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Committee on Environment
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HEARING ON ECONOMY-WIDE IMPLICATIONS OF THE PRESIDENT'S AIR
AGENDA

Tuesday, September 29, 2015

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The full committee met, pursuant to notice, at 10:00 a.m.
in room 406, Dirksen Senate Office Building, the Honorable James
Inhofe [chairman of the full committee] presiding.

Present: Senators Inhofe, Boxer, Barrasso, Capito, Wicker,
Fischer, Sullivan, Carper, Whitehouse, Merkley, Gillibrand and
Markey.

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

Senator Inhofe. The meeting will come to order.

I have shared this with a couple of the members. Some of us just came up from the Armed Services Committee. There were seven Republicans on the one side that are members of this committee and members of the other. So I am going to be asking the staff to coordinate with all the members on both sides to find a time other than 10:00 o'clock on Tuesday. Because I have given up getting Armed Services to change theirs.

So we have to very significant, we have the biggest overlap of any two committees in these two committees. So we are going to try to correct that.

Acting Assistant Administrator McCabe, thank you for taking the time to be here to talk about two of the most expensive and intrusive Federal regulations ever put forward in the history of this Country: the National Ambient Air Quality Standard, or NAAQS, ozone and the recently finalized carbon standards for power plants. Your agency is attempting to restructure our entire energy system while simultaneously controlling economic expansion.

These regulations would cost hundreds of billions of dollars, leaving stakeholders with an economic burden that will take generations to pay down. These regulations stand to impact

every industrial sector and would skyrocket the price of doing business in this Country, making us non-competitive. These regulations would reduce the domestic investment in associated jobs, likely shipping them overseas to countries like China with less stringent environmental standards.

I can remember when Lisa Jackson was first appointed to be the Director of the Environmental Protection Agency. She made the statement, in response to my question, if we have all these standards that we are going to meet in this Country, is this going to have the effect of reducing emissions worldwide. She said no, because of course, this isn't where the problems is. The problem is in China, it is in India.

So I think we recognize now that it could actually, reductions here could cause our manufacturing base to go to countries where they don't have any restrictions and it could have the effect of increasing and not decreasing it.

Finally, these regulations could cause the most harm to low-income and minority families, as your agency forces a shift away from affordable, reliable electricity and limits access to jobs in the industry, manufacturing and transportation segment.

This was brought to our attention several times by the chairman of the Black Chamber of Commerce, talking about the adverse effect on the very poor and the minorities that this have. Those individuals who spend a much larger percentage of

their expendable income to take care of things that they have to have, like heating their homes.

Overall, the costs and the benefits of these regulations are minimal at best. The final Clean Power Plan would cost hundreds of billions of dollars each year, while only reducing CO2 concentrations by 0.2 percent, global temperatures by one one-hundredth of a degree Fahrenheit, and sea level rise by the thickness of two human hairs. EPA's ozone proposal would cost as much as \$1.7 trillion over the life of the proposal and result in 1.4 million lost jobs.

Up to 67 percent of the counties, and that is what we are talking about, when we are talking about ozone counties, as opposed to States, 67 percent of the counties would fail to meet the proposed lower standards. That is assuming the raise that they are talking about is between 65 and 70, I believe. In my State of Oklahoma, all of our counties, all 77 counties, are in attainment. If we went down to 65, none of the 77 counties, all 77 counties would be out of attainment. So it is a very significant thing personally, to me, and the State of Oklahoma.

Like many of the EPA's recent proposals, the carbon and ozone standards would have negligible environmental benefits, are based on questionable health benefits and come with unequivocal economic costs. Additionally, they are full of unreasonable assumptions and projections, including the EPA's

projection that renewable generation would account for 28 percent of electricity production by 2030, when the wind and solar currently accounts for less than 5 percent. So you see this is something that very likely could not happen.

These regulatory actions are based on a dubious science and an accumulation of improper collusion with extremist environmental groups and their sue-and-settle tactics. These regulations face major legal obstacles and wide-reaching State opposition. For ozone, Colorado Democrats Senator Michael Bennet and Governor John Hickenlooper have joined Kentucky Governor Steve Beshear and others in voicing their concerns about impacts on local economies. Thirty-two States, 32 States oppose the proposed Clean Power Plan. Opposition is growing against the final version. It is very telling when you have a Democrat Senator who is generally supportive of the EPA's efforts calling the final rule a slap in the face.

EPA is essentially cutting corners in a shameless attempt to promote President Obama's environmental legacy. I am eager to hear why this agency is steamrolling ahead and requesting billions of taxpayer dollars be spent on proposals that are not only rejected by the States, which is happening today, but ignore the will of Congress, rely on unreasonable assumptions, cost billions and increase the cost of doing business and do nothing to impact public health and global warming.

On that happy note, I will recognize Senator Boxer.

[The prepared statement of Senator Inhofe follows:]

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

Senator Boxer. Thank you so much, Mr. Chairman.

Thanks for today's hearing, where we are going to example two critically important efforts to protect the health of our children and our families: a proposed rule to strengthen the ozone standards and the final standards to reduce carbon pollution from power plants.

This week, EPA is expected to issue its final rule to strengthen the ozone standard. I am hopeful EPA will issue a strong standard that will protect American children, children like Jackson Woodward, an eighth-grader, 13 years old, from my State, Vacaville, California. Jackson, who suffers from asthma, wrote an opinion piece in the Sacramento Bee, explaining why a stronger ozone standard is important. This is just the way he finished his op-ed: "I would like to continue playing outdoors and competing at a national level in track and field and cross-country. Having cleaner air will help me achieve my goals. I don't want to have to keep telling the EPA to clean up our air. I just want to be able to breathe." It was called A Plea for Clean Air, May 9th, 2015. I ask unanimous consent to put that into the record.

Senator Inhofe. Without objection, so ordered.

[The referenced information follows:]

Senator Boxer. I just think that we all agree that this child who suffers from asthma should be able to live a normal life. But from some of our rhetoric here it seems like we are putting other interests ahead of the interests of children like Jackson. I don't think that is what this committee is for. We are not a committee to represent polluters. We are a committee to represent families and fight for families.

Now, the Clean Air Act requires EPA to set the maximum level of an air pollutant such as ozone that is safe for us to breathe. Setting an appropriate standard is crucial. Everyone has a right to know the air they breathe is safe. As I have said many times, maybe you have had this happen, I have not had one constituent come up and tell me the air is too clean, stop cleaning up the air. They don't say that. On the contrary, they say, keep on fighting, keep on going. We need clean air, clean water, we need safe drinking water and the rest.

So despite what some of my friends on the other side may claim today, scientists agree that EPA needs to adopt a stricter standard to protect the health of our people, especially our children and the elderly. If we can't do that, what good are we? We have known since 2008 the current ozone standard does not provide the necessary health safeguards.

According to a new American Lung Association poll, an overwhelming majority of voter, 73 percent across every party

line in every area of the Country, supports stricter ozone standards. So I don't care if one of my colleagues feels differently, that is his right. Good for him. But the important thing is to listen to the people, not to each other. Listen to the people.

Fifty-two percent of Republicans support strengthening the ozone standards. So why don't we start listening to the people?

In addition to its efforts to strengthen ozone standards, the EPA is working to protect the American people from the dangers of unchecked climate change. This hearing comes less than a week after the Pope called on Congress to "avert the most serious effects of the environmental deterioration caused by human activity." I hope we will not ignore his call. And this rule is a test as to whether we will heed his call.

The Obama Administration's Clean Power Plan will help America lead the way to avert the worst impacts of climate change, such as sea level rise, dangerous heat waves, economic disruption. One critical way we can address it is to reduce the dangerous carbon pollution from the biggest source, power plants. The Clean Power Plan will reduce pollution from existing power plants and EPA's New Source Performance Standards will ensure new power plants apply the best available technologies moving forward.

This is a cornerstone of achieving our international

commitments and the announcement President Obama made last week with the president of China shows that U.S. leadership on addressing climate change is working. But it won't work if we are divided here. The American people again overwhelmingly support action. A Stanford University poll from earlier this year found that 83 percent of Americans, including 61 percent of Republicans, say that climate change will be a problem in the future if nothing is done to reduce carbon pollution. And 74 percent of Americans say the Federal Government should take action to combat climate change.

Our committee is really in a place where we can listen to the American people and move forward. The Clean Power Plan will save money, because by 2030, the estimates are that American families will save \$85 a year on their electricity bills. My husband and I put a solar rooftop on our home. And we are paying about a quarter of what most of the people in the neighborhood are paying who haven't done this. It works. I feel it in my pocketbook.

A huge number of Americans commented on that proposed rule. And EPA has issued a strong final rule that will reduce carbon pollution by 32 percent over the next 15 years.

So I commend EPA for issuing these first-ever carbon pollution standards for power plants. As I often say, if you can't breathe, you can't work or go to school. So people who

say, oh, we are going to hurt the economy, just look at the last Clean Air Act. Look at GDP. Look at employment. It is all good news story. And I hope we can stop fighting and start working together.

