OF THE HONORABLE BARBARA BOXER, A UNITED STATES SENATOR
FROM THE STATE OF CALIFORNIA

Senator Boxer. Mr. Chairman, today's oversight hearing will examine the critically important steps that the Obama Administration is taking to address climate change by reducing dangerous carbon pollution from the biggest source, power plants.

They account for 40 percent of all carbon pollution released into the air and we are seeing the consequences. Let us look at the trends across the Country.

It is official. The year 2014 was the hottest year in recorded history and was earth's warmest year on record. How hot was it, 2014 was earth's warmest year on record as data shows.

Everyone can say whatever they want. They can say it is cold and it is snowing. We all know all the facts. For goodness sakes, how out of step can people be with the scientists and the people of this Country who are so far ahead?

NASA and NOAA found that in 134 years of recordkeeping, no year has been hotter around the globe than 2014. The President's proposal will enable America to lead the way to avert the most calamitous impacts of climate change such as sea level rise, dangerous heat waves and economic disruption to our farmers, to our businesses, to our tourist industry and to our people.

I often say if people cannot breathe, they cannot work or go to school. We know this particular proposal will avoid up to

3,700 cases of bronchitis in children, 150,000 asthma attacks, 3,300 heart attacks, 6,600 premature deaths and 490,000 missed days at school.

Who are we working for, the people of this Country or the polluters? I think that is the question. The Obama Administration gets it and so do the American people.

Let us look at a new Stanford University poll which found that 83 percent of Americans, including 61 percent of Republicans, say if nothing is done to reduce carbon pollution, global warming will be a serious problem into the future. Seventy-seven percent of Americans of all political stripes say the Federal Government should be doing a substantial amount to combat climate change.

Last year, this committee heard from four former EPA Administrators, all Republicans who served under Presidents Nixon and George W. Bush. They all agreed that climate change requires action now and it should not be a partisan issue. I thought for sure that would change some minds on my Republican side. Not one mind was changed.

The President's plan relies on the authorities under the Clean Air Act, which was created with an overwhelming bipartisan consensus that I yearn for today. In 1970, the Clean Air Act passed the Senate by a vote of 73 to zero, passed the House by 375 to 1, and was signed into law by President Nixon.

The Clean Air Act has a proven track record of success. President Obama is building on that success. I often say in all the years I have been in office, a long time, no one ever complained that the air was too clean. Oh, gee, Barbara, the air is just clean enough; don't do anything more. They want us to keep cleaning up the air.

My home State has been a leader in proving you can reduce carbon pollution and grow this economy. California households pay the ninth lowest electricity bills and the per person carbon footprint is among the lowest in the Country.

We also added 491,000 jobs in the first year of the State's cap and trade system, a job growth rate of 3.3 percent, better than the national rate of 2.5 percent. Over the last four years, we have turned a \$26 billion budget deficit into a projected \$4 billion surplus.

Do not tell me that if you move forward on clean air, you destroy the economy or destroy your budget. It is quite the opposite.

Climate change is happening now. We cannot afford to wait. I commend the President and the EPA for taking action to protect our families and our children from the worse impacts.

In the time remaining, I ask unanimous consent to place into the record, the article in today's Washington Post.

Senator Inhofe. Without objection.

Senator Boxer. Thank you, Mr. Chairman.

[The referenced information follows:]

Senator Boxer. It says, Studies on Modifying Climate Urge, Geo-engineering Would Be a Risky Last Resort Scientists Say. I urge everyone to read this.

We don't need this brave new world of geo-engineering. We can move forward on the policies the President has put forward and that Republican Presidents have put forward. Let us move ahead and do the right thing for our children, our families and our Nation.

[The prepared statement of Senator Boxer follows:]

Senator Inhofe. Thank you.

We will now turn to our witness, Janet McCabe, Acting Assistant Administrator for the Office of Air and Radiation, U.S. Environmental Protection Agency.

STATEMENT OF JANET MCCABE, ACTING ASSISTANT ADMINISTRATOR, OFFICE
OF AIR AND RADIATION, U.S. ENVIRONMENTAL PROTECTION AGENCY

Ms. McCabe. Thank you, Chairman Inhofe, Ranking Member Boxer and members of the committee. Thank you for the opportunity to testify today.

Climate change is one of the greatest challenges of our time. It already threatens human health and welfare and economic wellbeing, and if left unchecked, it will have devastating impacts on the United States and the planet.

The science is clear, the risks are clear and the high costs of climate inaction are clear. We must act. That's why President Obama laid out a Climate Action Plan and why this summer the EPA will be taking flexible, common-sense steps to cut carbon pollution from the power sector.

These steps will help build a more resilient nation, and lead the world in our global climate fight. Beginning in January 2014, EPA has issued three proposals to address CO2 emissions from power plants.

These rules will set standards for CO2 emissions from new, existing and modified and reconstructed fossil fuel-fired power plants. As we announced in January, the EPA intends to finalize these three rules by mid-summer 2015.

EPA's stakeholder outreach and public engagement in preparation for these rulemakings has been unprecedented and has

resulted in an unprecedented amount of public input. We are currently reviewing the roughly two million comments received on the proposal for new sources and the more than 3.5 million comments we received on the proposals for existing, modified and reconstructed sources.

As we work our way through the comments, what is completely apparent is not only the time and effort the States and our many stakeholders have put into developing their input, but the importance we, as a country, place on moving forward to address climate change. This input is especially important given the important role the States will play in this program.

We have received comment on a range of crucial issues from the investments these rules might require to maintain reliability, a consideration we view with the utmost importance in implementing all clean air protections, to costs, the right levels of stringency, and establishing a workable glide path that will bring about success in moving to a less carbon intensive energy production while safeguarding a reliable and affordable supply of electricity for all communities, businesses and consumers.

Many comments identify opportunities to drive investment in innovative clean technologies and energy efficiency, as well as reiterating the importance of the emissions reductions in addressing climate change and improving air quality and public

health.

We are addressing and accounting for all of the information and ideas received on the three separate proposals and we are confident that the final rules will be improved as a result of this input.

While EPA is firmly focused on the work needed over the next few months to finalize rules that take into account all of the input we received, we remain deeply committed to continuing our engagement with States, tribes, utilities, stakeholders, other federal agencies, resource planning organizations and others.

As part of this process, we know that States are beginning to think about the very real task of drafting and developing State plans that will be used to implement the final Clean Power Plan when it is issued. We are preparing to provide States the assistance they will need as they begin to develop their State plans.

That is why we are also starting a rulemaking process to develop a rule that both would set forth a proposed federal plan and, by providing a model, could help States to think about their plans.

I want to be clear that EPA's strong preference, as is always, is that States will submit their own plans, tailored to their specific needs and priorities. We believe States will want to do that here, but we also know that setting out a federal plan

is an important step to ensure that our Clean Air Act obligations are fulfilled.

At the same time, we believe that many States will find it helpful to be able to examine a federal plan proposal as they begin to develop their own compliance plans. Indeed, they have told us so. That is why we are aiming to issue the federal plan proposal in mid-summer as well.

When fully implemented, the Clean Power Plan is expected to help deliver 730 million tons of reduction in CO2 emissions, a substantial reduction of harmful pollution. Moreover, it will also lead to thousands of fewer heart attacks and tens of thousands fewer asthma attacks and other health benefits as well.

These reductions will deliver tens of billions of dollars in public health and climate benefits that far outweigh the estimated annual costs of the plan. The soot and smog reductions that will be achieved along with reductions in carbon pollution alone will yield \$7 in health benefits for every dollar we invest in meeting the standards.

Because energy efficiency is such a smart, cost effective strategy, we predict that, in 2030, average electricity bills for American families will be 8 percent cheaper than they are projected to be without the Clean Power Plan.

When he unveiled his Climate Action Plan in June of 2013, President Obama made clear that among his goals was not only

achieving meaningful reductions in domestic greenhouse gas emissions, but also asserting leadership in the international effort to combat climate change.

We believe that the Clean Power Plan will fulfill our obligations under the Clean Air Act to protect communities from dangerous air pollution. At the same time, it is a significant component of the Administration's broad-based set of actions that have achieved and will continue to achieve significant reductions in greenhouse gas emissions.

There is evidence that the Clean Power Plan has spurred progress and commitment from other countries and has advanced the international discussion as a whole. We are confident that all of this can be achieved in a way that strengthens the economy and creates new jobs here at home.

I look forward to your questions. Thank you very much.

[The prepared statement of Ms. McCabe follows:]

Senator Inhofe. Thank you very much, Ms. McCabe.

We are going to be using the early bird rule. It is my understanding that Senator Markey is under a time constraint. I think the Ranking Member is going to let you have her time. It is my understanding that also Senator Fischer has some time constraints. I would be very happy to yield my time to her for questions.

We are going to have eight minute rounds. Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman, for your courtesy. Thank you, Ranking Member.

Thank you, Ms. McCabe, for being here today. I am glad to have the opportunity to talk with you about the impacts of your power plant rules on my home State of Nebraska.

As you know, Nebraska is the only State in the Nation with a wholly, publicly-owned utility power sector. Public power utilities are cost-based entities with no profit motivation or obligation to provide stakeholder dividends.

That is vitally important, I believe, to keep in mind as EPA considers these proposed rules. The compliance costs will be directly borne by Nebraska residents through their electric rates.

Today, I would like to touch on some of the concerns raised in the public comment period by my State's public power utilities and by the Nebraska Department of Environmental Quality regarding

the mandates for carbon emission reductions from existing power plants.

Our State has written that the building blocks contain "inaccurate assumptions and unrealistic expectations that will result in emission goals that may be unattainable regardless of the emission reduction strategies employed."

Let us start with building block ONE. The Nebraska DEQ states, "Heat rate improvements of 4 to 6 percent are not achievable at Nebraska coal-fired plants. Nebraska utilities are required by law to deliver least cost reliable electricity. As such, they have already implemented most if not all achievable heat rate improvements at existing facilities.

As you know, as a basis for setting the building block 1 level, EPA relied on a 2009 study by Sargent and Lundy. It is now widely known that EPA misconstrued this study, hypothesizing heat rate improvements discussed in the study on a cumulative basis when this was not indicated by the study.

In fact, the Sargent and Lundy has explicitly stated that "the ranges presented in the report "do not support the conclusion that any individual, coal-fired, EGU or any aggregation of coal-fired EGUs can achieve 6 percent heat rate, improvement through implementation of best practices and equipment upgrades as estimated by the EPA."

Our State DEQs say that building block one is unachievable.

Sargent and Lundy say that you got it wrong. Is this an area that EPA plans to correct before finalizing the rule? How can EPA justify emission reduction targets based on building blocks if the building blocks themselves are so very flawed?

Ms. McCabe. Thank you for your question, Senator. This gives me the opportunity to start saying something I think I will be saying a lot today.

We have received many, many comments on the proposed rules and are looking very closely at all of them. This is just one area where we received significant comment. We expected we would. That is what the public process is about.

Let me also mention that in designing the proposal and setting up the building blocks, EPA looked across the range of activities currently in use by the power sector that have the result of reducing carbon emissions. They are numerous and go way beyond the four we identified and included in our building blocks.

Our assumption in going into the proposal was not that every single source would be able to achieve exactly the amount of reductions we identified in each building block. In fact, we believe some can do more in one area and some may choose to do less in other areas.

The types of comments we are getting that suggest in some States in particular one approach is more suitable than another

is exactly the type of comment we expected. That being said, of course we are looking very closely at any comments that suggest our factual conclusions need to be rethought.

We will be looking at that very closely and making adjustments as appropriate, as we always do after reviewing comments on a rule.

Senator Fischer. I appreciate hearing that, because sometimes the statements that I hear from EPA, my constituents and our public power in Nebraska, the DEQ in Nebraska, what we hear from EPA is that things are pretty well set.

We hear that while there is a public comment period, we haven't felt there will be much accommodation to the concerns that we have in our State with these specific concerns. You give me some hope here. I hope you will follow through with that as well.

According to Sargent and Lundy, even with the best maintenance practices in place, performance of many of the heat rate improvement methods included in the 2009 report will degrade over time.

