

H.R. ____: the Energy and Tax Prevention Act of 2011

Witnesses

Panel 1

The Honorable James Inhofe

U.S. Senator, State of Oklahoma

Panel 2

Ms. Lisa Jackson

Administrator, Environmental Protection Agency

Panel 3

Mr. Greg Abbott

Attorney General, State of Texas

Mr. Harry C. Alford

President & CEO, National Black Chamber of Commerce

Mr. Steve Rowlan

General Manager, Environmental Affairs, Nucor Corporation

Mr. James Pearce

Director of Manufacturing, FMC Corporation

Mr. Steve Cousins

Vice President, Lions Oil Company

Mr. Lonnie N. Carter

President and CEO, Santee Cooper

Ms. Betsey Blaisdell

Senior Manager of Environmental Stewardship, The Timberland Company

Panel 4

Mr. Peter S. Glaser

Partner, Troutman Sanders LLP

Dr. Margo Thorning

Senior Vice President and Chief Economist, American Council for Capital Formation

Mr. Philip Nelson

President, Illinois Farm Bureau

Mr. Fred T. Harnack

General Manager, Environmental Affairs, US Steel Corporation

Mr. James N. Goldstene

Executive Officer, California Air Resources Board

Dr. Lynn R. Goldman

American Public Health Association

Subcommittee Members Present

Ed Whitfield (R-KY), Chair

Bobby Rush (D-IL), Ranking Member

Fred Upton (R-MI)

Joe Barton (R-TX)

Henry Waxman (D-CA)

Jay Inslee (D-WA)

John Sullivan (R-OK)

Edward Markey (D-MA)

Greg Walden (R-OR)

Lois Capps (D-CA)

Lee Terry (R-NE)

Gene Green (D-TX)

Eliot Engel (D-NY)

Steve Scalise (R-LA)

Michael Doyle (D-PA)

Pete Olson (R-TX)

Jim Matheson (D-UT)

David McKinley (R-WV)

Cory Gardner (R-CO)

John Shimkus (R-IL)

Michael Burgess (R-TX)

John Dingell (D-MI)

Setting the stage for a showdown between one of the most vocal climate change skeptics and the Environmental Protection Agency (EPA) administrator trying to limit its effects, the House Subcommittee on Energy and Power held a legislative hearing on “H.R. ____, the Energy Tax Prevention Act of 2011” on February 9, 2011 to discuss legislation that attempts to block the EPA from regulating greenhouse gas (GHG) emissions under the Clean Air Act (CAA).

In January 2011 EPA enacted new rules to regulate GHG emissions from the largest stationary sources, such as power plants and refineries. Subcommittee Chairman Ed Whitfield (R-KY) and Committee Chair Fred Upton (R-MI) introduced draft legislation called the “Energy Tax Prevention Act of 2011” on February 2. The bill has not been officially submitted to Congress so the draft does not have a bill number yet. Senator James Inhofe (R-OK) is a cosponsor of the bill. The act would add new sections to the CAA that would expressly define GHG to be excluded from regulation; prohibit EPA from regulating GHG due to climate change concerns; and clarify that GHG do not qualify as air pollutants under the CAA.

Chairman Whitfield said that the proposed act will “restore the proper balance” in government in regards to regulating GHG in his opening statement. He argued that “Congress has made its will crystal clear on this issue,” and mentioned that it declined to sign the Kyoto protocol in 1997 and failed to pass a cap and trade bill on emissions in the 111th Congress. Despite these actions, he said, EPA and the courts are “pushing the United States down a path that in my opinion will cost jobs and make us less competitive in the global market place.”

“I really have a bone to pick,” announced Ranking Member Bobby Rush (D-IL) in his opening remarks. The majority party resisted inviting Lisa Jackson, Administrator of the Environmental Protection Agency (EPA), and only did so after much persuasion, he claimed. Rush expressed his disapproval of the act, saying it would take away EPA’s authority under the CAA to preserve environmental quality, protect human health and promote energy efficiency. Furthermore, it would overturn a 2007 Supreme Court decision that said carbon dioxide qualifies as an air pollutant under the CAA and that EPA has the right to regulate carbon dioxide under the CAA if it made an endangerment finding.