I thank you, Mr. Chairman.

[The prepared statement of Senator Boxer follows:]

Senator Inhofe. Thank you, Senator Boxer.

Administrator McCabe, you are recognized.

STATEMENT OF THE HONORABLE JANET McCABE, ACTING ADMINISTRATOR
FOR THE OFFICE OF AIR AND RADIATION, UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Ms. McCabe. Thank you, Senator, thank you, Senator Boxer, members of the committee. I am very pleased to be here with you this morning.

On August 3rd, President Obama and EPA Administrator Gina McCarthy announced the final Clean Power Plan, a historic and important step in reducing carbon pollution from power plants that takes concrete action to address climate change, as well as final standards limiting carbon pollution from new, modified and reconstructed power plants, and a proposal for a Federal plan and model rules that demonstrate clear options for how States can implement the Clean Power Plan in ways that maximize flexibility for power plants in achieving their carbon pollution obligations.

Shaped by a process of unprecedented outreach and public engagement that is still ongoing, the final Clean Power Plan is fair, flexible and designed to strengthen the fast-growing trend toward cleaner and lower-pollution American energy. It sets strong but achievable standards for power plants and reasonable goals for States to meet in cutting the carbon pollution that is driving climate change, tailored to their specific mix of sources. It also shows the world that the United States is

committed to leading global efforts to address climate change.

The final Clean Power Plan mirrors the way electricity already moves across the grid. It sets standards that are fair and consistent across the Country and they are based on what States and utilities are already doing to reduce CO2 from power plants. It gives States and utilities the time and a broad range of options they need to adopt strategies that work for them.

These features of the final rule, along with tools like interstate trading and emissions averaging, means States and power plants can achieve the standards while maintaining an ample and reliable electricity supply and keeping power affordable. When the Clean Power Plan is fully in place in 2030, carbon pollution from the power sector will be 32 percent below 2005 levels. The transition to cleaner methods of generating electricity will better protect Americans from other harmful pollution, too, meaning we will avoid thousands of premature deaths and suffer thousands fewer asthma attacks and hospitalizations in 2030 and every year beyond.

States and utilities told us they needed more time than the proposal gave them, and we responded. In the final rule, the compliance period does not kick in until 2022, rather than 2020. The interim reductions are more gradual. States can determine their own glide path, and any State can get up to three years to

submit a State plan.

We heard the concerns about reliability. We listened and we consulted with the planning and reliability authorities, with FERC and with the Department of Energy. The final Clean Power Plan reflects this input and it includes several elements to assure that the plan requirements will not compromise system reliability.

In addition, to provide an extra incentive for States to move forward with planned investments, we are creating a clean energy incentive program that will recognize early progress. Since issuing the final Clean Power Plan, EPA has continued to engage with States, territories, tribes, industry groups, community organizations, health and environmental groups, among others. To help States and stakeholders understand the plan and to further support States' efforts to create plans that suit their needs, EPA has developed a variety of tools and resources, largely available on our website. We remain committed to assisting States with the development and implementation of their plans.

I also want to mention that the agency, as has been noted, is in the process of completing another significant air pollution rule. Because the air we breathe is so important to our overall health and well-being, the Clean Air Act requires EPA to review the National Ambient Air Quality Standards every

five years to make sure that they continue to protect public health with an adequate margin of safety. Based on the law, a thorough review of the science, the recommendations of the agency's independent scientific advisors and the assessment of EPA's scientists and technical experts, in November, 2014, EPA proposed to strengthen the ozone standard to within the range of 65 to 70 parts per billion to better protect Americans' health and welfare. We invited comments on all aspects of the proposal, including on alternative levels, and we will issue a final rule by October 1st.

We are convinced by both our analyses and our experiences that both the carbon pollution reduction called for under the Clean Power Plan and the attainment of the ozone standard will extend the trajectory of the last 40 years when we cut air pollution 70 percent across this Country while our economy has tripled.

Again, thank you to the committee for inviting me to speak on the agency's work to implement our Nation's environmental laws to protect public health and the environment. I look forward to your questions. Thank you, Senator Inhofe.

[The prepared statement of Ms. McCabe follows:]

Senator Inhofe. Thank you, Madam Director.

Before we start the clock here, let me make three unanimous consent requests to be entered into the record at this time. The first is the Harvard poll of Young Americans, aged 18 through 29, which was just completed. It found that young Americans are often unsupportive of government measures to prevent climate change that might harm the economy. Less than 30 percent of young adult Americans agreed with the statement in a poll that "government should do more to curb climate change, even at the expense of economic growth." Then it further quotes the poll, the Harvard University poll, "Not only are the newest voters less convinced of climate change. As a reality, they are also less likely to support government funding of climate change solutions."

The second one that I will ask unanimous consent to be in the record, this was a good one. This was Bloomberg, right after the visit of the Pope. And is it good, this good or bad direction for the church. They go through all these things. For example, the greatest thing that they are concerned about is suggesting the Catholic Church do more to harness the energy and compassion for women, 84 percent of the people believe that. But last in line, chastising those who deny the human connection to climate change, only 33 percent think that folks should be talking about that.

Lastly, and this was a good one, Gallup, because Gallup does this every year. They had a poll, and I can remember when climate change, at that time before they changed the wording and put global warming, it was about always in first or second place. Now of 15 concerns that people have in the most recent Gallup poll, the very last, number 15 is climate change.

So I ask unanimous consent that these three polls be made a part of the record.

[The referenced information follows:]

Senator Inhofe. Ms. McCabe, in June we heard from Commissioner Mike McKee from Utah about the challenges addressing background and transport ozone. This is something that has been a concern for a long time. I think one thing we can all agree on is, you can't control what comes into your State. Maybe what you generate yourself.

Now, what can a State do to control naturally-occurring and trans-continental ozone, since your agency has a poor track record in gaining the exceptional events and rural transport? These exceptions were in the Clean Air Act and the Clean Air exemption, which I hasten to say that I was one of the original co-sponsors of the 1990 Clean Air Act exemptions. So I have a lot of pride in the successes that we have had, huge successes.

But what can a State do to control these things that fall into the category of exempt events and rural transport exceptions built into the Clean Air Act? What can they do? Is there anything they can do?

Ms. McCabe. Senator, you are correct, the Clean Air Act does not hold States responsible for pollution that is not generated from sources within their borders. And you have mentioned exceptional events, that is one very clear tool that is in the Clean Air Act to make sure that we can work with the States to exclude data that is the result of exceptional events. In the last few years, we have worked hard with the States to

improve and streamline the process to be able to get those events documented and approved. And we will continue to do that.

Senator Inhofe. So what you are saying is that in the event it is something that falls into this category that you are not going to have any kind of a punitive action against States who are unable to do something that falls into this category, is that correct?

Ms. McCabe. That is correct.

Senator Inhofe. On the power plant rules, it is a little confusing on how we expect the States to submit their initial plans by a date certain, and we are talking about September 6th of 2016. Yet the formal State implementation deadline is 2018.

I would ask the question, why are you requiring an initial plan to be submitted by 2016 and is there any chance that in the event that 2016 comes up and a State is not complying, prior to the time that 2018 is here that there is going to be a deadline and there could be Federal action against that? Could that happen or is that the intent? Why are we having this initial 2016 deadline?

Ms. McCabe. The way the final rule laid it out is that plans are due within one year. But we recognize that a lot of States have processes, not all of them, but many States have processes that will take longer than one year. So we set it up

so that States would have the ability to ask for an extension of up to two years.

Senator Inhofe. And that could happen, based on their ability to do something that would be impossible to comply with?

Ms. McCabe. Sure. So in order to ask for that extension, they submit an initial submittal in which they document three relative and straightforward things.

Senator Inhofe. I think that is a good thing to have in the record.

Now, under your watch, EPA has released several air regulations to address emissions for power plants. I want to read some of these. Four hundred eleven coal-fired power plants totaling 101,000 megawatts generation capacity will close by the end of 2016 as a result of the rules. Certainly Senator Capito is fully aware of that. The Mercury Rule will cause 55,000 megawatts of power to go offline and another 46,000 megawatts will close down due to the Clean Power Plan. With additional pressure from the new ozone requirements, a third set of power plants will close.

Has the EPA conducted a cumulative impact analysis to determine the effect of all these rules cumulatively? We talk about that a lot. Have they?

Ms. McCabe. We do.

Senator Inhofe. And who did that?

Ms. McCabe. We do talk about it a lot. Respectfully, Senator, I don't accept your recitation of all of these, the choices that are made with respect to power plants all being the result of EPA's rules. There are many things that go into a power plant's decision about whether it is economical to continue running that facility. Undoubtedly, environmental rules are part of that, but there are many, many other factors.

Senator Inhofe. So you have not put together a cumulative study about the cumulative effect of these rules? An of these rules that the EPA is either projecting or has come out with or has already completed?