EPA did not take into consideration the normal heat degradation when it applied the heat rate improvement ranges across the coal-fired fleet. Nor did it consider the units are the most efficient at full load and their efficiencies decrease with decreasing loads and with frequent load changes.

Don't you think those are significant oversights by the EPA and an overestimation of the real heat rate improvements that can be achieved and sustained across a coal-fired fleet?

Ms. McCabe. These are important issues people have raised that we are reviewing very closely, Senator.

Senator Fischer. Do you feel that you can work with States in trying to really address that over estimation?

Ms. McCabe. We spend a lot of time talking with States and with the utilities which have raised these kinds of issues with us as well. We have one-on-one conversations with States and we are meeting with groups of States to talk about a whole range of issues.

In particular, States have been very forthcoming with us about particular concerns in their States as have utilities. As I say, when there are needed one-on-one conversations, we have them and then look at these issues as they apply across the whole spectrum of the rule.

I do want to emphasize that in the final rule, we very much want to maintain the flexibility of the States to have choices as to how they comply.

Senator Fischer. Would you commit to me that when you are contacted by our public utilities in Nebraska or State government in Nebraska that you will respond to their concerns and let me know that you have done so?

Ms. McCabe. I can certainly commit that we will converse with anybody who calls us from Nebraska and will certainly keep you up to date on those conversations. To the extent that we have already had those, we will be certain to give you information about that.

Senator Fischer. I think you will be getting a lot of calls.

Ms. McCabe. We are happy to get them.

Senator Fischer. Thank you very much.

Thank you, Mr. Chairman.

Senator Inhofe. Senator Boxer, did you want to yield your time?

Senator Boxer. I do. I yield to Senator Markey.

Senator Markey. I thank the Senator from California.

I apologize, the policemen and firemen who captured the bombing suspect after the marathon bombing in Massachusetts in 2013 are about to be honored at the White House and they were in my congressional district as well. Through your graciousness, I am going to be able to make that ceremony. I thank you so much.

I might also make this point. I think, from my perspective, if each member was given at least one minute to make an opening statement, because of the busy schedules of Senators and then have the remainder for questions, at least each Senator would be allowed in the opening to make their main point, if only for one

minute. I just make that suggestion, Mr. Chairman.

In the House, if you wanted to, you could waive your opening statement and then just add it to the question period that you had but only that each member would at the beginning of the hearing, if they are there, to be able to make their point if only for one minute.

I would just make that suggestion. I think it might be helpful given the busy schedule of the members.

Senator Inhofe. Thank you, Senator.

Senator Markey. Mr. Chairman, it is fitting that we are holding this hearing today. Fifty years ago Sunday, Lyndon Johnson became the first President to warn about the increase in carbon dioxide in the atmosphere.

In a special message to Congress on that day in 1965, he included the emissions of carbon dioxide, the main cause of global warming, in his warning on the impacts of air pollution.

Fifty years later, global temperatures are increasing. Glaciers around the world are melting. Sea level is rising. Heat waves are hotter. Rainfall and snowfall are more extreme. As daunting as the challenges seem, we have solutions available that can reduce pollution, create jobs and inspire new technology.

Just months before his death, President Kennedy proposed the Clean Air Act in February 1963. In December of that year, it

became the second law President Johnson signed as President. The original Clean Air Act created a program in the Public Health Service to address air pollution, establishing a public health foundation that has supported the strengthening of the law over the years.

The Clean Air Act has succeeded. Smog, soot, other pollutants have dropped an average of more than 70 percent since 1970, even as America's GDP grew by 219 percent.

Now President Obama is using the Clean Air Act to reduce carbon pollution from power plants. The same Kennedy-Johnson skyward vision that inspired an era of space exploration can spark a new clean energy revolution.

Since the inception of America's space program, solar panels have been a critical power source for missions throughout the solar system. That same technology is now landing on rooftops and fields across the Country. The solar industry now employs more than 170,000 people across our Country and is adding workers nearly twenty times faster than the general economy.

This connection that exists between lowering pollution while increasing employment is pretty steady throughout the years.

Let me turn to Massachusetts and the Regional Greenhouse Gas Initiative States. Those are Massachusetts, Maine, New York, Maryland, Connecticut, Delaware, New Hampshire, Rhode Island and Vermont. Since 2005, those States have reduced their greenhouse

gas emissions by 40 percent while continuing to see gross domestic product growth in their economies. Do you believe that is a model which is going to be used by other States under the proposed regulations which the Obama Administration is considering right now?

Ms. McCabe. Senator, as you just described, the REGGI approach has been quite successful, both in terms of environmental improvements and economically and very good investments for those States. We certainly think it is one model that States might want to look at.

I cannot speak to whether other States would go down the same path but I think the REGGI approach has laid the groundwork and shown other States how this can be done in a way that is locally successful.

Senator Markey. I think it is obvious that the model is already there. I am sure many States are going to use it.

Let me move on to the question of reliability. There is criticism that the proposed rules of the Administration are going to cause a reduction in reliability of the system, but we already know that extreme weather, climate change, is, in fact, impacting the reliability of our electricity grid in our Country.

Could you deal with the issue of these proposed rules and the reliability of the electrical grid system in the United States?

Ms. McCabe. We agree that the worst thing to do for reliability is to do nothing. Keeping reliability very much in mind as the President directed us and as the Administrator always reminds us, we looked at how to design the proposed plan in a way to make sure reliability would not be put at risk and would, in fact, be enhanced.

There are a number of things built into the proposal in order to make sure that will happen. One is the length of time that we put into the proposal for the reductions to be achieved. There is a 15-year trajectory before the final compliance date.

That was intended to be quite consistent with the request that we have always received from utilities, reliability agencies and others that utilities need a long planning horizon.

Senator Markey. Do you think the proposed rules will actually drive the electricity system to become more resilient and stronger?

Ms. McCabe. We do think the planning activities that will be going on and are going on now are intended to assure a reliable electricity system.

Senator Markey. I think that is very helpful.

Finally, the American Gas Association comments on the proposal were complimentary of the EPA's outreach efforts but they ask whether or not there could be more flexibility in terms of the planning at the State level in order to comply with the

carbon reduction goals that will be set for State after State.

Could you deal with that in terms of the flexibility beyond the four building blocks that are in the EPA's plan that the States might be able to rely upon?

Ms. McCabe. Yes. I will emphasize again that the building blocks were intended to be a starting point. States have ultimate flexibility to decide on just what approach they want to take. If they want to rely more on natural gas than our proposal suggests they might, they would have every opportunity to do so.

Senator Markey. I think it is pretty clear that it is going to be possible to reduce carbon, to increase the GDP, to enhance the reliability of the system while engaging in significant job growth in our Country.

I thank you so much.

I thank you, Senator Boxer, for your courtesy.

Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Markey.

I want to use about half of my time and save some to accommodate some of my members.

First, we will hear over and over again what science says and all that. We are going to have a hearing and we are going to have scientists at a hearing. I think when you don't have science on your side, if you keep saying science is settled, science is settled, science is settled, there is this assumption

that is the case.

That is not the case. When you stop and realize what we are doing today, we are talking about doing, through regulation, what we have not been able to do through legislation. In other words, those of us who are accountable to the people -- talking about members of the House and the Senate -- we have resoundingly rejected the very thing we are talking about today on CO2 on five different occasions in the last 13 years.

Each time there has been a vote, it has been even more strongly rejected. What they are trying to do right now is do through regulation what they have not been able to do through legislation. I want to mention a couple things here today.

The recent analysis finds that China emits 800 million tons of CO2 in one month. According to EPA's proposal, the maximum amount of CO2 reduction under the Clean Power Plan is around 550 million tons in one year.

A question I would have for you, Ms. McCabe, is how will the Clean Power Plan impact global CO2 emissions when China is producing more CO2 in one month than the Clean Power Plan could potentially reduce in one year, even if it is implemented?

Ms. McCabe. The Clean Power Plan will certainly result in less CO2 emissions as well as our clean car rules and other measures we are looking at. There will be less domestic CO2 from the U.S. as a result of the Clean Power Plan.

This is why it is important for the United States not only to be working domestically but to be working internationally. We recognize this is a global problem and that other countries are emitting CO2. That is why we have been very aggressive and involved with China.

Senator Inhofe. You don't disagree with this chart, do you? This chart is an IPCC chart, a United Nations chart, right?

Ms. McCabe. I don't know, Senator.

Senator Inhofe. What we have in the global greenhouse gases is a total figure. The green over here is what you are proposing. This is the reductions we have had. I want everyone to use a little common sense and look at this.

If your projections are correct, they are going to continue to have these emissions and we would only be able to reduce the emissions in one year. I appreciate your honesty in saying there is the problem.

Are you operating on some kind of a delusion that somehow China is going to change their behavior? Is that what it is predicated on?

Ms. McCabe. We have been working with China. Recently an announcement of certain actions China has committed to take was made.

Senator Inhofe. Let me tell you what those were. I am going from memory so you can correct me if I am wrong.

They had the meeting. China said, if you want to do this, if you want to have these reductions, you can go ahead and have them but we are going to increase our emissions of CO2 until 2030. They amended that downward to 2020.

One, if you believe China is going to do something, that would not happen. They are still going to increase as they are doing right now until 2020.

I have talked to the people from China. They sit back and smile. The thing they would love to have us do in this Country is make our reductions so we will be chasing our manufacturing base over there.

I would like to confine it to this. If you don't disagree with this, where is the logic here? What do you think is going to happen to change that green two tons a year?

Ms. McCabe. For the first time, China has agreed to curb its growth in CO2.

Senator Inhofe. Is there a document they have signed saying they are committed to doing that?

Ms. McCabe. I don't know if there is a document, Senator, but they have made that announcement, they have made that commitment in conjunction with the United States.

Senator Inhofe. The commitment is that they will start reducing it by 2020?

Ms. McCabe. That they will peak emissions and that they

will invest significantly in 20 percent of non-fossil fuel generation in the coming years which is a very significant commitment as well.

Senator Inhofe. I will retain my three minutes.

Senator Boxer.

Senator Boxer. I am going to yield to Senator Merkley.

Senator Merkley. Thank you very much.

Thank you, Ms. McCabe. It is a pleasure to have you here to address such an important issue.

Part of the conversation we are having, as initiated by the Chair, was how the U.S changes operate in the context of a global challenge. This really is a global tragedy of the commons. We all share in the atmosphere on this planet.

The gases we put in the atmosphere travel everywhere. It is only in the sense that there is an international strategy that we have some sense or opportunity to take on this issue.

What happens if each nation, among the nations of the world -- India, China and the U.S. are the major carbon dioxide polluters -- if each of those nations says, let's not act until the other two nations act and then we will come along later. What happens to the planet in that situation?

Ms. McCabe. This is the dilemma, the tragedy of the commons, Senator. We all have to act. If everybody says we are not going to act because we don't think anybody else will act,

then CO2 emissions will continue to increase, temperatures will continue to rise, and the oceans will get more acidic.

We will have more droughts, we will have more heat waves, and we will have more suffering around the globe and in this Country as a result of the impacts on the climate.

Senator Merkley. Is there some possibility that by the U.S. taking this issue seriously and engaging in dialogue with all the nations of the world but also with India and China, that we can accelerate action among all three nations?

Ms. McCabe. We absolutely believe so. We believe it is essential for the United States to be asserting and showing leadership.

Senator Merkley. When we look at this, we look at the total carbon dioxide production but much of the world looks at it in the context of individual footprint, if you will, per capita carbon dioxide.

In that sense, is it the Chinese, the Indians or the Americans who have the largest per capita footprint?

Ms. McCabe. I believe it is the United States that has the largest footprint in carbon dioxide.

Senator Merkley. Do you have a sense of the proportion with the other nations?

Ms. McCabe. I don't off the top of my head but I would be glad to get that information for you.

Senator Merkley. If I was to tell you that the footprint here in America is more than three times larger than that of China, would that sound in the ballpark?

Ms. McCabe. I think that could well be in the ballpark.

