

House Energy and Commerce  
Energy and Power Subcommittee Hearing  
Statement for the Record  
from the  
Environmental Protection Agency  
on the  
Energy Consumers Relief Act  
Legislative Hearing  
April 12, 2013

The Administration makes it a priority to ensure that our federal regulatory system is guided by science and that it protects the health and safety of all Americans in a pragmatic and cost effective manner.

The core mission of the EPA is protection of public health and the environment. That mission was established in recognition of a fundamental fact of American life – regulations can and do improve the lives of people. We need these rules to hold polluters accountable and keep us safe. For more than 40 years, since the Nixon administration, the Agency has carried out its mission and established a proven track record that a healthy environment and economic growth are not mutually exclusive.

The Clean Air Act is one of the most successful environmental laws in American history and provides an illustrative example of this point. For 40 years, the Clean Air Act has made steady progress in reducing the threats posed by pollution and allowing us to breathe easier. In 2010 alone, programs implemented pursuant to the bipartisan-enacted Clean Air Act Amendments of 1990 are estimated to have reduced premature mortality risks equivalent to preventing over 160,000 premature deaths; spared Americans more than 100,000 hospital admissions and emergency department visits; and prevented millions of cases of respiratory problems, including bronchitis and childhood asthma attacks.

Few of the emission control standards that gave us these huge gains in public health were uncontroversial at the time they were developed. Most major rules have been adopted

amidst claims that they would be bad for the economy, increase energy prices, and lead to unemployment.

For example, an early industry study of EPA's Acid Rain Program estimated the cost at \$7.5 billion annually. However, multiple recent analyses show that the Acid Rain Program has been implemented at a fraction of that estimate -- between \$1 and 2 billion annually (2011 National Acid Precipitation Assessment Program Report to Congress). The resulting emission reductions are providing substantial health and ecosystem benefits with a monetized value of between \$170 billion and \$430 billion per year (2008\$).<sup>1</sup> In contrast to doomsday predictions, history has shown, again and again, that we can clean up pollution, create jobs, and grow our economy all at the same time. Over the same 40 years since the Clean Air Act was passed, the Gross Domestic Product of the United States grew by more than 200 percent. At the same time, the Clean Water Act has kept tens of billions of pounds of sewage, chemicals and trash out of American waterways. America's urban waterways have gone from wastelands to centers of redevelopment and activity, and we have doubled the number of American waters that meet standards for swimming and fishing. In the process, we've advanced environmental science and spurred countless innovations in technology.

We must regulate sensibly - in a manner that, when allowed by statute, carefully considers both the benefits and the costs. EPA's detailed regulatory impact analyses help us accomplish that goal in a manner that best supports the reasons for implementation of environmental regulations: to ensure that American families have clean air to breathe and clean water to drink and in which to swim and fish.

Although the Administration does not have a position on the draft legislation at this time, EPA has serious concerns with the legislation that the Agency believes merit close consideration. First, the draft legislation before the committee today departs from the

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<sup>1</sup> [http://www.whitehouse.gov/sites/default/files/microsites/ostp/2011\\_napap\\_508.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ostp/2011_napap_508.pdf)

principle that both the benefits and costs of regulations should be considered together. Second, it would waste limited analytical resources on duplicative analysis that could needlessly delay important public health protections at an additional cost to taxpayers. And third, in the worst case, it could permanently block EPA from fulfilling its statutory obligations to protect public health and the environment.

The draft legislation directs the EPA to report to Congress only on the costs of a regulation, but not on the benefits. Similarly the Secretary of Energy is directed to conduct an analysis of energy price impacts and their effects on the economy, but is not directed to take into account benefits to the economy such as cleaner air and water, fewer premature deaths and fewer days of work missed due to illness. Health and environmental benefits are the driving rationale for our environmental laws and for the regulatory actions taken to implement these laws. By ignoring benefits, the draft legislation instructs policy makers to adopt an inherently biased approach that is inconsistent with the fundamental principles of environmental law and would lead to flawed decision making.

A second serious concern with the draft legislation is that it would require duplicative economic analysis. Executive Order 13211<sup>2</sup>, issued in 2001, already requires agencies to examine energy effects. EPA already examines impacts on energy prices and output, changes in electricity generation mix, impacts on reserve margins for reliability, and other energy-related metrics where relevant for regulations. After the proposed rule is published, these analyses receive public comment and are revised as appropriate. Despite this analysis, the legislation directs DOE to conduct its own analysis of the same regulation for key energy impacts. EPA encourages the committee to consider whether it is wise to require DOE to fully duplicate analyses that EPA already performs and the added costs of such analyses.

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<sup>2</sup> <http://www.gpo.gov/fdsys/pkg/FR-2001-05-22/pdf/01-13116.pdf>

A third concern is that this legislation could result in delay of EPA regulations – creating regulatory uncertainty and, potentially, leading to lengthy (and potentially indefinite) delays in important protections for public health and the environment. The draft legislation calls for detailed economic analysis by DOE, in consultation with the Federal Energy Regulatory Commission (FERC) and the Energy Information Administration (EIA), and further consultation with three additional Federal agencies if certain determinations are made. Section 3 directs that these analyses and determinations are to be done “before promulgating as final” any energy-related rule of EPA’s, but it does not set a timeline for the length of this process and this could create regulatory uncertainty.

Even if this process were to result in a determination of no “significant adverse effects to the economy,” the process could take substantial time, while leaving the public and the regulated community in doubt as to the outcome. This may create uncertainty for the regulated community, which cannot fully plan regulatory compliance investments until the rule is finalized. As the Agency has moved to finalize rules such as the Mercury and Air Toxics Standards (MATS) under the Clean Air Act, we have heard from regulated entities that urge us to proceed with prompt finalization so that they can move forward with compliance. An extra layer of review may extend the period where industry must place plans to invest in new pollution control equipment on hold. In addition to the costs that such uncertainty imposes on the regulated community, this could delay creation or support of jobs by delaying anticipated increases in both short- and long-term job opportunities from installation of air pollution control equipment.

The impacts could be even more severe for members of the public. Each year, implementation of the MATS rule, for example, will avoid thousands of premature deaths, prevent thousands of heart attacks and thousands of hospital visits for respiratory and cardiovascular disease, and alleviate tens of thousands of childhood asthma attacks and other respiratory illnesses. EPA estimates that this rule will yield tens of billions of dollars in net benefits in 2016 alone. The draft legislation could place an additional procedural hurdle in the path of finalizing important public health rules such as this one.

Finally, this bill appears designed to override every environmental law that EPA administers that authorizes energy-related regulation estimated to cost more than the specified threshold – even when the benefits of taking action justify the costs. Energy-related rules could be blocked by a determination based on analysis and consultation specified in the bill by agencies without the direct responsibility for implementing the Clean Air Act, Clean Water Act, and other landmark environmental protection laws.

In conclusion, the draft legislation being discussed today could delay or even block public health and environmental protections for Americans based on misplaced concerns that EPA standards would be bad for the economy and bad for employment. In contrast to doomsday predictions, history has shown that we can clean up pollution, preserve jobs, and help grow our economy all at the same time. Over the 40 years since the Clean Air Act and Clean Water Act were passed, our air and water has become enormously cleaner, and the economy of the United States more than doubled. EPA already undertakes robust analysis of the costs and benefits and energy impacts of its significant rulemakings, consistent with relevant Executive Orders, and history has shown that American ingenuity and innovation can allow us to continue environmental progress while we grow our economy.