Ms. McCabe. As part of our rulemaking, we do not do that. Although we take account of changes in the energy system and the energy mix. In each rule that we do, we keep up to date with EIA and FERC and other agencies that oversee the power supply.

Senator Inhofe. Thank you very much. I do think that we are going to be talking about the cumulative effect up here, even though the EPA may not see that as advisable.

Senator Boxer?

Senator Boxer. Thanks, Mr. Chairman. I would like to also put two polls into the record. The American Lung Association poll, taken two weeks ago, showing 73 percent support stronger ozone standards; the New York Times Stanford poll, 77 percent say the Federal Government should be doing a substantial amount

to combat climate change. If I may do that, without objection,
I hope?

Senator Inhofe. Without objection, so ordered.

[The referenced information follows:]

Senator Boxer. Thank you. I appreciate that, because we now have dueling polls in the record, and people can decide which one is right.

Senator Inhofe. The one from the American Lung Association.

Senator Boxer. The American Lung Association.

Senator Inhofe. Yes.

Senator Boxer. You like that?

Senator Inhofe. Oh, I like it very much, yes. But also I like the fact that the Gallup poll is recognized as the accepted poll, more than a particular group that is looking at the one issue.

Senator Boxer. Public support for the Clean Power Plan, and I know my colleague has named several colleagues and said several States are unhappy. I have heard and seen tremendous support in my State and other places for the Clean Power Plan. So governors, attorneys general, mayors, even utilities, some of them support it. So what feedback has EPA gotten from stakeholders regarding that final Clean Power Plan?

Ms. McCabe. Thank you, Senator Boxer. You are absolutely right, that there is certainly a range of views. We have been spending a lot of time talking with people either in formal settings or less formal settings, and a lot of time talking with States. I understand that there are a range of views. But for

the most part, the State officials that we are talking with are starting to dig into thinking about how they are going to put their plans together.

Senator Boxer. And isn't one of the reasons that you have given them tremendous flexibility, isn't that correct?

Ms. McCabe. Yes, we have.

Senator Boxer. Which I admire. Because one size does not fit all, is that correct?

Ms. McCabe. That is correct.

Senator Boxer. Ms. McCabe, smog pollution has many health impacts, particularly for children and the elderly. I read that moving op-ed from one of my constituents, 13 years old. Can you describe the benefits of reducing smog pollution and the costs of not protecting people against smog pollution? Can you give me some numbers here on asthma and so on?

Ms. McCabe. Sure. There are about 23 million people in this Country that have asthma, Senator, as I understand it. Six million of those are children, one in 12 children across the Country has asthma. That is particularly true in certain vulnerable populations. Children in Puerto Rico, for example, have quite a high rate of asthma.

Ozone pollution affects the respiratory system. It can exacerbate or bring on an asthma attack. It can cause other respiratory symptoms, even in healthy adults, especially when

they are outdoors and exercising.

When we bring ozone levels down, we reduce asthma attacks, we reduce visits to the emergency room, we reduce missed school days, we reduce missed work days, we reduce the costs that are associated with it.

Senator Boxer. I am really glad you said that. Because I don't think a lot of my friends factor this benefit into their thinking, and I am very pleased that you have that documentation.

Ms. McCabe, over the 40-year history, has been enforcing the Clean Air Act. I have the list here of the benefits, and I am just going to tell you what they are. If these are misstated, would you please let me know?

Over the last 40 years, since that Clean Air Act, our national GDP has risen 207 percent. The total benefits of the Clean Air Act amount to more than 40 times the cost, 40 times the cost of regulation. For every dollar we spend, we get more than \$40 of benefits in return. That is from a 2010 speech that was made about the Clean Air Act. Do you agree with those numbers?

Ms. McCabe. They sound right, Senator Boxer. I can't swear to the precise numbers.

Senator Boxer. Okay. I am going to send this to you, and if you could respond.

In 2010 alone, this particular source has said reductions in fine particle pollution and ozone pollution achieved by the Clean Air Amendments of 1990 avoided more than 160,000 premature deaths, avoided 130,000 heart attacks, prevented millions of cases of respiratory problems, like acute bronchitis and asthma attacks, 86,000 hospital admissions, prevented 13 million lost work days, avoided 3.2 million lost school days due to respiratory illness and other diseases. The source was an EPA study, and this was presented by Lisa Jackson. So if I send this to you, could you see whether or not there has been any difference in that since that speech?

Ms. McCabe. Absolutely.

Senator Boxer. Are you planning on doing another look back? Because that was 2010. I think it is time we take a look ahead. When are you going to do that? Do you know?

Ms. McCabe. I don't have a specific plan for that, Senator.

Senator Boxer. Well, I hope you will consider it. I will close with this.

Ms. McCabe. [Remarks off microphone.]

Senator Boxer. The benefits are not thought about, really. And if you have a kid who is able to play sports and you don't have to drag him or her to the emergency room, et cetera, that is a moral benefit and a financial benefit. My view is that is

EPA's job and it is our job here. That is why I keep stressing the health benefits, because I think they are overlooked. Thank you.

Senator Inhofe. Thank you, Senator Boxer. Senator Wicker?
Senator Wicker. Thank you very much.

I have a unanimous consent request, too, before we begin the questioning. The Center for Regulatory Solutions has issued a paper by Karen Kerrigan, Five Things You Should Know Before the Senate EPA Hearing on EPA's Ozone Proposal.

One of the things that the author mentions is about this Lung Association poll. They went back and recast the poll and asked an additional question about costs. Once costs were factored in, support for the EPA ozone proposal plunged. When asked if they would be willing to spend \$100 per year, roughly half of the support vanished. And when informed that the study actually estimated that stricter ozone standards would cost \$830 per year, a majority of voters opposed the EPA's plan outright.

Also, I would point out that a number of experts have weighed in that the additional proposed drop in ozone standards does not have any effect on asthma, as has been alleged here. Roger McClellan, past chair of the EPA Clean Air Scientific Advisory Committee, wrote this: "The EPA and the environmental lobby claim a stricter ozone standard is needed to reduce asthma cases. But these claims rely on a much higher ozone level from

decades ago which we don't experience any more. Recent history does not support this claim connection. In fact, for well over a decade, asthma cases have increased by millions, while ozone concentrations have declined."

So Mr. Chairman, I ask for unanimous consent to insert this paper into the record also.

Senator Inhofe. Without objection, so ordered.

[The referenced information follows:]

Senator Wicker. Ms. McCabe, you indicated an unprecedented outreach effort was made to the stakeholders. I can tell you that folks at the Mississippi Department of Environmental Quality didn't notice this unprecedented outreach. They say there were a couple of internet-based seminars, there were some rarely held discussions concerning State-specific information. And they complain that you used regional data to impose requirements on the States, and did not equip them with actually the tools to do this.

So let me ask you, what do you say, can you give me specific examples of how EPA worked with States? Because my State director says you didn't. Also, why did you use the larger geographic regional data rather than State-specific data? Because the requirement is going to be placed on the States, not on some regional government.

Ms. McCabe. Senator, thank you for the question. I am very sorry to hear the reports from your DEQ, because it is really hard for me to imagine how any State can say that we did not make every opportunity available to work with them. I personally have been involved in dozens and dozens of conversations and meetings with State officials. And we have invited, any State that wanted to spend time with us has been afforded that time. So it is distressing that it would be reported that way.

In your second point, let me make clear that in the Clean Power Plan, we use both regional and State-specific data to develop the final goals for the States. We looked broadly at the regions across the Country, especially the three interconnects, because that is the way the power system operates, that is the grid on which the utilities operate. Resources, as we know, our electricity resources are not confined within State borders. They flow across and among and between States.

So in looking to see what opportunities were available to utilities to manage their assets, and indeed, many utilities operate in many States, that is the way it made sense to look at that data, because that is the way the system works.

When we got to developing each State's specific target under the Clean Power Plan, that is when we took each State's specific mix of sources into account and applied our nationally consistent emission rates for coal and gas plants to each State's particular mix of sources to get a tailored target for each State.

Senator Wicker. Well, let me just say, my five minutes is expired. This is so complicated that it really doesn't lend itself to a series of five-minute question and answer periods. I am going to submit several questions for the record to you, outlining the objections of these people with a clean air agenda

in the State of Mississippi, who feel basically you have given them something that cannot work for our State.

Also, I have questions about one specific power association in Mississippi that simply would have to double, double its budget to comply with the solar powered requirements that are being put on them. I will submit questions for the record. I think we have a regulation coming at States and consumers that is going to absolutely explode the cost of power and be unachievable for people who are trying to work with your agency to do the right thing.

Senator Inhofe. Thank you, Senator Wicker. Senator Carper?

Senator Carper. Thanks, Mr. Chairman.

Mr. Chairman, I would like to ask unanimous consent that an opening statement be submitted by the record by me.

Senator Inhofe. Without objection, so ordered.