Senator Merkley. If I was to tell you the most recent statistics show that our footprint is twelve times per capita that of India, does that sound about right? It is right. Thank you for confirming that.

Certainly we have benefitted, if you will, from utilizing fossil fuels on a scale much larger than individual citizens in China or India. In some sense, that gives us an obligation to help be leaders in the world in taking this on.

China has obligated itself to proceed to produce, by 2030, renewable energy, non-fossil fuel energy, that is equal to the amount of electric energy produced in the United States from all sources as of this moment. Were you aware of that commitment?

Ms. McCabe. Yes.

Senator Merkley. That is pretty phenomenal. In other words, all of our fossil fuel energy from coal, from natural gas, from solar, from wind, all combined together, China is going to match that amount with renewable energy in the next 15 years. That is a pretty extraordinary commitment that we didn't have in the previous year.

Ms. McCabe. That is correct.

Senator Merkley. That commitment came out of a dialogue with China about the need for all the nations of the world to proceed to take on this issue?

Ms. McCabe. That is correct.

Senator Merkley. We are all going to suffer if the planet continues on its warming pace?

Ms. McCabe. Yes.

Senator Merkley. Currently, we are on a path where our carbon pollution has gone up to 400 ppm, up from about 270 ppm for the industrial revolution, and the pace has doubled in the last few decades. That is, we were going up about 1 ppm on this planet.

We are at 2 ppm now, which means that within the time many members on this panel will serve in the U.S. Senate, we are going to see carbon levels that go up from 400 ppm where we are now quite possibly through 450 ppm and higher.

With that comes a global challenge in which we will surpass the point where we have a 50 percent possibility of keeping temperature rise from under 2 degrees. Is that something we should be concerned about?

Ms. McCabe. We absolutely should be concerned.

Senator Merkley. Does that help drive the current policy of saying this is why we need to look at the most efficient ways. You have laid out a plan which says basically each State should

find the most efficient ways to tackle carbon pollution. That makes a lot of sense economically.

I am seeing that carbon pollution is having a huge impact in Oregon. Our oyster production is faced by a challenge where oysters are having trouble forming their shells because the ocean is 30 percent more acidic.

If the ocean is 30 percent more acidic now than before the industrial revolution and oysters are having trouble forming their shells, what else is going wrong in the ocean and the food chain? It could be a lot more, I imagine.

Ms. McCabe. Right.

Senator Merkley. We are having fire season that is several weeks longer now than it was 30 years ago, which is having a devastating impact, not to mention the pine beetle expansion. That is a big economic issue for our State.

We are having substantial droughts, three of the worst ever droughts in the Klamath Basin in just the last decade and a half, three of the worst ever droughts, having a huge impact on our agricultural base. That is an economic issue.

Ms. McCabe. Yes.

Senator Merkley. It isn't just a matter of some theory about some computer model in the future, this is something having a huge impact on our economy, on our rural way of life, on our fishing, our farming and our forests right now.

Ms. McCabe. Yes.

Senator Merkley. Thank you for bringing forward a plan that encourages each State to find the most cost effective, flexible way of taking on carbon dioxide. That makes a tremendous amount of sense. If each State is going to follow a different path, maybe we will learn from each other. Your plan allows partnerships to occur between States as another form of flexibility?

Ms. McCabe. Yes.

Senator Merkley. That also makes a lot of sense.

You have laid out these four building blocks. This is basically one set of ways we can get to these numbers, but go find the best way possible for your State?

Ms. McCabe. That is correct.

Senator Merkley. I thank you for putting forward a plan that helps put the United States in the leadership role of working with the nations of the world to take on this devastating challenge, a challenge that is having a huge economic impact in my State right now and a huge impact on rural America right now.

It is the responsibility of our generation to take it on and of each President who serves in the Oval Office to take it on. Thank you for doing so.

Ms. McCabe. Thank you, Senator.

The Chair. Thank you, Senator Merkley.

Senator Wicker.

Senator Wicker. Thank you, Mr. Chairman.

Thank you, Ms. McCabe, for being with us today.

I do believe the regulation we are discussing today is EPA's most blatant overreach thus far, and there have been a number of them.

First, let me observe from the poster that the Ranking Member displayed earlier listing three headlines from national newspapers saying it is official, I was reminded of a scene from the movie "The King's Speech" in which the speech therapist, Lionel Logue, is talking to King George. One of the things Lionel says is "You need to quit smoking." King George says, "My doctors tell me smoke relaxes the throat." Lionel says, "They are all a bunch of idiots." The King replies, "They have all been knighted." Lionel replies, "Then it is official."

To say that we have some headlines from the Washington Post and other newspapers and that makes it official, I would just observe these were the smartest people in Britain at the time. They were giving the King of England exactly the wrong advice about what he should be doing with regard to smoking.

It is possibly conceivable that the smartest people of our time might be wrong and that some of the very learned and educated contrarians on the issue of climate change will turn out to be vindicated in the end.

I think you will agree, Ms. McCabe, that when my colleagues on the other side of the aisle talk about carbon pollution, it is a new term that has been coined over the last several years. They are not talking about smog or carbon particles in the air, they are talking about CO₂, carbon dioxide.

It sounds so sinister, pollution, dirty and slimy, carbon pollution, but actually they are talking about carbon dioxide. Carbon dioxide doesn't cause lung disease in children or asthma. Carbon dioxide hasn't been shown to cause children to miss school.

I just want the public and the people listening to this, both in the hearing room and perhaps on television, to understand when we use the term dirty carbon pollution, we are talking about nothing other than carbon dioxide.

Let me ask you about minimum incremental capital costs and the remaining useful life of coal-fired facilities. The Clean Air Act says the agency is supposed to consider the remaining useful life of existing sources they are proposing to regulate.

The Mississippi Development Authority says the minimum incremental capital cost to Mississippi of this rule, if it is implemented as it is written now, will be \$14.2 billion. The cost will be mainly constructing generating facilities that we don't need right now under the current law and the current regulations.

Your own impact analysis says over 50,000 megawatts of coal-fired plants across the Country will have to be retired because of the rule. Many of these plants in Mississippi, they have spent billions of dollars to come into compliance with EPA rules and are now in compliance. Yet, because of the new rules, they will have to retire anyway, irrespective of the fact that they have years of remaining useful life.

Tell me how your proposal considers the remaining useful lives of these coal plants if the rule will force them to retire prematurely?

Ms. McCabe. Of course the rule does not require any particular plant to take any particular action. We looked across the industry, across the Country at the age of plants, and the average age of coal-fired plants is I believe over 40 years, so there are a lot of plants that have certainly lived out or are close to living out their remaining useful life.

We understand business decisions are being made by utilities about how to proceed with those plants. The remaining useful life is absolutely something we are to take into account. We did so in the proposal and will do so in the final, further informed by all the input we have received.

We were very mindful of not putting States in the position of stranding assets, in particular, the types of plants you just mentioned, ones that have recently invested in pollution control

equipment and expect to produce electricity in a controlled way into the future.

One of the reasons that we have a long trajectory in the plan is to take into account those sorts of considerations, another reason the plan is so flexible.

Senator Wicker. How long is that trajectory?

Ms. McCabe. The final compliance date is 2030.

The States, in planning over that period of time, are able to make their own choices about what to do. If they have a plant that has many years of remaining useful life, has been recently upgraded, they certainly have the ability to continue operating that plant.

In fact, our projections are that in 2030, still 30 percent of the power in this Country would be produced by coal plants. We expect and assume that coal plants will continue to operate, even through and after these plans are fully in place.

Senator Wicker. But if the only way my State of Mississippi can achieve the CO2 emission targets is to close these coal plants, are you saying we will be able to work with your agency to avoid this and keep those coal plants in use during their remaining useful life?

Ms. McCabe. I don't know whether that is the situation in your State, but we certainly would be happy to have that conversation with the environmental and utility regulators in

your State.

Indeed, we may have already done so. My staff has been spending a lot of time on the phone with States to understand why that is their conclusion, seeing what our reaction to that is, and see whether the flexibilities we have built into the proposal can provide a path for them.

Senator Wicker. It is my understanding that among the numerous items of input that you have received during the time of this is some 3 million comments from around the Country. Among those are comments from people in Mississippi who would have to comply with this.

What they are saying is flexibility sounds great, but if the only way we can achieve this goal is to shut down our power plants, we have no flexibility at all. I have to go back to what the people on the ground in Mississippi are telling me. That is, we are going to have to, in short order, close down the entire current coal-fired production in Mississippi.

I hope what you are saying is true, but it seems to me this is absolutely going to be a regulatory nightmare for electric providers, for users and for working families in the State of Mississippi. I hope we can avoid this with something more reasonable.

Ms. McCabe. One of the issues that we have heard from many people right in this area is the interim goal the proposed rule

set in 2020, a lot of the anxiety is about meeting an interim goal in that time period. That is something we are looking very, very closely at.

The Chair. Thank you, Senator Wicker.

Senator Boxer.

Senator Boxer. I will yield to Senator Cardin.

The Chair. Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman.

Senator Wicker and I usually agree on many issues. This is not one of them. We do agree on King's Speech being a great movie, but I am afraid King George got too much advice from the tobacco industry on their findings on the use of tobacco rather than from science at the time.

It seems to me also that if you look at the scientific information we have today and exclude some of the information from the fossil fuel industry, it is clear that carbon is a problem.

Senator Wicker. It is official.

Senator Cardin. It is official. Thank you. We are in agreement then.

Carbon combined in our environment, causing climate change, is real. It is causing serious risks not only to the people in our Country but globally. We have a responsibility to act.

I would also like to point out that the Clean Air Act has

been widely hailed as being very successful. Many of us remember all the red alert days have now been declining dramatically. In New York, Los Angeles and Baltimore, we have seen incredible improvements.

Our older people, our younger people and people who suffer from respiratory problems are much safer today. The cost benefit ratios are very clear. We are building on that. I thank you very much, Ms. McCabe.

Power plants are the largest, single source of carbon, 40 percent of all carbon. EPA not only has the legal authority, you have the responsibility to act, to deal with that single largest source of carbon emissions.

In the regulation you issued in June, which is now subject to comment, a 30 percent reduction by 2030 of the 2005 limits, was based upon your best judgment on science where we can achieve that, correct?

Ms. McCabe. That is correct, Senator.

Senator Cardin. It didn't just come out of thin air. It was a scientifically-based analysis that we could achieve in regards to carbon reductions?

Ms. McCabe. Correct.

Senator Cardin. The cost benefit we talked about before, but by achieving those levels, first of all, it is not just by more efficient energy sources, it is also by conserving energy?

Ms. McCabe. That is correct.

Senator Cardin. I have heard about the cost to consumers but as we become more efficient, consumer save, don't they?

Ms. McCabe. Yes, they do, Senator. If you use less electricity, overall your bills can go down. That is what we predicted.

Senator Cardin. I just want to make that point. The cost benefit analysis that we go through when looking at EPA rules under the Clean Air Act or under the Clean Water Act, there are direct savings as Senator Boxer discussed, the number of premature deaths that will be saved, the number of work days that parents have to stay home because their child can't breathe, or the days lost at summer camp because children can't go to camp. Those are direct savings that we have as a result of implementing these laws.

We also get more efficient use of energy which will also save us money?

Ms. McCabe. Correct.

Senator Cardin. We haven't even discussed it to the extent that we do reverse some of the trends we have today on climate change and have less of these extreme weather conditions. We can tell you the billions of dollars these extreme weather conditions are costing the United States.

If you look globally at those who are becoming climate

refugees who are being displaced, the cost is incredible.

All that builds into the fact that in Maryland, we have taken steps to deal with our power emissions through our power plants. We have done that and have had a growing economy. It has helped our economy.

The enactment of the Clean Air Act in the 1970s, we have seen tremendous economic growth in our Country. We believe that a healthy environment and a robust economy go side by side. As I understand it, that is the philosophy of the rule you brought forward and the comments you are receiving because you have a dual objective -- a clean environment and a robust economy.

I want to talk about local flexibility. Maryland is one of nine States that is part of the regional initiative in the northeast and the mid-Atlantic, the REGGI proposal. We have taken some pretty extreme measures in order to reduce carbon emissions. We are downwind, so we have to worry about what is going on around the Country.