Chairman Upton described the EPA regulations as an attempt to achieve the goals of a cap and trade program through different methods. He expressed concern that the EPA’s new regulations will reduce jobs and burden industry, making fossil fuels expensive. He claimed that his draft legislation will “protect jobs and preserve the intent of the Clean Air Act” as states could continue to regulate without national standards.

Henry Waxman (D-CA), Ranking Member of the Committee, was extremely concerned with the legislation's lack of regard for science. The act would overturn the endangerment finding by EPA with support from the National Science Foundation and essentially says that carbon emissions are not a threat to public health or welfare, he said. "Mr. Chairman, you and the new Republican majority have a lot of power to write our nation's laws, but you do not have the power to rewrite the laws of nature," he exclaimed. "History will not judge this Committee kindly if we become the last bastion of the polluter and the science-denier," Waxman predicted.

Inhofe's testimony focused on his claim that the science of global warming, climate change, and the human-induced causes is mixed. "This scandal could very well be the greatest scandal in science," he said. Regardless of whether climate change is proven, the regulations would not affect overall global carbon dioxide levels, he stipulated. The regulations would cost billions of dollars a year, destroy jobs and make fossil fuels more expensive, negatively affecting America's economy, according to Inhofe. "We have to run this machine called America, and we can't do it without fossil fuels," he said.

Waxman described the position of the National Academy of Sciences (NAS) that states that "climate change is occurring and is caused largely by human activities" and listed several other scientific societies, including the American Geophysical Union (AGU), that echo this stance. He said that 13 federal agencies, including the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF) and the Department of Defense (DOD) have said that climate change is largely human induced. After mentioning that Inhofe is an economist and not a scientist by trade, Waxman said that the subcommittee should hold hearings on the science behind the legislation before it is introduced.

Representative Jay Inslee (D-WA) supported Waxman's statements. "We are not listening to the scientists," he cautioned. The NSF, members of the Intergovernmental Panel on Climate Change (IPCC), doctors and other medically trained scientific professionals are warning that climate change poses a real health problem, he said.

Lisa Jackson described the legislation as part of a broader effort in Congress to delay, weaken or limit actions under the CAA. The CAA saves lives, prevents medical visits, decreases cases of respiratory illnesses, and lessens the number of sick days employees take, according to Jackson. The NAS and 18 leading societies have determined climate change to be largely caused by human activity, and the bill would repeal that scientific finding, she said. A report released by the University of Massachusetts found that the regulations would create 1.5 million jobs over the next five years. Jackson cited several companies' approval of the regulations and said they would promote oil savings through efficiency.

Each side had their different arguments concerning the possible effects of the regulations. Those that support the draft legislation say the additional burden will cause job loss. Upton cited findings that Michigan would lose jobs and GDP because of the regulations and said he is worried about net decrease in jobs and outsourcing because of increased manufacturing costs. On the other hand, Ms. Jackson cited that over the time the CAA has been in effect, pollution has decreased 60% and the economy has grown 200%. Others claimed the push for efficiency could spark innovation and then construction and utility jobs. It is possible to grow the economy in the midst of regulations, according to Inslee. He expressed his faith in Americans to "innovate our way out of this pickle."

Proponents of the draft bill argue that it does not change the overall intent of the CAA and that EPA was never intended to regulate GHG. Joe Barton (R-TX) went over the six criteria pollutants named in the CAA and said that none of them are affected by the proposed act. A few members said that Congress has the jurisdiction to regulate GHG. Congress has an obligation to clarify what the CAA regulates, said Barton. "I share your concern with carbon" but regulation needs to be done on the legislative side, said Representative Green.

Other supporters of the bill were worried about the complications it could cause by allowing multiple entities at the state and national level to regulate GHG. "You're going to have a holy complicated mess," said Representative John Dingell (D-MI).

Opponents of the legislation say that the bill ignores the science and tries to interfere with what is widely accepted among scientists all over the world: that climate change is occurring and that it is largely caused by human activity.

Representative Edward Markey (D-MA) posed another argument against the legislation. The bill would bar EPA from taking further action to reduce oil usage and therefore reduce demand, he said. In essence, the bill could actually increase dependence on foreign oil in the U.S., according to Markey.

An archived webcast, testimony from the witnesses and committee members and other information can be found at the committee [web page](#)