[The prepared statement of Senator Carper follows:]

Senator Carper. Thanks so much.

I am going to ask a favor, Ms. McCabe. Welcome, you have a tough job. We appreciate your willingness to take it on. I am going to ask as a favor if you would submit to Senator Wicker just an overview of the kind of outreach that the EPA has done to the folks in Mississippi. I think that would be interesting and enlightening and appropriate. If you would do that, that would be great.

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

Senator Carper. I think we all want a couple of things. We want cleaner air. We want to have a stronger economy. And we wanted to involve the States and frankly, the business community, utilities in this, in an appropriate, thoughtful way. The other thing I would add is I think most of us want to do this in a way that where we treat our neighbors the way we would want to be treated. That is especially important for Delaware and some others who live around us on the east coast.

Let me start with a review of the basics of the ozone rules. I understand that in laymen's terms, this rule is all about using the latest science to determine what levels of ozone in the air makes us sick. Is that correct, yes or no?

Ms. McCabe. That is correct.

Senator Carper. All right. Over the years, as science has advanced, we have learned more and more about the human body,

leading us to understand that lower levels of ozone in our air make us sicker than we once thought. Is that correct, yes or no?

Ms. McCabe. That is correct, Senator.

Senator Carper. The EPA only lowers the ozone health standard if the agency determines that the current standard is not protecting public health based on the best science available, is that correct, yes or no?

Ms. McCabe. That is correct, Senator.

Senator Carper. And once a new standard is in place, the EPA allows, as I understand, each State to find the most economical way to meet the new standard, is that correct, yes or no?

Ms. McCabe. That is correct.

Senator Carper. In the past years, EPA has tightened the ozone standard from time to time, and our economy has continued to grow, is that correct, yes or no?

Ms. McCabe. That is correct.

Senator Carper. And finally, it is my understanding that if EPA picks a standard at the top of the range proposed, that is 70 parts per billion, there are only an estimated nine counties in the Country, outside of California, that will be in non-attainment by 2025. I am going to say that again. My understanding is if EPA picks a standard near the top end of the

range, 70 parts per billion, there would be only an estimated nine counties in the Country outside of California that will be in non-attainment by 2025. Is that correct, yes or no?

Ms. McCabe. That is what our modeling shows, Senator, that is correct.

Senator Carper. All right. I would say to my colleagues, do you all know how many counties there are in America? I didn't know. I asked my staff to find it out. There are over 3,000. In fact, there are over 3,100 counties in America. And what the science would say to us, if a standard is picked, 70 parts per billion, by 2025, there are going to be nine counties out of 3,000 across America that are going to be in non-attainment. Nine counties out of 3,000. Think about that. Doesn't seem like a whole lot to me.

We only have three counties in Delaware. And when I was governor, we were in non-attainment. Not because of our pollution but because of pollution by States to the west of us. I could have shut down the state of Delaware. I could have shut our economy down when I was governor. We would still be in non-attainment, because 90 percent of our air pollution came from other places.

And we had to breathe it. We are at the end of America's tailpipe, us, Maryland, New York and New Jersey, Pennsylvania. It is not fair. Talk about the Golden Rule, treat other people

the way you wanted to be treated, that is not the way we ought to treat anybody, including folks in our part of the Country.

In my opening remarks, which I have entered for the record, I talked about how an estimated 90 percent of our pollution comes from out of State. Can you just take a minute or two, Ms. McCabe, and talk to us about how ozone pollution can travel across State boundaries and impact the air quality of places like my home, the first State, of Delaware, and our national parks that may have few or any emitters of ozone?

Ms. McCabe. Yes, Senator, that is certainly true. We have seen that over the years. Air pollution doesn't stop at State borders. And the northeast corridor, as you have alluded to, is a classic area where downwind States receive pollution from upwind States.

The Clean Air Act has a good neighbor provision in it to make sure that upwind States take steps to reduce the pollution that they are sending downwind that are causing or contributing to air pollution violations and poorer health downwind.

Senator Carper. Can you take just a second and talk to us about the impact of international ozone pollution and whether it should impact the decision-making on the ozone health standard, please?

Ms. McCabe. The ozone health standard is exactly as you described it, Senator. It is an information and message to the

American people what level of ozone is safe for public health in this Country. That is a separate issue from the steps that everybody needs to take in order to get us there.

And to the extent that there is internationally transported air pollution, the United States is involved in research and activities with other countries to try to make sure that those countries clean up their air as well. But there is much that we contribute to our own poor air quality in this Country, and steps that we can take in a cost-effective and reasonable way over time to bring those levels down and improve public health.

Senator Carper. All right, thanks so much. Thanks, Mr. Chairman.

Senator Inhofe. Thanks, Senator Carper. Senator Fischer?

Senator Fischer. Thank you, Mr. Chairman, and thank you, Ms. McCabe, for being here today.

Under the final Clean Power Plan rule, Nebraska faces a 40 percent reduction in its carbon emissions rate. That is a significant increase from the proposal that we saw where it was 26 percent reduction. So now Nebraska is categorized as one of the top biggest losers under this rule.

You know we are the only 100 percent public power State in this Country. So when I say that Nebraska is one of the ten biggest losers, what I really am saying is that the citizens of Nebraska are ranked among the ten biggest losers under this

rule. It is not some big corporation out there. It is not some big company out there. It is the citizens of Nebraska who are going to pay for this. As a result, within hours after the final rule's release, our AG in the State said that the overreach of the Federal Government will have serious consequences by driving up electrical costs for Nebraskans all across the State.

There seems to be an underlying theme of uncertainty and confusion among my State officials and the local stakeholders as well regarding this rule. Senator Wicker alluded to that in Mississippi. We face that in Nebraska. Providing consumers with affordable and reliable energy requires long-term investment plans.

But the EPA has indicated it could be three months between when the rule was released in early August to when it appears in the Federal Register. Our director of the energy department in Nebraska feels that this really is unacceptable. If it is the same rule that has been released in August, what is taking so long to publish it in the Federal Register? I share that frustration.

Can you shed some light on why it is taking us so long to get that published?

Ms. McCabe. Yes, thank you, Senator. Before I do, I will respond to the earlier question about Mississippi. But my staff

reminded me that we held two specific calls with the State of Mississippi -

Senator Fischer. Don't use my time for Mississippi.

Ms. McCabe. Okay. My apologies. In terms of getting a rule to the Federal Register, there is a standard set of steps that happens. The rule was signed on August 3rd. We submitted it to the Federal Register on September 4th. That is actually quicker than a number of other major rules from EPA. And we put every effort into getting that submitted just as quickly as possible.

Senator Fischer. And the language will be the same?

Ms. McCabe. There is a process of doing corrections like grammar and typos and that sort of thing, but yes. The substance of the rule is the same.

We then work with the Federal Register office as they get the materials ready to publish and we have been doing that back and forth in a very routine but from our perspective expeditious manner.

Senator Fischer. According to Nebraska Public Power District, which services 86 of our 93 counties in the State, the EPA failed to show an emission limitation which is achievable or adequately demonstrated in the State of Nebraska. NPPD also stated that achieving a 6 percent efficiency rate for existing coal plants is virtually impossible and it lacks the

transportation capacity to run its gas-fired generators at 70 percent statewide as mandated by that rule.

Can you describe some of the calculations that were used when you set Nebraska's target reduction, particularly in relation to efficiency and utilization?

Ms. McCabe. First I want to make clear that there are absolutely no mandates in the rule. There is no requirement that any utility do anything specific, nor any State, other than meet an overall target.

Ms. Fischer. Nebraska is now 40 percent reduction.

Ms. McCabe. Every State has an emission reduction target, Senator. Every State has a goal that in 2030 is lower than the historical emissions in 2012. Those rates vary depending on the mix of sources in those States. The way the final rule works is that every coal plant across the Country has the identical emission rate. This is the way the New Source Performance Standards are traditionally set. And every gas plant has the same rate.

But within the flexibility allowed under Section 111(d), and within the flexibility that the interstate grid allows, utilities will be able to trade and average and use resources that they have access to in order to achieve those reductions.

Senator Fischer. You say there is no mandate. Doesn't the Clean Power Plan call for increasing Nebraska's renewable

generation from 4 percent to 11 percent by 2030?

Ms. McCabe. There are projections that we use in part based on information that we get from other agencies that study these things that make projections about increases in renewable energy across the Country. But there is no specific requirement that any specific State or utility use a specific percentage of renewable energy.

Senator Fischer. So in our States, specifically in Nebraska, we can continue to build our own balanced portfolio with renewables at the pace that the people of the State choose? It doesn't have to be increased from 4 percent to 11 percent?

Ms. McCabe. We believe that States will be able to design plans, working with their utilities, to achieve that 2030 goal and the interim goals in ways that accommodate the kind of planning that they want to do.

Senator Fischer. But the goal itself of 11 percent is mandated by the EPA, is that correct?