We want other regions to do their share because it is not only important for our global responsibility, it is important to the people of Maryland that we have clean air. We can only do so much in our own State.

Talk a little bit about the flexibility that we have in our State as part of a regional effort. How have you taken into consideration the numbers based upon States that have joined

regional compacts?

Ms. McCabe. As we mentioned before, REGGI is a great example of States coming together to find very efficient ways, in a regional area, to make reductions in a way that is very helpful to the environmental goal and the economy.

In our rule, we give the States flexibility to do a plan on their own or to join regionally. Our cost analyses show that regional plans tend to be more cost effective because there are more choices.

I think that is what you are getting at, Senator, more choices for States to use different strategies, more choices for utilities, many of whom operate across State lines to have flexibility to make the most cost effective changes available to them and have a broader pool from which to choose.

REGGI has demonstrated that is an effective way to achieve the lower greenhouse gas emission goal.

Senator Cardin. Mr. Chairman, let me comment on China because there has been a lot of conversation concerning China.

Another responsibility I have in the Senate is as the Ranking Democrat on the East Asia and Pacific Subcommittee. I have been to China. China is leading the world right now on renewable energy. They have invested over \$50 billion.

This is not a country that has the same values we have as far as our global responsibilities looking at ourselves in a

democratic state; they have done it because the people are demanding it. When you go to China, you see pollution. I was in Beijing for about four days, never saw the sun and there were no clouds in the sky.

They also do it because they don't have a lot of fossil fuel sources, so they really need to become less dependent. They recognize that it is in their economic interest to invest in cleaner energy sources.

I applaud the efforts of the Administration to bring China into specific achievable goals as we all work towards our universal responsibilities to deal with climate change. Whereas Maryland cannot deal with the healthy air without the help of our surrounding States, we cannot deal with climate change unless we have global cooperation. That requires U.S. leadership and I applaud the Obama Administration for its leadership.

The Chair. Thank you, Senator.

For clarification, put the chart back up, if you would. When Senator Merkley was talking about the greenhouse gas, he was talking about greenhouse gases per capita which obviously India and China are not as industrialized as it is here, and they have millions and millions more people.

I just wanted to make sure that everyone understands that did not refute accuracy of this chart.

Senator Sullivan.

Senator Sullivan. Thank you, Mr. Chairman.

Ms. McCabe, thank you for your testimony today.

I want to make a few statements. There has been a lot of talk about the Clean Air Act and the Clean Water Act. I think all of us think they have been very successful. I think we all love clean air and clean water.

People are bragging about their States. I can talk a little bit about my State. We have the cleanest air and the cleanest water probably in the world. We have the most pristine environment probably in the world. We have the highest standards on protecting the environment at the State probably in the world.

We have one of the best records in the world of responsibly developing our resources and protecting our pristine environment. These are all very important. We all recognize that.

I also think jobs are important and affordable energy is very important. In my State, ironically, the citizens of Alaska pay some of the highest energy costs in the Country. I also very importantly think the rule of law in the Constitution is important, which I assume you do as well.

There has been a lot of talk about the agreement with China. I certainly don't think that relatively flimsy agreements between the President and China authorize the EPA to do anything that Congress has not authorized.

Do you think agreements with the Chinese give the EPA

authority to take any action that Congress hasn't? I am curious because there has been a lot of discussion about these Chinese agreements. We haven't really seen them and it seems you are almost taking action based on an agreement we have with China.

The last time I looked at the Constitution, that wasn't where the EPA derives its authority.

Ms. McCabe. Absolutely not, Senator. That is not why we are taking action. We are taking action under the Clean Air Act.

Senator Sullivan. Let me get to another concern of mine. I just wanted to get that China agreement issue off the record, on the record in terms of where you are deriving your authority.

One of the things I have had a concern about, I think a lot of Americans have had a concern about, is what I call the Obama Administration two-step. It goes something like this.

The President and his Administration want to get something done. That is laudable. The elected President can certainly lay out a vision. A lot of these require actions by Congress under the Constitution.

The President will do a head nod to the Constitution, to the statutes with regard to what he wants to get done. If that doesn't work out, he ends up taking executive action anyway. There are numerous examples.

Immigration is one. The President wanted Congress to move on immigration. Congress didn't. That is the way the system

works. Twenty-two times he says he can't take certain action, then he reverses himself and says, I can take that action.

Anwar is very important to my State. There is no doubt that the 1002 coastal area, you are probably familiar with it, in Alaska, in order to designate it wilderness, no doubt that has to be done by Congress.

The President supposedly is going to put forward a bill to do that. It will go nowhere in this Congress. Yet, he has already said, I am going to move forward and designate through Executive Order, I will manage Anwar for wilderness anyway.

The waters of the United States, EPA wanted to expand its authority over the waters of the United States and put forward legislation in 2009 that didn't go anywhere because Congress and the American people didn't want to expand that authority. Through a regulatory action, you expanded the authority.

Now you are doing this. I think the Chairman has already laid out that what you were trying to do was move through Congress. It didn't pass. That is the way our constitutional system works, but it doesn't work for agencies to then say, it didn't pass through Congress, so I will do it anyway through a regulation. That is not how the system works.

Your agency, in my view, has been one of the biggest abusers of this two step approach. It is not just my view. Are you familiar with the recent Utility Air Regulatory Group v. EPA

decision by the U.S. Supreme Court?

Ms. McCabe. Yes, I am.

Senator Sullivan. Did you read that decision?

Ms. McCabe. Yes, I did.

Senator Sullivan. It was a decision in which the Supreme Court was also chastising the EPA for taking actions and authority that it clearly said it didn't have. Let me read a provision of that recent Supreme Court decision.

It says, "EPA's interpretation is also unreasonable because it would bring about an enormous transformative expansion of EPA's regulatory authority without clean congressional authorization."

Do you think this rule brings about an expansion of your regulatory authority?

Ms. McCabe. The rule we are talking about here today?

Senator Sullivan. Correct.

Ms. McCabe. If I could respond?

Senator Sullivan. No, just respond to that question.

Ms. McCabe. I believe the rule we have proposed and that we are going through comment on today is squarely based on our authority in the Clean Air Act.

Senator Sullivan. What provision of the Clean Air Act?

Ms. McCabe. Sections 111(b) and 111(d).

Senator Sullivan. Have you read the CRS analysis of your

authority?

Ms. McCabe. I am not sure exactly what you are referring to.

Senator Sullivan. The Congressional Research Service did an analysis of your authority on this regulation and the questions CRS had with regard to your authority to issue this reg. Have you read that?

Ms. McCabe. I don't believe that analysis suggests that we don't have the authority to do what we are doing.

Senator Sullivan. It did. It looked at a number of areas where it raised questions. I would ask, if you haven't done that, if the EPA General Counsel's Office can respond to the CRS analysis of this regulation and your authority under the Clean Air Act to issue that. Can you do that?

Ms. McCabe. We would be happy to do that.

Senator Sullivan. Let me get back to what the Supreme Court mentioned. It mentioned when the EPA undertakes a reg that is an enormous and transformative expansion in its regulatory authority, they are very skeptical of your power.

Do you think this regulation dramatically expands your authority?

Ms. McCabe. I do not.

Senator Sullivan. You don't?

Ms. McCabe. I don't. I don't. I believe that we are

following what the Clean Air Act requires. This is a statute Congress enacted to protect the public health from air pollution. The agency over a number of years on a very sound scientific record has made a determination that CO2 endangers public health and welfare.

That determination was upheld by the U.S. Supreme Court. The EPA then has taken actions based on that finding of endangerment.

Senator Sullivan. I think you are doing exactly what the EPA reprimanded you from doing in its recent Supreme Court case where you are taking significant power under the Clean Air Act that is dramatically expanding your powers over the U.S. economy without clear congressional authorization.

As a matter of fact, you tried to get this authorization before and Congress has not passed it. You are not allowed to then move forward with the regulation to do what Congress won't allow.

Let me ask another question. You talked a lot about the States' flexibility. It sounds great. It sounds wonderful. Thirty-two States have raised legal objections to this rule; 12 have already sued you, even though you haven't finalized it.

There was testimony by FERC Commissioner Tony Clark who stated, "The proposed rule on existing plants has the potential to comprehensively reorder the jurisdictional relationship

between the Federal Government and the State's, dramatically altering the traditional lines of authority."

He later said, "In spite of EPA's promise of flexibility, States are ceding ultimate authority to the EPA." Do you think that shows flexibility towards the States?

Ms. McCabe. I don't agree with the way Commissioner Clark has characterized it. The States are clearly in charge of developing plans to reduce carbon emissions under the Clean Air Act and under our proposed rule.

Senator Sullivan. Mr. Chairman, my time has expired. I have several additional questions that I will submit for the record, particularly as it relates to interior Alaska communities such as Fairbanks which pay enormously high energy costs and will be severely, negatively impacted by this rule if it goes through.

I would like the EPA to specifically answer questions as relates to communities in Alaska.

Ms. McCabe. I would be happy to answer your questions.

The Chair. Thank you, Senator Sullivan.

Let me give you an additional minute of my time because you have taken that and it is because you are discussing something I was going to bring up. The mere fact that 31 States oppose this power plan and more than half believe it is not legal under the Clean Air Act.

I would be asking in my remaining time how are you are going

to coerce these people into doing something they don't want to do? You cannot take their highway funds away. Think about that.

Senator Boxer.

Senator Boxer. I yield to Senator Whitehouse.

The Chair. Senator Whitehouse.

Senator Whitehouse. Thank you very much, Chairman.

We always have an interesting discussion in which one side if the committee only looks at one side of the ledge and that is the coal economy and the fossil fuel industry economy. Many of us have different economies that are paying the price of carbon pollution.

My colleagues have heard plenty from me about this over the months and years. Let me bring in a couple of other voices.

In late 2014, fishery regulators announced that for the second consecutive year, there would be no shrimp fishery in the Gulf of Maine this winter. The principal culprit is warming ocean water caused by global climate change.

The author goes on to say, "The lobster has been disappearing from its traditional habitat in southern New England" and described a phenomenon that scientists dubbed an ocean heat wave in the spring of 2012 that led to an early molt and migration of lobsters that caused a supply glut and subsequent price collapse.

The author goes on to say, "The message here is clear.

Climate change is taking dollars and jobs away from New England's fishing communities. Generally fish species off the northeast United States are collectively moving to higher latitudes and deeper water in search of the cooler temperatures they require to survive." We certainly see that in Rhode Island.

She adds, "The potential for dramatic storm surge events in which higher sea levels combine with more intense weather activity increase flooding and storm damage." We certainly have seen that in Rhode Island with Sandy.

The author comes to the conclusion what is needed is "honest, fact-based discussion and a genuine bipartisan commitment to solutions." The author of that article is none other than our former Republican colleague in the Senate, Olympia Snowe.

Another voice that has come out recently comes from the Economist Magazine. The Economist Magazine is a very conservative publication but it inhabits the space where it is conservative but not under the control of the fossil fuel industry.

Here is an article they recently posted. "If the coal, electric power and automotive industries had had their way in the early 1970s, American cities would look like Chinese cities today. The 1970 Clean Air Act triggered the same kind of hysterical industry denunciations we are seeing today in response

to the move to force the electric power industry to reduce greenhouse gas emissions.

"Among them was Ford claiming that the 1970 Act 'could cut off automobile production in just five years, lead to huge price increases for cars, even if the production were not stopped and do irreparable damage to the American economy.'"

Again, in 1972, when the industry was being asked to adopt catalytic converters, General Motors threatened "complete stoppage of the production line and the president of Ford said it could cause Ford to shut down."

In 1974 when we were acting on sulfur emissions, American Electric Power spent \$3.1 million on an ad campaign to convince that installing scrubbers on coal-fired power plants would be a disaster.

The article continues, "Needless to say, this was all nonsense. America's GDP has grown 212 percent since then while emissions of traditional air pollutants fell by 68 percent. Adult mortality in the United States would have increased by 160,000 in 2011," that is dead people, adult mortality in 2011 alone. "Over the course of 40 years, the Clean Air Act's pollution reductions have quite literally saved millions of lives."