Ms. McCabe. There is no goal of 11 percent renewables for the State of Nebraska.

Senator Fischer. I see my time is up. I have some questions on ozone which I would like to submit to you for the record. Because we did have a hearing in Nebraska on that.

Again, I have some concerns about very sparsely populated counties in my State that will be affected. When we look at the

Ranking Member's State of California, I understand her concerns there because of the non-attainment and the exclusion and waivers that are provided to California over, I believe it is a 20-year period. Because those standards cannot be met. Yet we have very sparsely populated counties in Nebraska with less than one person per mile where we are going to have to be meeting those. So we will submit those for the record.

Thank you, Mr. Chair.

Senator Inhofe. Thank you, Senator Fischer. Senator Markey?

Senator Markey. Thank you, Mr. Chairman, very much.

The Clean Air Act is one of the most effective public health laws in American history. The original 1963 version initiated by President Kennedy and signed into law by President Johnson empowered the United States Public Health Service to address air pollution, six years before the creation of the EPA.

The Clean Air Act's success comes from its requirement to use science to protect public health and welfare. The Clean Power Plan and the new ozone standard are both cases of the EPA acting to protect public health and welfare from proven hazards.

The scientific community has shown the connection between ozone and respiratory health problems for decades, and has called for an ozone standard of 60 parts per billion since 2006. Ground level ozone and smog threaten the health of kids and

other cardiovascular-compromised people. It even has negative impacts on healthy adults and agriculture and wildlife. Each time science advisory boards have been asked to review the latest research on ozone, they find a growing body of evidence of its health hazards.

Then we have the Clean Power plan, first big step toward reducing U.S. carbon pollution. The plan will help protect the public from the health impacts of climate change and other pollutants like sulfur dioxide and nitrogen oxides that will also be reduced as a result.

Earlier this summer, the U.K.'s top medical journal, the Lancet, published a major health study that identified climate change as the most significant global health threat of the 21st century and offered up a number of prescriptions of ways to reduce carbon pollution and shift to cleaner sources of energy. The Clean Power Plan is one way that we can follow the doctor's orders. The science is clear about the ozone and it is clear about carbon pollution. These crucial Clean Air Act measures we are discussing today will promote health and stimulate our economy.

Before the 2008 ozone standard was finalized, we heard that the standard would cripple the economy. But this was just not true in Massachusetts. Both air quality and GDP increased, even as the ozone standard tightened. I am expecting that this trend

will continue in Massachusetts as we work to meet the new ozone standard.

Do you believe that other States will also experience economic growth while solving their pollution problems?

Ms. McCabe. Senator, we have seen nothing to suggest that improving air quality doesn't improve the economy as it improves public health.

Senator Markey. I look forward to the long-awaited ozone standard that will improve life and productivity of families impacted by respiratory health problems. I am concerned, however, that the standard will stop short of providing the required productions. A 70 parts per billion standard would still lead to hundreds of thousands of asthma attacks and thousands of preventable deaths each year.

Once the ozone rule is finalized, do you believe that an adequate margin of safety which is required by the Clean Air Act will be achieved?

Ms. McCabe. That is our job, Senator, to recommend and for the Administrator to make a decision that protects the public health with an adequate margin of safety. I don't believe she would sign a rule if she didn't feel that that is what she was signing.

Senator Markey. Many studies have shown that low-income individuals have the least ability to protect themselves from

the effects of climate change, including air quality, sea level rise, flooding, water scarcity, food prices and changing economies. The Clean Air Plan does include programs for low-income families. Do you think the plan will have a net benefit for those poor families?

Ms. McCabe. We think both the Clean Power Plan and the ozone standard are particularly important to protect vulnerable, low-income and other populations that are particularly affected by these issues.

Senator Markey. And does the history of the Clean Air Act environmental regulation show that it does lead to innovation, that new emissions technologies emerge that solve the problem at a much less expensive cost that had been anticipated, even by the experts?

Ms. McCabe. That is absolutely true, Senator.

Senator Markey. So we have seen that in the automotive sector, we have seen it in other sectors and I think it is highly likely to continue in this sector as well. And to those who wonder whether or not a goal which is not established for Nebraska or any other State might be met, let's just look at the facts. Just in America in 2015 and 2016, we are going to double the total amount of solar. It is going from 20,000 to 40,000 total installed solar capacity. And why is that? It is because the price is collapsing.

The same thing is true on the wind side. We are adding 28,000 new megawatts of wind just in this two-year period. And between wind and solar, by the end of 2016, we are going to have 133,000 megawatts of wind and solar installed in the United States, largely because of the advance in the technology and the collapse in price.

So I think people should be optimistic that each of the States, with the great flexibility you are providing, will be able to meet the standard.

Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Markey. Senator Capito?

Senator Capito. Thank you, Mr. Chairman, and thank you, Administrator McCabe, for coming. I understand you were in West Virginia yesterday.

Ms. McCabe. I was.

Senator Capito. At the Greenbrier. So I know you found it great.

Ms. McCabe. It is absolutely beautiful there, Senator.

Senator Capito. Thank you. We have had a lot of talk about costs and benefits. I noticed the gentleman's comments earlier when he talked about the cost. He didn't talk about the costs to the lower and middle income of the price of energy. According to studies under this plan, in our State of West

Virginia, the cost of energy will rise somewhere between 17 and 22 percent. Right now, we have 430,000 low and middle income people in the State of West Virginia whose pay, take-home pay is \$1,900 a month, they spend 17 percent of their take-home money to pay for their energy. When this goes up, say, 20 percent, this is going to have a cost to them, a human cost to them.

What kind of transparency has EPA brought forward to folks who live in areas like my areas that will be deeply affect? What kind of transparency have you actually stated is going to result in the rise in their energy costs on a daily basis?

Ms. McCabe. Well, Senator, of course there are a lot of numbers out there that people are citing.

Senator Capito. I am asking for EPA numbers.

Ms. McCabe. I know, but the numbers that you cited are not EPA numbers. I don't know where they come from.

Senator Capito. Right. That is why I am asking you.

Ms. McCabe. We did an analysis as we do for every major rule where we looked at expected impacts on both the price of energy and on bills. Because what matters is how much you write that check for every month. And our analysis is all laid out in our regulatory impact analysis.

Senator Capito. What did you find? Just generally.

Ms. McCabe. We found that by 2030, the average cost of a person's electric bill would go down by about 7 percent, and

that is as a result of increased energy efficiency that we see coming into the system. So even though electricity prices might go up a little bit, bills will actually go down. That is what our analysis shows.

Senator Capito. This study is from NERA, respected consultant and analysis firm. I am sure you are familiar with them.

Ms. McCabe. Yes.

Senator Capito. And I would take exception to if it goes up a little bit, 20 percent, when you are bringing home \$1,900, is a significant amount.

My next question is, on your first rule, from the time of the first rule to the second rule, 22 States saw an increase, some a major increase. West Virginia went from 20 percent reduction to 37 percent reduction. Why was that decision made to make it the hardest hit of those regions that are the energy exporters, such as West Virginia, Wyoming, Kentucky, North Dakota?

Ms. McCabe. So this is all laid out in our discussion, Senator. It is all based on the data that we had and that we received during the public comment period and on the design of the rule, which follows the way the Clean Air Act tell us to do these rules, which is to set expectations on industry that are uniform across the Country.

So all the information that we had showed the different things that utilities were doing to reduce carbon. And so we set an expected emission rate for coal plants across the Country.

Senator Capito. Yes, which no coal plant in my State meets that target. Not one.

Ms. McCabe. But they are not required to meet them tomorrow. They are required to meet them overall, over the whole system, and by 2030. Using the types of approaches that many States are already using and utilities are already using, that are bringing those CO2 emissions down, we feel confident that every State will be able to achieve that.

Senator Capito. Let me ask you this. If the State implementation plan is not put forward you said they get a two-year extension. What happens in 2016 if they put forward their idea of a State implementation plan? Is there an implementation of a Federal implementation plan after 2018 if the State doesn't submit?

Ms. McCabe. What the Clean Air Act says is that if a State doesn't put forward a plan under 111(d), then EPA should step in and do a Federal plan.

Senator Capito. So that would be in 2018 or 2016?

Ms. McCabe. It would be when a State fails to meet a requirement under the rule.

Senator Capito. So if you don't submit a State plan in 2016, are you subjected to the Federal implementation plan?

Ms. McCabe. If a State submits this initial plan that the rule asks for and a request for a two-year extension, that is complying with what the rule requires.

Senator Capito. I know you are well aware that there are many States that are considering, many governors are considering not even submitting a State implementation plan at all. So are you saying then if they don't submit any kind of implementation plan in 2016, they would be subject to the Federal implementation plan?

Ms. McCabe. Following the requirements of the Clean Air Act?

Senator Capito. Yes.

Ms. McCabe. If a State doesn't submit a plan as required, that would trigger the obligation for EPA to do a Federal plan.

Senator Capito. One last question on the ozone rule. We talk about non-attainment. I am happy to report we are in attainment in the State of West Virginia. But we are very rural, as the gentlelady from Nebraska was talking about. So if we reach a point where we are not in attainment, we have no offsets to really offer to get ourselves into attainment, where maybe a more congested area or a larger metropolitan area, larger manufacturing area would have some offsets to offer.

Is this something you are considering, how to help rural areas meet these standards when they are fully implemented?

Ms. McCabe. Congress actually thought about this, and they included something called the Rural Transport Area in the Clean Air Act for areas that truly are rural and where the emissions creating the high ozone are not from within their county, they can be designated a Rural Transport Area. That greatly reduces the expectations on that area.

Senator Capito. So of the nine counties which are not in compliance, or let's say, of the other counties that are in compliance, not the nine that Senator Carper was talking about, are they considered, some of them, Rural Transport Areas?

Ms. McCabe. We don't actually, I believe, have any areas that are so designated now. I actually don't think that we would be looking at extremely rural areas in West Virginia under a future ozone standard that is in this range. But the nine counties that are mentioned, we don't currently have any Rural Transport Areas, but that tool would be available in the event that a county that meets those criteria had ozone levels higher than whatever the standard is.

Senator Capito. Okay, so just so I understand, is the reason that that designation is not used is because all of rural America is meeting the ozone standard that is set right now? Is that the reason?

Ms. McCabe. There are no counties, most rural counties meet the ozone standard. Let me put it that way. Most rural counties meet the ozone standard. And for any that could be considered rural, depending on how you identify that, if they are part of an ozone non-attainment area, it is because it makes sense for them to be part of that, that there are emissions that are contributing to local air quality.

Senator Capito. Okay, I think I get that. Thank you.

Senator Inhofe. Thank you, Senator Capito. Senator Merkley?

Senator Merkley. Thank you, Mr. Chair.

Thank you for your testimony. The report yesterday, the news report was that based on the commitments that nations are making the Paris conference in December? The temperature of the planet would still increase by more than 6 degrees Fahrenheit, so essentially above the target that has been around, the 3.6 degrees Fahrenheit or 2 degrees Celsius target. Is it the opinion of the U.S. government that 6 degrees would be catastrophic?

Ms. McCabe. I think that there is a lot of concern about temperature rise at those levels, Senator.

Senator Merkley. And much of the conversation has been about avoiding that, one has to control both carbon dioxide as an air pollutant and methane as an air pollutant. I applaud the

Administration for trying to control fugitive methane as a byproduct of drilling for natural gas.

But essentially, the conversation has been, if you are going to reduce enough, you have to leave a lot of the identified fossil fuel reserves that have been identified in the world in the ground, leave it in the ground, roughly an estimate of 80 percent of those. Does the Administration share that perspective?

Ms. McCabe. I am not familiar enough with that kind of calculation, Senator, to confirm that or not.

Senator Merkley. Well, I say that as a framework because essentially the Clean Power Plan is a subset of our Nation's efforts to control carbon dioxide, because of this broader framework of planetary stewardship, which is so important.

Yesterday Shell announced that they were discontinuing their plans for drilling in the Arctic. I would like to thank all those who advocated that drilling the Arctic makes little sense. Is there a possibility that the United States will use its chairmanship of the Arctic Council now to encourage the Arctic Council nations to leave the Arctic off limits?

Ms. McCabe. Senator, I really can't speak to the position on the Arctic Council. But I would be happy to take that question back and get you a response on it.

Senator Merkley. I would like to encourage the

Administration to do that. There is a window of opportunity here that is important as part of this worldwide perspective, leave it in the ground. You can do all you want in terms of the Clean Power Plan. But if one is opening up additional fossil fuel reserves to being exploited and burned, it is counterproductive and the pieces don't fit together.

One of the conversations has been that the United States shouldn't necessarily act if it is acting alone. Are we seeing more engagement by other nations around the world coming to the table?

Ms. McCabe. Yes, we are. In fact, when the Clean Power Plan was proposed, it was the talk of the circles internationally. There was a lot of attention on the U.S. stepping forward and putting some concrete action on the table that we think has been very, very helpful in those international discussions.

Senator Merkley. I was noting that a lot of times people say, well, China is not doing anything. But China has committed to deploying as much renewable energy in the next 15 years equal to all the electricity generated by the United States currently, which is sizeable. I was struck by the numbers. Their goal is to go from 33 gigawatts of solar this year to 70 gigawatts two years from now, and to go from about a little over 100 gigawatts of wind energy now to 150 gigawatts two years from now. Does

this exceed the rate of expansion of the solar and wind that is occurring in the United States?

Ms. McCabe. Gosh, I am not sure. But it is significant growth, and very welcome to see the Chinese commit to this.

Senator Merkley. They have also announced that they are launching a cap and trade system nationally in 2017. Specifically, they had proceeded to do seven pilot projects in cap and trade, sub-national regional projects. And they are taking experience from that, the last of those was launched in 2014. So they have seven projects on which to draw information to launch this national cap and trade system.

So they are planning to use markets the same way we used markets to control sulfur dioxide successfully. Are there any insights in this for the United States?

Ms. McCabe. That is a very welcome announcement from them. They have been looking at this and come forward with this plan and we are very encouraged by it.

Senator Merkley. It has been commented now that every major carbon producer has put forward a plan except for India. India announced that it is going to submit a plan on October 1st emphasizing renewables. Do you have any advance information you would like to share with us about what India is going to announce?

Ms. McCabe. I don't, actually.

Senator Merkley. Okay. Well, we will look forward to that. I think it is impressive how many nations have now under this voluntary framework, we had this shift from trying to go from an international treaty in which there were mandatory reductions to asking each nation to put their best foot forward. It seems like nation after nation is saying that yes, as part of the global community, we have to take on a significant role in global stewardship.

Ms. McCabe. It is very encouraging, and I think you are right, that there is that sense that people are taking responsibility for this and realizing that we have to take responsibility.

Senator Merkley. It is in that context that the U.S. should not only do its part but be a leader in the stewardship of the planet and basically saving us from ourselves. Thank you so much for your role in that.

Ms. McCabe. Thank you, Senator.

Senator Inhofe. I am going to make an observation, of course, I would welcome Senator Boxer to make one too, in fairness. Right now there is a hearing going on that we are missing in the Armed Services Committee. The whole hearing is about how China, what they are doing to us in cybersecurity, how they haven't kept their word on any of this stuff, and now we are lauding the virtues of China, who is making all these

commitments on what they are going to do. It is kind of interesting. What do you think, Senator Boxer?

Senator Boxer. Well, I don't trust China. On the other hand, that is not my statement. On the other hand, the people on your side of the aisle have said, do nothing until China pledges to do something. And China pledges to do something and you are the same old Johnny One Note here.

So the bottom line is, I don't trust China and I don't trust them with the safety of the world and the planet. Therefore it is imperative that regardless of what China says or does that America, as the Pope said, not walk away from our responsibility. I am frankly shocked that the other side of the aisle thinks that we should give up our leadership until China and India step up. That has been your call.

So now they say they are going to step up and now you say, well, we can believe them. Whether they step up or not, it's God's planet, we have to protect it. I am tired of ducking behind the skirts of China. Let's step out and show what America is made of, which is true grit and the can-do attitude.

I just want to close with saying this. My State, which has taken the lead, is going gangbusters here. We are doing absolutely great. And I am very excited about it. I think if you cling to the dirty old energies of the past, you are doomed in this world. Because the people are not going to support

dirty energy when they see what it is doing to the planet, to their lungs, to their families, to the economy.

I wish that we could get out from under China's skirts. I am glad they said what they did. I don't trust them. I would rather they said they were going to do something. They said they were going to build a high-speed rail and they did it. So maybe they will do it.

But whether they do it or not, America should lead.

Senator Inhofe. Okay, we should all trust China.

Senator Boxer. Don't change my words. I said don't trust them. Regardless of whether they are going to do this, we should take the lead. It is our moral responsibility.

Senator Inhofe. Senator Merkley?

Senator Merkley. Thank you, Mr. Chairman. The point has often been made here in this room that the U.S. acting alone will not have an impact or save us from global warming gases and global warming that results from that. This isn't about trusting any one particular nation, but it is about observing that nations are making, other nations are making substantial commitments. It isn't just into the future, we can see what has happened the last few years. China has had a dramatic increase in its renewable energy in the past few years. So it is on this trajectory that it has currently laid out.

They also have enormous internal motivation to continue,

because of the tremendous air pollution in that Country. They are worried about the citizens rebelling against the government because of that air pollution. It is a national security issue for them and an internal security issue as well.

So not only is it becoming very economical in wind and solar as compared to fossil, but there is also a huge stability issue that is driving the government's motivation.

Senator Inhofe. Thank you, Senator Merkley. I will know better next time.

[Laughter.]

Senator Inhofe. Senator Sullivan?