The author then goes on to describe what he calls "a fairly reliable pattern. Whenever the government considers

environmental or safety regulations, manufacturing, energy companies and industry associations put out 'studies' that grossly overestimate the costs and understate the benefits.

"In retrospect, the industry response to environmental regulation in the 1970s can best be described as mendacious, homicidal, greedy, whingeing" which is Brit speak for pointing.

He concludes, "The fact that the carbon, which utility companies turn out is gradually cooking the climate, and when considering the industry response to stronger greenhouse gas limits, one should keep in perspective that in the past they have been laughably wrong and that the positions they have advocated would have led to the deaths of millions."

He continues, "In the struggle for clean air, executives in the power, mining and automotive industries made fools of themselves at the time by cooking up economic and scientific arguments against pollution regulations that turned out to be utterly wrong. It is infuriating to see them now cough up the same, tired, half-baked arguments against carbon emission limits that they have been making wrongly for four decades against the whole slate of government environment and safety regulations, the very regulations that have made America the cleaner, safer Country we know it to be."

I take that statement from a conservative publication. This is not the publication of the Sierra Club; this is the Economist

Magazine show that there is room for a principled, conservative position that acknowledges the reality of climate change, that acknowledges the reality of what is happening in my State.

I am keenly aware of what the economic damage could be if we get this wrong in West Virginia, Wyoming, Arkansas and other States. I am willing to work with my colleagues to try to see what we can do to get that right.

I cannot have a situation in which the other side refuses to acknowledge the reality of what is happening in Rhode Island, of what is happening in Maine, of what is happening in Oregon, of what is happening around the world and around the Country because carbon pollution, to use the Economist phrase, is cooking our environment.

That doesn't even get you into what it is doing to our oceans. You can actually measure sea level rise. You do that with the equivalent of a yardstick. You can measure the warming of the ocean. You do that with a thermometer. This stuff is not complicated.

You can measure the acidification. You do that with essentially pH type tests that people use for their aquarium. This is not complicated. When you measure it, you see it happening. It is real. We are in the process of having the ocean acidify at a faster rate than has ever occurred in the history of our species.

If you never want to go near the ocean, if you never want to eat anything from the ocean, if you don't think the ocean provides anything useful in terms of oxygen and cooling for the planet, that may be a matter of no interest to you.

It is pretty significant because when you go back into geologic time to look for the previous occasions, when you have seen that sort of calamitous change in ocean acidification and look at what is happening on the rest of the planet, those were not the high points for planetary habitability.

I wholeheartedly support this rule. I urge my colleagues to look at both sides of the ledge, not just the fossil fuel industry side and with any luck, in a reasonable amount of time, we will be able to do the job in Congress that if we had done it in the first place, you might not be here having to answer these questions.

Because of our failure, you have had to proceed. I don't think it is fair to blame you for having to proceed when we are the ones who failed.

The Chair. Senator Barrasso.

Senator Barrasso. Thank you, Mr. Chairman.

Ms. McCabe, are you aware of the new source performance standard in the existing source performance standard rules for coal-fired power plants as a result of the 2010 EPA Sioux and Settlement Agreement with the National Resources Defense Council

and others?

Documents obtained by the committee reveal that this agreement was reached in close coordination with the NRDC above all other petitioners, above all over interested parties such as the States.

One document in particular suggests that these rules were crafted to please the NRDC with Gina McCarthy going so far as to tell the NRDC climate advisor David Doniger, "This success is yours as much as mine." That was on the day the settlement agreement was made public.

Yet, it doesn't appear that the rule is a success to any of the real affected parties like the States or the American people who are facing high electricity bills and job loss. Do you believe that these rules are a success of the NRDC?

Ms. McCabe. No, Senator. These rules have come about because the EPA made an endangerment finding about the fact that CO2 was harming public health and welfare and that we have a responsibility and an authority under Congress' Clean Air Act to move forward to set standards for new sources of carbon dioxide as appropriate for existing sources of carbon dioxide and we have methodically looked at the most emissive sectors, starting with transportation and now fossil-fired utilities with 40 percent of the Country's CO2 emissions.

Senator Barrasso. Would you say that Wyoming, West Virginia

or any of the other States of this committee had the same input and access to the EPA officials as the lobbyists and attorneys from the NRDC in reaching this settlement agreement?

Ms. McCabe. I speak with States all the time. They have very good access to discuss all of these issues with us. They certainly know how to reach us and do.

Senator Barrasso. Actually, 32 States did submit legal objections to the rule in the form of comments, including my home State of Wyoming. When a majority of States object to a rule, I think you have done something wrong.

I want to move on to the way you evaluate benefits. Most of the benefits claimed by the EPA in the 111(d) proposal for existing power plants come from reducing conventional pollutants like PM 2.5 and not carbon.

Why is the EPA justifying a carbon rule with benefits from PM 2.5?

Ms. McCabe. There actually are significant benefits associated with the effects of reducing carbon. Those are all laid out in our IRA.

Senator Barrasso. Once again, it does seem most of the benefits claimed by the EPA in the proposal for existing power plants comes from reducing conventional pollutants like PM 2.5 and not from carbon.

I wonder if the EPA is double counting PM 2.5 benefits that

it is also taking credit for in other rules. I would ask how you justify counting the health benefits which misleads the American people to the actual health benefits of the rule?

Ms. McCabe. First of all, we certainly are not double counting. We are very careful in all of our regulations to make sure that we don't do that. In addition, it is a standard and an accepted approach to acknowledge when there are co-benefits associated with the reductions that are happening as a result of the rule.

It would not make sense to not acknowledge those additional public health benefits and that they have value to the American people.

Senator Barrasso. So you double count the co-benefits where you count them both over here and then both over there?

Ms. McCabe. No.

Senator Barrasso. The DOE announced this week that after ten years of work, it was cancelling the FutureGen, the CCS Project, "in order to best protect taxpayer interests." That was the reason given.

How can the Federal Government require the private sector to build CCS power plants under your proposed rule when it can't even build a CCS power plant on its own?

Ms. McCabe. The rule in no way requires anybody to build anything in particular, including CCS.

Senator Barrasso. DOE advisors released a study requested by Secretary Moniz that concluded that CCS is not "adequately demonstrated and should not be required under 111(b) of the new sources." The energy experts are telling DOE that CCS isn't adequately demonstrated. My question is, is the EPA really listening?

Ms. McCabe. We are paying attention to all the input that we have gotten on 111(b) as well as 111(d). I will note that since last fall there has been a plant operating using CCS at 90 percent capture. That is moving along as everybody expected.

The technology is out there in use. That is certainly not the only example. As I said, we will, of course, pay attention to all the input we get on this issue.

Senator Barrasso. On November 12, the U.S. announced a U.S.-China joint climate change agreement. The announcement stated that the President of the United States and China had stated their respective post-2020 actions on climate change.

According to the State Department, the agreement states the United States "intends to achieve an economy-wide target of reducing its emissions by 26 to 28 percent below its 2005 level in 2025." According to the State Department the same agreement says that China intends to achieve the peaking of CO2 emissions around 2030.

We have to do all these things and there is not even peaking

until 2030 and to make the "best efforts" to peak early and tends to increase the share of non-fossil fuels and primary energy consumption to around 20 percent by 2030.

The State Department has stated in Capital Hill meetings that the EPA actions, such as your proposed rule for new and existing power plants, will achieve the reductions of 26 to 28 percent. What role did the EPA play in setting these big targets for the U.S. in the U.S.-China agreements and what role do you see Congress playing in setting this policy, of which the economic impact is sweeping?

Ms. McCabe. I may have misheard you, Senator, but to the extent that you suggested that the Clean Power Plan was intended to achieve the 26 to 28 percent all by itself, that is certainly not correct.

Senator Barrasso. It is a big part of it, not all by itself but a significant part of it.

Ms. McCabe. It is significant reductions as are the clean car rules, as are other things.

Senator Barrasso. The question is, what role did the EPA play in setting these targets in the U.S./China agreement?

Ms. McCabe. We have, as have many agencies, participated in conversations and discussions about what types of approaches would be feasible within our authorities to reduce carbon dioxide.

Senator Barrasso. What role do you see Congress playing in setting this policy?

Ms. McCabe. This is a matter for the President as he is discussing these targets in the international community. I am sure that he is paying attention.

Senator Barrasso. Is the Administration's position that Congress has no role, responsibility, obligation or opportunity in all of these things?

Ms. McCabe. Senator, I don't want to speak to that today. That is not really my responsibility. I would defer that to others to speak about. I am focused on the Clean Air Act and our authorities under that.

Senator Barrasso. Senator Whitehouse, who has left, was quoting The Economist on some issues. Regarding the specific deal between the United States and China, The Economist said that the costs to the United States are much more real than they are to China.

It is something many of us here oppose and are going to continue to try to dismantle.

Thank you, Mr. Chairman.

The Chair. Thank you, Senator Barrasso.

Senator Boxer.

Senator Boxer. Thank you, Mr. Chairman.

First, I want to put in the record a PolitiFact that when

Mitch McConnell says U.S./China climate deal means China won't have anything to do for 16 years, PolitiFact found that mostly false. I want to put that in the record, if I can.

The Chair. Without objection.

[The referenced information follows:]

Senator Boxer. Thank you.

We are hearing from a couple of my Republican friends, they are my friends, this isn't personal, this is quite important, a series of scare tactics about the results of continuing to implement the Clean Air Act. I want to compliment you, Ms. McCabe, for your very calm presentation.

This is a situation where the Clean Air Act requires you to act. It doesn't require us to act; it requires you to implement the Act unless we repeal the Clean Air Act. I haven't heard anyone say they want to repeal the Clean Air Act. If they do, bring it on.

It is true that since Richard Nixon signed the modern Clean Air Act in 1970 -- I want to make sure this jibes with your understanding -- the U.S. GDP has grown by 219 percent, private sector jobs have grown by 101 percent and common air pollutants have dropped by 72 percent. Is that your understanding?

Ms. McCabe. That is my understanding.

Senator Boxer. Senator Sullivan, I think in a very aggressive way and good for him, said that Obama is abusing his authority. I want to place into the record how many executive actions the last three Presidents took: Clinton, 364; George W. Bush, 291; and Barack Obama, 200.

Maybe I am wrong but I have not really heard anyone on the other side complain about George W. Bush's 291 executive orders,

Nixon's 346 executive orders, or Regan's 381 executive orders. However, with Barack Obama's 200, oh, my God, the sky is falling. Isn't this awful.

I am sorry, the record just disproves your point.

I believe this not an Administration gone rogue. This is an Administration following the Clean Air Act. Don't you agree that is what you are doing?

Ms. McCabe. That is what we are doing.

Senator Boxer. Don't you agree there have been three Supreme Court decisions that tell you that you need to proceed? The first case was Massachusetts v. EPA, the second case was American Electric Power v. Connecticut; and the third was Utility Air Resources Group v. EPA. Is that correct? Is that your understanding?

Ms. McCabe. Correct.

Senator Boxer. Don't you have to follow the law?

Ms. McCabe. We do.

Senator Boxer. Don't you have to follow the Supreme Court?

Ms. McCabe. We do.

Senator Boxer. The Supreme Court in that last case, which Senator Sullivan quoted, confirmed the Clean Air Act covers carbon pollution. Isn't that correct?

Ms. McCabe. Correct.

Senator Boxer. If you didn't do your work, you would be

sued for not doing it. Am I right?

Ms. McCabe. In all likelihood, we would.

Senator Boxer. I think so because I know some of the folks that would do it, including me, probably, if I had a chance. We have a lot of people at home who care about clean air. We have the largest number of people. We are up to 38 million people. Cleaning up the air is a primary focus.

With all due respect and admiration, we get along so well, I have to say my Chairman misconstrues the votes in the Senate. I am going to put in the record the actual votes, if I might.

The Chair. Yes.

Senator Boxer. Here is what they are. October 30, 2003, McCain-Lieberman went down. It was McCain's bill and was called The Climate Stewardship Act of 2003. He was right, it went down. We only had four Republicans: Collins, Greg, McCain and Snow, 43 to 55.

On June 22, 2005, the McCain amendment, 826, went down in a worse way, 38 to 60. Then we had Chaffee, Collins, Greg, Lugar, McCain and Snow, Republicans. On June 6, 2008 -- this is the one I remember -- the Lieberman-Warner Climate Security Act of 2008 lost because it was a filibuster. Six people were absent and they asked their intention to vote yes be entered into the record. We actually had 54 votes at that time. We didn't have the 60 but we had a majority.

What I want to say to you is in this recent debate on Keystone, here is what happened: 99 to 1, the White House amendment declaring that climate change is not a hoax passed with the support of the Chairman and 59 to 40, the Hoeven amendment said climate change is caused by human activity won the day, 59 to 40 but was filibustered, so it never got where it should have gotten.

Then the Schatz amendment, which says climate change significantly is caused by human activity, passed 50 to 49.

My colleague from Mississippi went into this whole thing about that great movie, The King's Speech. I didn't quite get the connection but it was cleverly put forward.

The bottom line is he is saying that these two newspapers are confusing the matter. I am going to put into the record all of the news outlets that reported this story. I have 40 and there are many more.

Let me tell you who is included who said the same thing: The Christian Science Monitor, UPI, Chicago Sun Times, Reuters, AP, Financial Times, Politico, USA Today, National Journal, Virginia Pilot, Time Magazine, Newsweek, Kansas First News, National Geographic, Blumberg, Smithsonian Magazine, and Salt Lake City Tribune.

There was no question that all these outlets reported this not because they reported it for any particular reason other than

this is the truth.

Unless my colleague from Mississippi has a right to say that he doesn't believe in NOAA and doesn't believe in NASA, this is a fact. You cannot make up this stuff. Would you agree this is accurate reporting?

Ms. McCabe. That is certainly what I have understood from those agencies you mentioned.

Senator Boxer. Thank you very much.

Climate change is projected to harm human health. I wish my colleague from Mississippi was here because I really would love to get into a debate with him but he is not here because we all have so many obligations and I understand.

We know that climate change increases ground level ozone and particulate matter in some locations. Is that accurate?

Ms. McCabe. That is accurate

Senator Boxer. When you clean up this carbon, you are really helping the health of the people. Isn't that true?

Ms. McCabe. That is correct.

Senator Boxer. Relying upon substantial scientific evidence, EPA determined that man-made climate change threatens both public health and public welfare. Is that correct? My understanding is that was put forward in Coalition for Responsible Regulation v. EPA? That was the case.

Ms. McCabe. That was the endangerment finding, correct.

Senator Boxer. In the endangerment finding, you found extreme weather events, changes in air quality, increases in food and water borne pathogens. We know that happens because we know it happened in a lake in Ohio which was devastating. We know these increases in temperature are likely to have adverse effects. Is that correct?

Ms. McCabe. That is correct.

Senator Boxer. Isn't it clear that those of us who believe that carbon pollution does increase the likelihood that people will have breathing difficulties and heart attacks a proven fact?

Ms. McCabe. Yes, it is.

Senator Boxer. Thank you.

Thank you, Mr. Chairman.

The Chair. Senator Rounds.

Senator Rounds. Thank you, Mr. Chairman.

Thank you for your time this morning.

I would like to read a bit of a summary of what has happened in my State of South Dakota and the challenges that we face. I would then like your response, please.

In the year 2012, the base year, South Dakota's Native electricity production was approximately 74 percent renewable energy and 26 percent from fossil fuels. We have one coal-fired power plant that employs 80 people, the Big Stone plant, and one natural gas combined cycle plant, the Deer Creek Station.

Each of these plants dispatches power into a different regional transmission organization. In your plan, you calculated Deer Creek Station's actual 2012 capacity factor at 1 percent despite the fact that the Deer Creek Station was not commercially operational until August of that year.

Had the EPA considered Deer Creek Station under construction in 2012, the plan would have assigned Deer Creek an assumed capacity factor of 55 percent in the year 2012.

Because of these calculations in your plan, it would require that the Big Stone plant, the coal-fired plant, which now operates approximately 8,000 hours a year to operate at between 2,000 and 2,500 hours per year in order to comply with your targets for the State of South Dakota.

The results of this coal plant running less than half of the time it runs now doesn't work. The Big Stone plant employs approximately 80 people. Under your preferred plan, we simply have to wonder whether or not those jobs would remain in the State or whether the plant would continue to operate.

Further, operating a baseline or a baseload coal unit 2,000 hours per year is literally uneconomical and is basically unfeasible. Big Stone power plant and Deer Creek Station operate in separate RTOs. The electricity in one RTO cannot be transferred to the consumers in another RTO who depend on the plants to keep on their lights.

Adding an additional layer of complexity to this is the fact that the Big Stone plant is in the middle of a \$400 million upgrade in order to comply with the EPA's regional haze rule and South Dakota's 2012 State implementation plan to comply with that rule.

This project isn't completed yet and after a \$400 million investment -- the largest single private investment our State has ever seen -- you are now telling this plant they may not even be able to operate at all in order to comply with your latest regulations.

My question is this. We have a limited number of electric generating resources in South Dakota. Each facility is absolutely vital to meeting the energy needs of my State and our surrounding States.

In light of this, what if any flexibility is built into your proposed rule for a State like South Dakota? What flexibility is there for facilities in the midst of a major upgrade at your direction and are now being told they need to do even more to meet these additional regulations you plan on implementing?

Ms. McCabe. We certainly welcome conversations at this level of detail from States. We are having many of them. I trust and hope your State has provided that input to us in their comments and that we are having those conversations.

I want to emphasize that the proposal we put out is not

proscriptive. We do think States can find ways to reduce carbon in order to meet the targets. We are looking very closely at all of the kinds of issues you are raising with us.

In particular, if States think we got something factually wrong, we have urged them to tell us. Many have. Again, I presume your State is having that conversation with us. If we got something factually wrong, we will address that because we want to make sure the final rule is appropriate and correct and still maintains flexibility.

There are opportunities across the regions and across the States to have investment in clean technologies, energy efficiencies and renewables. I believe your State has been a leader in some of those technologies. We applaud that. That is why we think this can work.

We also appreciate there are complexities. Especially in the west, there are large States who are divided in terms of their energy markets. We are having conversations with States and with the energy regulators about those sorts of issues to make sure the final Clean Power Plan can accommodate all those sorts of considerations.

Senator Rounds. To the best of my knowledge, we have received no suggestions of how to fix the problem we share with you today. This is a major proposal. Clearly we think there should be a significant amount of thought put into the original

rule to begin with.

Ms. McCabe. Yes.

Senator Rounds. We have no feedback suggesting there is an alternative at this stage of the game. I am curious, are you suggesting that a final rule would be significantly different than the proposed rule based upon the information we have already provided to you?

Ms. McCabe. I am suggesting, as is usually the case with EPA regulations, the comments we receive may well lead to adjustments in the final rule. In fact, I do not have any experience with an EPA rule where that has not happened.

That is why the public comment process is so important. I would emphasize that even beyond the formal public comment process, the tremendous relationship and discussions we have had with States and stakeholders is to make sure we get this right.

Yes, to the extent that adjustments are appropriate within our authority and needed to make sure the rule can work properly, we certainly will be looking at those kinds of things.

Senator Rounds. All of us want clean air. The challenge is how do we get there? How do we maintain what we have already? How can we afford to pick up the costs for making it better in the future?

The United States Chamber of Commerce in a report last year suggested that the cost to the average American family would be

approximately \$1,400 per year to comply with this particular rule.

Did you have or are you aware of what the estimated costs were when the rule was proposed or what the anticipated costs would be to a family to comply with this rule?

Ms. McCabe. For every significant rule like this, we do a regulatory impact analysis along with the proposed rule. We did that here. It is all available for everyone to take a look at.

I am not sure about the specific study you cited, but we did do a forward look. I need to make sure everyone knows that because States will ultimately decide exactly what to do, our projections can only be illustrative. We are confident States will make the best choices for the families within their borders and that will take into consideration the costs.

This rule is all built on the things happening now in this industry. Utilities are using less carbon intensive, more economical fuels, investing in renewable energy and investing in energy efficiency. Those things together reduce carbon emissions but overall, because of the tremendous impact energy efficiency can have in the amount of energy we use, we expect bills to go down.

Senator Rounds. Mr. Chairman, my time is up. May I just read one sentence into the record?

In July of 2014, the South Dakota Public Utilities

Commission said "Some South Dakotans will see their electricity rates almost double as a result of the CPP disproportionately impacting the Midwest."

Thank you.

The Chair. Thank you, Senator Rounds.

Senator Gillibrand.

Senator Gillibrand. Thank you, Mr. Chairman, for this very important hearing.

Thank you, Ms. McCabe, for testifying about the Administration's actions to protect clean air by reducing carbon emissions for power plants.

From my perspective, the science is clear. Climate change is real. The burning of fossil fuels contributes to it significantly and is an immediate threat to families and communities in every corner of this Country and the world.

Industrial activity in the United States has been a major contributor to carbon pollution over the years. Whether we like it or not, our Country has the dubious distinction of having been a leader in creating the problem. Now, thanks to the hard work of this Administration, we are on track to solving this problem.

Something I think is often overlooked by many of the opponents of rules that limit carbon pollution from power plants is the benefit families will see in terms of public health. The Administration's proposed rules are strongly supported by health

professionals.

In fact, I am sure you are aware the Academy of Pediatrics, the American Heart Association, the Lung Association, the Thoracic Society, the Public Health Association and several other public health organizations sent a letter to the EPA which stated, "The changing climate threatens the health of Americans alive now and future generations. Consequently, the Nation has a short window to act to reduce those threats."

Given that statement from some of these leading and well respected public health organizations, can elaborate on the public health risks that American families will continue to face if we fail to act to reduce carbon emissions from power plants?

Ms. McCabe. There are some pretty immediate impacts. As we see temperatures go up, those kinds of conditions are more conducive to ozone formation. Ozone has very well demonstrated immediate impacts on families, including exacerbating asthma, bringing on asthma attacks leading to all kinds of medical expenses as well as missed school and work.

Severe drought which is occurring has significant impact on public health. The changes in temperatures are changing the seasons of various allergens and changing the patterns of various vectors that can lead to disease.

These are the kinds of things that scientists are seeing as a result of occurring climate change impacts.

Senator Gillibrand. The northeast has recently experienced a greater increase in extreme precipitation than any other region in the Nation. Sea level rise along New York's Atlantic coast has exceeded 18 inches since 1850.

Recently, the northeast has experienced extreme weather events that are more intense and frequent than we have seen before. While there is much talk of the potential cost of reducing emissions, there are significant costs to the economy if we decide to do nothing.

Has the EPA looked at the cost to other areas of the economy of failing to enact strong carbon emissions reductions? Would you agree that the cost of rebuilding our infrastructure and shorelines, providing billions of dollars in disaster assistance every year from extreme weather and destructed agriculture and fishery production, among other economic effects, far outweigh the cost of comply with the rules?

Ms. McCabe. I certainly would. The greatest cost is to do nothing. The kinds of impacts you cite are ones scientists say are happening and will happen more in the future. Those are very, very costly events.

Particularly implementing the rule as we have proposed it here, providing flexibility for States to invest in their local communities, bring jobs, invest in energy efficiency, which will reduce the need for electricity, provides very positive economic

benefits.

Senator Gillibrand. Thank you, Mr. Chairman.

The Chair. Senator Vitter?

Senator Vitter. Thank you, Mr. Chairman.

Thanks, Ms. McCabe, for being here.

I want to thank my colleagues for letting me jump ahead because I have another commitment in a few minutes. I will be brief.

As you know, I submitted requests for documents on these rules and development of these rules in the last Congress. EPA is still producing some of those documents but from what has been produced, there is a dramatic pattern of very frequent, detailed meetings and phone calls and emails between EPA and NRDC, a leading outside environmental group.