Senator Sullivan. Thank you, Mr. Chairman. I just feel a little bit compelled, I wasn't going to mention anything, but since Senator Merkley brought it up, there are a lot of Senators who don't think that was a good day yesterday in Alaska with what Shell decided to do. I think our regulatory system is largely to blame. Seven years, \$7 billion to try to drill one well in America. The EPA certainly shares some of the blame. We are going to undermine our energy security, certainly undermine jobs that people need in this Country.

But one issue that doesn't come up, we are going to undermine the environmental protection in the Arctic. What are we doing? We are driving investment to Russia, to China, to countries that don't have high standards like we do. SO I think

when we are celebrating this, we need to actually have a better understanding of the environment. I certainly will oppose any maneuver by the Arctic Council to try to limit responsible resource development in the Arctic.

Administrator McCabe, I want to talk, Senator Carper mentioned the importance of clean air, a strong economy, I agree with that. But I also think we should all be very concerned about making sure your agency follows the directions of Congress, follows the rule of law. Do you think that any statutory, or any action that you take from a regulatory standpoint has to be based in statute?

Ms. McCabe. Our regulatory actions are based in our statutory authorities, Senator.

Senator Sullivan. Good. I am glad you think that.

In terms of the Clean Air Act, you have actually lost a couple of pretty important Supreme Court cases recently, the Utility Air Regulator case, the Michigan v. EPA case. In the Utility Air Regulator case, the Supreme Court stated, "When an agency claims to discover a long-extant statute and unheralded power to regulate a significant portion of the American economy, we typically greet that announcement with a measure of skepticism." They went on to say "The EPA's interpretation is unreasonable because it would bring about an enormous transformative expansion of the EPA's regulatory authority

without clear Congressional authorization.”

Do you think you have clear Congressional authorization to undertake this rule?

Ms. McCabe. We do, and our authority has been supported by the Supreme Court finding that carbon pollution endangers public health.

Senator Sullivan. So when you were getting ready to issue the WOTUS rule, I asked the Administrator if we could get the legal opinion that EPA undertook to show that you have that authority. She never granted it, never gave it to me. I think that is a clear aspect of our oversight, she refused to do it. Do you have a legal opinion? I am not talking about your rule, but a detailed legal opinion that shows that you have the legal authority to issue the Clean Power rule?

Ms. McCabe. We do, Senator.

Senator Sullivan. Can we get that?

Ms. McCabe. We have a legal memorandum.

Senator Sullivan. Can we get that?

Ms. McCabe. Absolutely. It is available right now, today, it has been available since August 3rd in the docket. We will be happy to provide it to you.

Senator Sullivan. Great. In the Michigan v. EPA case, the Supreme Court ruled against EPA's Mercury Rules three years after their issuance. As such, many power plants had already

shuttered or retrofitted because of the rule's requirement.

Earlier this year, the Wall Street Journal ran an editorial suggesting that this might be a tactic of the EPA. Interestingly, Administrator McCarthy kind of insinuated that as well. She was on a TV show and she stated on the eve of this ruling, "We think we are going to win because we did a great job." This is EPA v. Michigan, which you actually lost. "But even if we don't win, it was three years ago we issued the rule. Most of them are already in compliance, investments have already been made."

Do you think that is an arrogant way to approach the rule of law in our oversight, saying, hey, even if we lose, we are going to win because we forced this on Americans anyway?

Ms. McCabe. Senator, this agency acts within its understanding of the law.

Senator Sullivan. What do you think of her statement? What do you think of that statement? Do you think that is an arrogant approach to our oversight or the American people? We lost, but you know what? The American people and businesses are going to have to abide by it anyway?

Ms. McCabe. If I can clarify, Senator, the decision from the Supreme Court spoke to one very narrow aspect of the Mercury and Air Toxics Rule.

Senator Sullivan. No, I am talking about her statement.

Ms. McCabe. I understand that, and I am not going to comment about the Administrator. I didn't hear her say it, I don't know what she was intending to say.

Senator Sullivan. Mr. Chairman, I think that that is an incredibly arrogant way to look at the rule of law, to look at our oversight of this committee. I think it is something we need to look at, because it is a flagrant disregard for the rule of law.

Let me ask one final question. You talk about outreach. Thirty-one States, including Alaska, are suing EPA on the WOTUS rule. You are losing right now in Federal court. There has been an injunction saying it is like that you are going to lose. Thirty-two States have opposed the Clean Power Plan.

Does this disturb you? You talk about all the outreach that you do, and yet the majority of the States in the United States consistently oppose what the EPA tries to do from a regulatory standpoint. Does it disturb you that 31 States are suing on WOTUS, 32 are opposing the Clean Power plan, and 16 have already requested a regulatory stay but they can't do it because you haven't issued the rule? Does that disturb you or the Administrator?

Ms. McCabe. Senator, I can't speak to the WOTUS rule, because that is not within my area.

Senator Sullivan. But you are a senior EPA administrator.

Ms. McCabe. I am. And our desire always is to work with States. There will always be disagreements among States. Even within the States that have taken action to litigate against the rule or have indicated that they intend to, we are having very constructive discussions with those States.

I think it is oversimplifying to say that X number of States oppose the Clean Power Plan.

Senator Sullivan. When the States sue you, that is usually a pretty good indication they don't like the rule.

Ms. McCabe. I don't think 32 States have sued us.

Senator Sullivan. They can't sue you yet on this one, because you haven't issued the rule.

Ms. McCabe. And attorneys general are taking certain positions, governors are taking certain positions. But the vast majority of the people that I talk to understand, they appreciate the adjustments that we made in the final rule that were directly responsive to the concerns that they raised to us, like providing more time for States to get their plans, and providing more time for utilities to accomplish these goals.

Senator Sullivan. Thank you, Mr. Chairman. I do think it is a big issue, whether it is the arrogance that the Administrator shows by saying that, hey, even if we lose, we win, because the American people are stuck with it anyway. I think it is a really big issue that we need to look at to not

allow for agencies, even when they lose in court, in the Supreme Court, to still force a rule down the American people's through and have the Administrator essentially say that is part of her strategy, in public. I think it is outrageous.

Senator Inhofe. Thank you, Senator Sullivan.

Senator Whitehouse?

Senator Whitehouse. Thank you, Chairman.

During this hearing, my colleagues have mentioned this report prepared for the National Association of Manufacturers that claimed that a standard of 65 parts per billion could cost as much as \$140 billion per year. EPA had estimated that it would cost a fraction of what NAM estimates, less than 12 percent.

The economic consulting firm SYNAPSE recently analyzed the NAM report and found that, "grossly overstates compliance costs, due to major flaws, math errors and unfounded assumptions. Among other things, NAM significantly inflated the emissions reductions needed to meet the 65 parts per billion standard through a series of unfounded and skewed assumptions. These assumptions and other flaws led NAM to overstate compliance costs by more than 700 percent."

That is the document that my colleagues are relying on in this hearing. I ask unanimous consent that the debunking industry claims report be entered into the record.

Senator Inhofe. Without objection.

[The referenced information follows:]

Senator Whitehouse. Industry has a long history of muddling the science and manufacturing false data and exaggerating regulatory costs whenever the development of a new public health standard emerges. It is a standard industry game plan. We have seen this with climate change denial, we have seen it with efforts to address acid rain. We have seen it with efforts to cut toxic pollutants, such as mercury, and we have seen it with efforts to reduce smog. I am sorry that the National Association of Manufactures has associated itself with this unfortunate history and this particular report.

Ms. McCabe, you have decades of experience working on Clean Air Act regulations. What is the track record of industry's past claims about the cost of health standards adopted under the Clean Air Act?

Ms. McCabe. I would say, Senator, that we have often heard on the eve of a regulatory change that there would be significant economic impacts, and over time of course, we have seen that that has not been true. Air quality has improved, public health has improved and the economy has also improved.

Senator Whitehouse. Industry frequently talks about the costs of a rule. And when they measure the rule, they talk exclusively about the cost to themselves, the cost to polluters of meeting the public health standards, while they ignore the costs of not meeting the health standards that everybody else

has to pay for. They ignore the public benefit and only the cost.

Now, EPA estimates the economic benefits from reducing premature deaths, asthma attacks, heart attacks and missed school days as high as \$42.1 billion a year in 2025, significantly outweighing the costs. Does this NAM report quantify any, any of the societal benefits from updating the standard?

Ms. McCabe. I don't believe it does. I think it focuses entirely on costs.

Senator Whitehouse. Do you agree that we should actually look at both sides of the ledger, the costs and the benefits together, in evaluating the merits of a rule?

Ms. McCabe. Absolutely, we should.

In fact, if you were an accountant and if you looked at only one side of the ledger and made a report on it, you would probably end up going to jail, wouldn't you?

Ms. McCabe. Me personally?

Senator Whitehouse. No, the accountant who reported only one side of the ledger.

Ms. McCabe. That would probably not be a good way to do accounting.

Senator Whitehouse. And yet is the way that industry constantly behaves in this hearing room.

We are a downwind State, Ms. McCabe. It is our oceans that are acidifying because of carbon dioxide. It is our coasts that are threatened by worsened storms. It is our fisheries that are moving away in order to seek the shelter of cooler waters to the north. It is our air that is affected by the ozone.

Rhode Island from time to time has bad air days on a perfectly nice summer day, where elderly people and infants and people with breathing difficulties are advised to stay indoors. Don't go outside and play football, don't go to the beach, stay indoors, so that people in other States, upwind of us, can continue to pollute.

There is zero concern from the other side of the aisle about what any of that is costing. It is really astounding to me. Stage right of this hearing room, every time, every regulation, every member, always with industry, always against the environment. And I wish it would come to an end. We are really in a better place if we can work together to address real problems rather than pretend they don't exist.

Senator Inhofe. Thank you, Senator Whitehouse. Senator Barrasso?

Senator Barrasso. Thank you, Mr. Chairman, and it does seem, looking at a map of the places in non-attainment, that it is California where a lot of that area is in non-attainment. So if the Senator from Rhode Island states that things are moving

from west to east, we can see the source of significant amounts of the problems.

Senator Whitehouse. That is actually not correct.

Senator Barrasso. Well, there are significant amounts of California that are not in attainment, if you look at a map that I looked at a few minutes ago.

Senator Whitehouse. But if you look at what is coming over Rhode Island -

Senator Inhofe. Senator Whitehouse, we are not going to interrupt each other.

Senator Whitehouse. I am sorry, but when he mentioned me specifically I thought it gave me a right to respond.

Senator Inhofe. Senator Barrasso.

Senator Barrasso. Thank you, Mr. Chairman.

Ms. McCabe, I want to follow up with some lines of questioning that I had with you on February 11th at the hearing on the President's Clean Power Plan before this committee. I had asked you about the EPA's claiming of co-benefits of reduction, sort of the double-counting that I believe is going on at the EPA. I asked if the EPA was double-counting health benefits, because it sure seems that way to me, in terms of reductions in particulate matter, since other EPA air rules claim the same reductions in particulate matter, claim the same health benefits.

My point was, you can only reduce the dust once and accrue the health benefits of that reduction once, not over and over again to justify different rules. You stated that you were not double-counting, and you say we are very careful in all our regulations to make sure that we don't do this.

Yet when you take a look at the EPA's own documents, you state that you are counting co-benefits of reducing the same PM 2.5 in other rules before a 111(d) rule for existing power plants was even released. EPA stated in its regulatory impact analysis for the proposed rule for existing power plants that it was possible that the benefits estimated in this RIA, the regulatory impact analysis, may account for the same air quality improvements as estimated in the illustrative NAAQS regulatory impact analysis. The same air quality improvements.

That is what the EPA is saying, that the same air quality improvements from previous regulatory impact analyses are being counted again. To me that means double-counting.

So do you still stand by your testimony in front of this committee and reject your own agency's statement about double-counting the same co-benefits and reductions of air pollutants like particulate matter?

Ms. McCabe. Well, Senator, I am not sure exactly what you are referring to. But I assure you again that when we do each regulatory impact analysis, we acknowledge the effects of

previous rules. But the benefits that we associate with each regulatory action are the benefits that accrue entirely and exclusively because of that regulatory action. They may then be additive, on top of prior rules that have come before.

Senator Barrasso. That is not what the documentation said that was sent to me. This sounds like Volkswagen accounting. I think government ought to be held to a much better standard than what we are seeing coming from this agency and this Administration.

According to the Wyoming Department of Environmental Quality, the EPA designated all of one of the counties in Wyoming, Sublet County, portions of Lincoln and Sweetwater Counties, as ozone non-attainment areas in 2012. Judge Gary Moore, President of the National Association of Regional Councils, testified at a June 3rd hearing, said "Sublet County, Wyoming serves as an example of how the new standard," he is referring to the new ozone standard, "could impact economic development activities."

He goes through Sublet County, the number of residents that live there, all of the public land that is involved, a county highly dependent on oil and gas development, mining activities. "And if the ozone standard is tightened further," he says, "Sublet County will likely be classified as fully in non-attainment, severe restrictions on industrial development which

will limit jobs in the community.”

So under your new ozone rule, it is likely that more counties in Wyoming, more counties around the Country will be in non-attainment, including the counties that have not yet achieved the previous level for ozone. So given the high cost in terms of jobs, regulatory burdens on struggling counties, the significant detrimental health impacts to people who lose their jobs, chronically unemployed, under what rationale do you believe you should be moving the goalpost on counties that have not yet even met the current standard?

Ms. McCabe. Well, Senator, there is a lot in that question. I will try to answer a number of those issues.

In Sublet County, there are increasing levels of ozone there that are occurring that are affecting the public health there. So that prompts the EPA to look at that county and work with the State there in order to address those issues. I want to make clear that under any new ozone standard, decisions about which counties do and don't attain will be made based on air quality, some of which hasn't happened yet, it will be based on future air quality, 2014 through 2016.

So looking at historic levels is not a predictor of which counties will and won't be in non-attainment. I can tell you that with Wyoming in particular, we are working very closely with Wyoming on the emissions related to the oil and gas

activities. Wyoming is a leader in terms of its State programs to encourage and require the companies there to conduct their activities in a way that is safe and that minimizes air emissions in a cost-effective and very positive way.

Senator Barrasso. Since you bring up the State, in a February 11th hearing, this will be my final question, Mr. Chairman, I asked of you if the States had the same access to crafting the Clean Power Plan rules as the environmental groups do, given the headlines about the NRDC's involvement in crafting your rules in the EPA. You stated "I speak with States all the time, they have very good access." Well, you didn't really answer the question if the States were getting the same or better access than the environmental groups.

So States are going to disagree with you, you say you talk to States all the time and they have access. Our own Department of Environmental Quality came and testified about what is happening. He says, "In the air programs alone, there have been dozens of new rules in the regulation of air quality. Therefore, EPA relies heavily on the states to carry out these initiatives. We are the boots on the ground that ensures the Nation's priority is cleaning up the air, protecting human health is achieved. But State resources are being stretched even more, as EPA continues to propose regulations at their current pace, they must consider the ability of States to meet

this demand.”

That doesn't to me sound like States are really getting heard in the process as you develop rules and work with the environmental extremist groups to develop those rules.

Ms. McCabe. Senator, we work with all groups, and they provide their input to us. We write the rules that we think are appropriate. I assure you that in my job, the States are my co-regulators, are our co-regulators. We take their input extremely seriously, as together we implement the National Clean Air Act.

Senator Barrasso. Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Barrasso. Senator Gillibrand?

Senator Gillibrand. Thank you, Mr. Chairman.

It is regrettable that this committee is meeting again to debate the Obama Administration's efforts to address climate change and protect the air we breathe from harmful pollution, including smog. Just last week, Pope Francis called on us in Congress to be courageous in protecting our environment and protecting the most vulnerable among us.

It is often the most vulnerable who suffer the effects of poor air quality the most, children, the elderly and people with illnesses and disabilities. According to the most recent statistics, 7.9 percent of children in New York, approximately

315,000, live with asthma. The total cost of asthma hospitalizations in New York is \$660 million. That is just New York.

When talking about the cost of action, we must also talk about the cost of inaction, which is often borne by those who can least afford to pay. Protecting our environment and growing our economy is not a zero sum game. We should stop treating it as such. In transitioning to a clean energy economy, we can unlock the potential for innovation and create new, sustainable jobs.

In New York, we are seeing the benefits already through the participation of the Regional Greenhouse Gas Initiative, or RGGI. By participating in this market-based program, New York has reduced its carbon emissions from power plants by 45 percent since 2005. At the same time, New York's economy is growing. Our employment is the highest it has been at more than 9 million jobs.

Can you discuss the costs to the economy in terms of paying for natural disasters, damage to infrastructure, and increased resiliency measures if we fail to reduce our carbon emissions?

Ms. McCabe. Yes, I can, Senator. In fact, EPA in the spring, late spring or summer, put out a report exactly on that issue called the SERA report, which looked at a number of different metrics, and looked at the cost to our economy and to

our society for infrastructure issues in the future and water quality issues in the future, and sort of compared how much more it would cost if we didn't take action on climate change.

So on a number of different metrics, it is very clear and documented. We would be glad to provide you a copy if you haven't seen it.

Senator Gillibrand. Thank you. And who are the most vulnerable to experiencing the effects of ozone pollution, if we fail to act?

Ms. McCabe. In terms of ozone pollution, those who are the most vulnerable are children, the elderly and those whose respiratory systems are already compromised through some kind of respiratory disease.

Senator Gillibrand. Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Gillibrand.

And thank you very much, Ms. McCabe, for your participation. We are adjourned.

[Whereupon, at 11:38 a.m., the hearing was adjourned.]