The number of these communications is pretty staggering and unprecedented as far as I can see. In addition, there is some correspondence between EPA and NRDC that has not been produced or posted to the docket. Why is that and will that excluded correspondence and documentation be submitted?

Ms. McCabe. I am not exactly sure of the answer to that question. I will be glad to get back to you on that.

Senator Vitter. If you could get back to us, hopefully that will be corrected in terms of the docket by including that additional correspondence and documentation.

Some things have been produced by EPA already. It shows a level of communication and detail and consultation that I think is pretty staggering. Let me put up one email of June 2013 before the rule was proposed.

In this, NRDC attorney, Dave Hawkins, advised senior EPA air official, Joe Goffman, "As long as the compliance date for the FIP 111(d) emission limits is a few years after the SIP submission deadline, it appears EPA can promulgate back stop FIP limits even in advance of the June 16 SIP submission date."

There is very detailed advice, direction I would say, before the rule was even proposed. Do you think that sort of thing is appropriate?

Ms. McCabe. We get a lot of detailed advice from a lot of people and have many meetings with a lot of different stakeholders who weigh in with us. We take all of that input and put it in a proposed rule which is fully open for everyone to look at.

If the rule is not grounded in science and the law, then people tell us. That is how we proceed.

Senator Vitter. Prior to this email, had EPA even considered issuing a model FIP?

Ms. McCabe. I can't speak to exactly when we would have had those conversations, but I can assure you that the notion of a federal implementation plan is fully laid out in the Clean Air

Act. That is what is motivating us to think about the need for a backstop federal plan.

Senator Vitter. If you could follow up and answer that question directly, whether EPA considered issuing a model FIP prior to the email, that would be useful.

Did NRDC's advice have significant bearing on the model FIP EPA is now developing?

Ms. McCabe. We have not yet proposed a model FIP. We are going through that process right now. We have gotten a number of comments in the public comment period from a variety of stakeholders urging us to consider doing a model FIP. We will be working our work through the process to figure out what the appropriate proposal is.

Senator Vitter. Is EPA planning to issue its model FIP before the SIP deadline?

Ms. McCabe. We announced in January that we intended to propose a FIP this summer around the same time that we finalize the 111(b) and 111(d) rules.

Senator Vitter. That would be before the other deadline?

Ms. McCabe. I am not sure which deadline you are talking about. Are you talking about the deadline for States to submit plans?

Senator Vitter. Correct.

Ms. McCabe. That deadline has not yet been finalized. That

will be finalized in the final rule. We proposed it would be 13 months after the 111(d) rule is finalized. We will have a proposed FIP out in the summer. I would expect we would have that finalized within a year.

Senator Vitter. I just want to point out that it is perfectly consistent with this direction and advice.

My final question is this. I continue to be very concerned with the very secretive work on the social costs of carbon estimates. I asked you previously for the names and titles of those folks under your supervision in the Office of Air and Radiation who have participated in the Interagency Working Group. We haven't gotten that. Can you provide that to us?

Ms. McCabe. It really has not been a secretive process at all. The GAO has confirmed that it was not an inappropriate process and that agencies across the government participated. It is not a process that the EPA was in charge of. I feel we have been responsive.

Senator Vitter. Can you provide me the names and titles of those folks under your supervision in the Office of Air and Radiation that participated in the Interagency Working Group?

Ms. McCabe. I will take back that question and we will get you a response to that.

Senator Vitter. So it is not a secretive process but you won't commit to that?

Ms. McCabe. It is not a secretive process.

Senator Vitter. Will you commit to that?

Ms. McCabe. I will commit to get back to you.

Senator Vitter. You won't commit to that. Thank you.

The Chair. Thank you, Senator Vitter.

Let me thank both Senators Boozman and Capito who have been very flexible with their time to accommodate the others. I appreciate that very, very much.

Senator Carper.

Senator Carper. Thank you, Mr. Chairman.

Ms. McCabe, welcome. It is very nice to see you. Thank you for joining us today. Thank you for your service. You have a tough job. We appreciate your willingness to do it.

For those of us who live in States, there are actually millions of people in States already seeing the impacts of climate change. The EPA's proposal to regulate our Nation's largest sources of carbon pollution has been, frankly, a long time coming.

However, with any substantial regulatory action, there is always room for improvement. While we strive for perfection -- I think all of us strive for perfection -- we know it is hard to achieve.

I look forward to working with our colleagues on this committee, the Senate and the House, working with the

Administration and other stakeholders in trying to make sure this regulation, as good as it is, becomes even better before it is finalized.

One such issue I hope to address is inequities in the State targets. We had some discussion of this before. It is my understanding that different States will have different targets based on feasibility of electrical systems and other variables under the Clean Power Act.

However, as written, I have heard from stakeholders that the proposal requires more of States that have already made substantial carbon reductions. Believe it or not, one of them is my State, Delaware. It would require more of us than States who have not yet acted.

For example, Delaware has already made substantial investments in energy efficiency and cleaning up coal plant emissions compared to a lot of other States. These stakeholders have expressed that if this issue is not addressed, States may be at a competitive disadvantage.

Have you heard similar concerns from other stakeholders? If the answer is yes, is the EPA considering adjusting the State targets to address these inequities? If so, what are those possible actions?

Ms. McCabe. This certainly is an issue that has been raised in comments from all different directions and from a number of

different stakeholders. It is something to which we are paying a lot of attention. In fact, we paid so much attention to it that in the fall we put out a Notice of Data Availability identifying some of the issues people had raised so we could be sure to get as much input as possible on it.

Our final rule has to be founded in our authority under the Clean Air Act to determine the best system of emission reduction for this sector. That is what we will be striving to do but we are looking very closely at all of these things.

While I can't speak to what any final decisions might be, because the rule won't be final until June or mid-summer, I can assure you that we are looking hard at those questions. We certainly don't want a rule that will disincentivize States from moving forward with early actions. That would not be good.

We want to make sure that we make as many adjustments as we can to, as you say, improve the rule while staying within the legal authority that we have.

Senator Carper. There is a precedence for this -- I think it is in Medicaid -- for States that acted early in terms of increasing coverage under Medicaid. Under the Affordable Care Act, they were actually put at a disadvantage. I think we managed to fix that. My hope is we can be sure to do the same thing here.

I come to the issue before us today with a unique

perspective. As the Senator from West Virginia knows, I was born in a place called Beckley. I don't come from a place called Hope. I come from a place called Beckley, West Virginia. I still have a lot of family in the Mountain State and had the opportunity to go back there as recently as last month.

The importance coal plays in the livelihood of a lot of folks, not just in West Virginia but in other places, is real to me. However, I now live and have the privilege of representing Delaware which is the lowest lying State in the entire United States of America.

I understand if we don't curb our power plan fossil fuel emissions over time, significant portions of my State will be lost to the sea. In fact, some parts of it are already starting to be lost to the sea.

Can you take a few moments to talk with us about how this rule might address both concerns? How does this rule help make sure that my native State, West Virginia, doesn't end up in economic ruin or damaged substantially while at the same time helping to make sure my State remains on the map?

Ms. McCabe. Let me address those things first, Senator.

As has been discussed this morning by many of the committee members, CO2 emissions need to be reduced globally in order to addressing the kinds of impacts in Delaware about which you speak.

This is one step that the United States can take which the Clean Air Act authorizes us to take along with others that this Country and others must take in order to address this. We believe that is a responsible and appropriate thing to do.

We are very aware of the impacts occurring in the electricity generating sector today. There are many forces that way beyond what EPA might or might not do in this or any other rule that is changing the way energy is produced in this Country. As we talk with the industry, we understand that from them.

We also understand that can have impacts on local communities built up around certain types of industries. This is not the first time that has happened. We must be very, very sensitive to those impacts as well.

This rule, as we predict, looks to the future. We see a significant portion of power in this Country still being generated by coal, about 30 percent. It will be clean and well controlled coal and investments there are very important.

We see another 30 percent being fueled by natural gas, another very important domestic industry that employs many, many people in this Country. There are other sources of energy, including ones where there is tremendous opportunity for investment in our local communities -- thinking of renewable and energy efficiency, particular.

For we are keeping all of those things in mind and fully

believe that the flexibility this program allows will allow for that range of types of operations. That is good and healthy.

Senator Carper. One of the major sources of electricity generation of which I am aware, which does not create any emissions or harm, is nuclear. That provides electricity for about 20 percent of our need in this Country and has for a long time.

My staff and I continue to hear concerns that the EPA is not treating all zero emission resources the same in this proposal. Specifically, we have heard that the proposal discounts nuclear generation in the State targets as compared to renewable energy putting nuclear energy at a disadvantage to other clean technologies.

Why does the proposal discount nuclear generation? What is the EPA doing to address this issue?

Ms. McCabe. This rule is about the fossil fuel-fired electricity generation. That is the sector that emits the air pollutants we are authorized to address. Looking at the types of emission reduction approaches that fossil fuel-fired generation fleet can adopt, we identified some key approaches that industry is now taking, shifting to less carbon intensive, energy efficiency, renewable and all that sort of thing.

This rule is not an energy plan. It should not be an energy plan. That is not Administrator McCarthy's job. We understand

the significant role nuclear power generation plays in the Country and that it is subject to various pressures and issues.

We want to make sure States who have invested in nuclear energy and wish to do so, that can be a significant compliance option for States. It will be.

We have received a lot of comment on the exact question you asked about how we figured that into the targets. We will be sorting through all that information and resolving that in the final rule. We take the point people are making very seriously on that question.

Senator Carper. My time has expired. Thank you so much for taking that seriously.

The Chair. Thank you, Senator Carper.

To the last and arguably the most patient members of the Environment and Public Works Committee, I appreciate very much your patience. Senator Capito, you are next.

Senator Capito. Thank you, Mr. Chairman.

I would like to thank Ms. McCabe for coming before us today to discuss this extremely important rule.

I hope you know that I represent the State of West Virginia. Ms. McCabe. I do.

Senator Capito. Thank you.

We have just under 2 million hardworking Americans who receive 95 percent of our electricity from coal power generation.

The West Virginia coal industry supports families, strengthens national security and affordably powers not only my State but provides affordable electricity to many of our neighbors. We export over half the electricity that we produce. We could be keeping the lights on in this room.

Like many colleagues, I have some serious concerns about the proposed regulations. I am concerned about the cost to the taxpayer and also to the bill payer. We have already heard today that 32 States have raised serious objections.

A large percentage of our Country's power comes from coal, yet you predict by effectively eliminating one-half of our energy generation, we will reduce electricity prices by 8 percent. This, to me, doesn't simply add up.

In our State, our monthly electrical bills are 23 percent lower than the national average because our coal is cheap, reliable and very plentiful.

I am also concerned that in formulating these regulations, EPA has not considered the impact. You kind of touched on this but I think we need to get into it some more, the reliability of our electricity grid.

You don't really have great track record here because if you look at the max rule, the EPA predicted that regulation would result in the closure of 5,000 megawatts of generating capacity. In reality, the DOE now says that between 50,000 and 60,000

megawatts of generation capacity will be taken offline. That is a ten times mistake.

The cumulative effect of these regulations on our grid cannot be overstated. I think there is concern about the reliability. Looking back to last winter and touring some power stations, First Energy and others in my State, some of these coal-fired power plants to be taken offline were running at near capacity to keep our homes and our seniors warm.

Our hardworking coal miners in West Virginia have made our State the second largest coal producer behind Senator Barrasso's State of Wyoming. We mine it, we transport it, we burn it, our families depend on it. It has a huge economic impact.

You say in your opening remarks that EPA stakeholder outreach, public engagement and preparation have been unprecedented. You talked a lot about, I think you said, the millions of comments. How many comments? A lot?

Ms. McCabe. A lot.

Senator Capito. I am interested in your definition of outreach. This is not just me. Senator Manchin has lodged an invitation for the EPA to come to a coal-producing State like West Virginia -- please West Virginia -- to talk about these. None of the meetings on this were ever conducted in the coal-producing States, certainly not in the State of West Virginia.

I reached out and invited EPA to come to West Virginia to

talk about the economic impacts of this rule and these rules in our State.

Can we count on EPA to come and talk to the people of West Virginia about how this is affecting their livelihood and their electrical bills? Why haven't you come to a State like West Virginia to talk about this with its citizens?

Ms. McCabe. There is a lot in what you just said. I will do my best to respond. I want to mention a couple things because you raise some very real points. I appreciate your thinking about your State as of course you would.

The estimates and the projections we include in our RIA for this rule are illustrative because we don't know exactly what every State will do. They are also at a national level, so we understand there could be some differences in how regulations impact local or regional areas that might differ from nationally. We are hearing a lot in the comment from people about that. It is important that we hear that.

I also want to mention that in establishing the targets in the rule, somebody mentioned earlier that the targets are different for every State. They are and indeed, the one result of that is that very coal intensive States actually remain coal intensive, even under our proposed rule.

I come from Indiana which is in the 93 to 95 percent. Those States as we looked at the application of these different

technologies across the Country, States like yours and mine that are very coal intensive remain that way. Their targets are not as onerous some would say as States that are less coal intensive.

The design of the rule was to take each State where it was in its power generation and acknowledge that. Some of that is what was prompting Senator Carper to note that some States perceive inequities in the rule because of that.

We very much tried to build this into the design of the rule because we recognize there are differences around the Country. It is not reasonable to expect Indiana or West Virginia to suddenly become a Delaware in terms of its energy mix. That just won't happen.

Wherever the State is, whatever its mix is, there are opportunities there. There are opportunities in Indiana, West Virginia and everywhere to reduce the carbon intensity of the power production. That is how the rule lays out the process.

To the extent we haven't got it right, people are telling us how they think we should adjust it in order to get that right.

Senator Capito. What about the visit to West Virginia? Why didn't you visit coal producing States?

Ms. McCabe. We did have a lot of meetings around the Country. We met in many States. When we were scheduling national level meetings, we wanted to have those in locations where people were comfortable coming. We used a lot of EPA

offices.

Senator Capito. That is not really a great answer. I am not trying to be antagonistic. I don't think it is a great answer. You can get to West Virginia. We are not that isolated. It is a beautiful spot.

This heavily impacts the economics of our State and our ability to compete. All the time we get, you have to transition out of coal, you have to make a change and all these kinds of things. You say we have to use CCS technology or you have to use clean coal technology. It is not economically feasible. It hasn't been proven to be able to be run in a cost efficient way. We are beyond that.

Do I want that? Yes, I want that because that will help my State tremendously. Let's push forward on the research and development.

In the final analysis, of the 32 States that have lodged major objections, what if the States refuse to submit a plan? What is the EPA's reaction to that?

Ms. McCabe. I would be happy to answer. First, if I could say we got comments from a lot of people. Because this is a proposed rule, everybody always tells us things they we can do better.

Senator Capito. It sounds like us. We get that too.

Ms. McCabe. We welcome that. I am not counting, I don't

have States in a tally but to answer your question, the Clean Air Act says if a State does not submit a plan or a State submits a plan that is not approvable, then EPA would put in place a federal plan to implement the obligations we finalize in the rule.

Senator Capito. You mentioned forming regional alliances. I guess there is one in the northeast. If someone was listening to me say coal provides 95 percent of the electricity in my State of West Virginia, who is going to want to be my regional alliance?

Ms. McCabe. I think States are having a lot of conversations about that. States will need to find mutual reasons to come together. They also don't have to. I am not sure what conversations West Virginia is having with other States.

Senator Capito. Again, because of where we are, what we have, the natural resource we have, we are definitely disadvantaged.

Thank you.

The Chair. Thank you, Senator Capito.

I want to recognize Senator Boxer.

Senator Boxer. On behalf of Senator Sanders, thank you, Mr. Chairman.

He really wanted to be here but he is at a Budget Committee

hearing. He wrote a very interesting opening statement where he quotes the Department of Defense saying climate change is an immediate risk to U.S. national security. I ask to put that entire statement in the record.

The Chair. Without objection, so ordered.

[The prepared statement of Senator Sanders follows:]

The Chair. Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman.

I want to follow up on the Senators from West Virginia and South Dakota in regard to the baselines.

I feel the 2012 baseline is arbitrary. You have a complicated formula to determine the targets the States must meet. In Arkansas, because we have a new coal power plant not online until December 2012, it really doesn't accurately represent where Arkansas is.

We are going to be in a situation where we are six or seven on the list. In reality, because of the formula descriptions, it is really two or three. The bottom line is you talk about opportunities for States to cut emissions. That is true but the reality is, the electricity bill for the average person in Arkansas, people on fixed incomes, single moms, things like that, is going to significantly increase.

I would like you to look at the 2012 baseline and look at the catch-22 situations you are putting States in, like Arkansas and it sounds like South Dakota is in the same situation. I would like you to commit to work out the targets in that regard. I disagree totally with the rule but at least it could be fair.

Ms. McCabe. We have had a number of discussions about Arkansas' situation. In particular the 2012 issue has been brought up by a number of States. In our Notice of Data

Availability we put out last fall, we included information from 2010 and 2011 so people could take a look at how that might make a difference, looking at different years.

We are very open to hearing those concerns and trying to work them through.

Senator Boozman. The other thing I would like to discuss is reliability. You talk a lot about costs and things. Are you familiar with Southwest Power Pool?

Ms. McCabe. Yes.

Senator Boozman. For those who aren't, Southwest Power Pool is mandated by FERC to ensure reliable supplies of power, adequate transmission infrastructure and competitive wholesale prices of electricity.

I think you would agree that they are the folks that when you flip the switch, the electricity comes on. As a result of that, if they don't do a good job, if they don't provide reliable power, then they pay fines and are held responsible to the Federal Government.

I think you would also agree they are non-partisan. It is just an agency that is doing its best to make things work. They reviewed your mandates and produced a reliability impact assessment. Have you reviewed that?

Ms. McCabe. Not that one specifically, Senator, but I am aware they have done that.

Senator Boozman. I really think you should. I think it is important. They found significant new generating capacity not currently planned will be needed to replace the retirements that EPA is predicting, about 9,000 megawatts in our region alone by 2020.

Significant new transmission infrastructure will be needed. It currently takes up to eight and a half years to study, plan and construct transmission and costs up to \$2.3 million per mile of new transmission.

Their scenario is such that it is going to be very, very difficult to do as you are proposing without it affecting reliability. They have come up with four things they have asked you to do. I think they are very, very reasonable.

First, they recommend a series of technical conferences jointly sponsored by the EPA and the Federal Energy Regulatory Commission focusing on the impacts on regional markets and power system reliability.

My question to you is, would you agree to do that? To me, that is a very common sense approach. Today, we have heard a lot of talk that we need to do something. We need to do the right thing. Would you actually commit to doing that, getting the groups together and talking about the unintended consequences we might see?

Ms. McCabe. Actually, those technical conferences are

already scheduled, Senator. The first one will happen next week. There are several more around the Country.

Senator Boozman. Very good.

Second, they recommend a detailed, comprehensive and independent study of the North American Bulk Power System conducted by the North American Electric Reliability Corporation before EPA adopts its final rules.

Again, would you consider going forward with getting a good, independent study to address the potential unintended consequences that Southwest Power Pool and I think several of the other independent systems are concerned about?

Ms. McCabe. I believe that NAERC is already doing that kind of work and has put out some information.

I want to note that until the States decide what they intend to do by way of compliance, it is really not possible to do a real reliability study. What is good about the conversations that are happening and the work SPP and others are doing is they are doing exactly what you described their job to be, which is thinking ahead, looking ahead, planning, thinking about contingencies, thinking about how things might roll out, whatever the incoming factors are, whether it is an EPA rule, anticipating weather events that could affect the power system, or shifts in use of fuels based on anticipated prices.

Those kinds of conversations are exactly what should be

happening and what is happening.

Senator Boozman. To the study of Southwest Power Pool coming up with 9,000 megawatts and the difficulty in construction, I would also add the difficulty in getting easements and all of the hassle that goes with that. One of their recommendations is to extend the compliance schedule by five years.

Ms. McCabe. We have heard that not just from them but from others. We have also heard concerns, as I mentioned earlier, about the interim compliance date of 2020. That is causing a lot of anxiety, less than the ultimate compliance date.

Senator Boozman. Is it causing enough anxiety that you are going to do something?

Ms. McCabe. We are looking very, very closely at it, Senator.

Senator Boozman. The last thing they recommend is you adopt reliability safety valves recommended by the independent system operators and regional transmission organizations.

Ms. McCabe. That is an idea that several people and organizations have raised. That is another thing we are looking at very closely.

Senator Boozman. I am very much opposed to the rule but I do think you need to really look at the reliability and the impact it is going to have and the significant impact.

I know you mentioned States will have the ability to reduce their footprint. The reality is at the end of the day, lots of people are going to have significantly increased utility bills as a result of the regulation. I think there is pretty good data to show it is all pain and very limited gain.

Thank you, Mr. Chairman.

The Chair. Thank you, Senator Boozman.

I do have two minutes remaining. I want to make a couple comments.

First of all, don't forget not only is it the tax increase, it is the most regressive tax increase that you can have. These are the people who have to have their homes. That seems to have gone unnoticed, the regressive nature of this.

When Senator Capito asked a question about the 32 states, these are the States who are rejecting this. These States have actually said they cannot comply with it and some of them will not. Even Professor Laurence Tribe of Harvard recently stated the proposal is unconstitutional.

Senator Capito asked the question, what happens if they don't do a SIP? Your response was, they would be forced to take a FIP, correct?

Ms. McCabe. That is what the Clean Air Act says.

The Chair. What enforcement authority do you have to do that? You can't take away their highway funds. What are you

planning to do to coerce them to do something that is unconstitutional that they don't want to do?

Ms. McCabe. First, I would respectfully disagree that the program is unconstitutional. There are a variety of opinions out there. Professor Tribe's is one.

The Clean Air Act says if a State does not go forward with a State plan, then EPA would put in place a federal plan.

The Chair. It is the enforcement I was asking about. I am running out of time.

Let me conclude with this. There are certain incontrovertible facts that we have dealt with. One, this is a proposal that the States reject. There it is right there. They reject it.

It ignores the will of Congress. You can argue the different times it has come up. It has never passed. The type of regulation that would come through a bill that was introduced -- as I mentioned the first was not by a Democrat, it was by a Republican in 2002 -- it was rejected.

They cannot do it by the support of people who are answerable to the people, so they have to go to the unelected bureaucrats to do it. That is why they are trying to do it through regulation because they cannot do it through legislation.

The third thing is it relies on unreasonable assumptions. You saw the other chart we had up here a minute ago. If you look

at it and use common sense, this is not reliable. It will cost millions and increase our energy bills.

Senator Boozman is right, it is going to be on those who can afford it the least. Then, if all of that happens, if all that is correct, in all the hysteria and all the talk about the science, even if that were true, it still is not going to reduce the CO2 emissions worldwide.

We heard that not from people on my side or any other side except we have heard that from the first director of the EPA in response to our questions and in response to a House member.

These things are out there. I know this has become a religion and I know we will have a lot more discussions about it. We are going to do what we can to keep my people in Oklahoma from incurring the largest tax increase in history for something that is not going to be corrected.

Senator Boxer. May I put something in the record? May I ask for 30 seconds?

The Chair. Yes, not 30 seconds because I have to have the last word.

Senator Boxer. You can have the last word after I do my 30 seconds.

The Chair. Put something in the record.

Senator Boxer. I will. I am asking unanimous consent that I have 30 seconds and you can have whatever time you want. Is

that fair?

The Chair. The answer is no. Go ahead and put that in.

Senator Boxer. Then I will have a press conference immediately afterwards to tell you what he is stifling me from doing.

I want to put in information from the U.S. Energy Information Administration showing that California's electricity bill is far lower than Oklahoma's and that we are prospering because we have taken on climate change and have cheaper costs than they do in many other States.

The Chair. Without objection, that will be made a part of the record.

[The referenced information follows:]

Senator Boxer. Thank you.

The Chair. We are adjourned.

[Whereupon, at 12:02 p.m., the committee was adjourned.]