

112th CONGRESS

1st Session

H. R. 2401

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 24, 2011

Mr. SULLIVAN (for himself, Mr. MATHESON, Mr. UPTON, Mr. WHITFIELD, Mr. SHIMKUS, Mr. WALDEN, Mr. LATTA, Mr. HARPER, Mrs. MCMORRIS RODGERS, Mr. MCKINLEY, Mr. TERRY, Mrs. CAPITO, Mr. POMPEO, Mr. ROSS of Arkansas, Mr. GUTHRIE, Mr. KINZINGER of Illinois, Mr. BILBRAY, Mr. TURNER, Mr. DUNCAN of Tennessee, Mr. BUCSHON, Mr. DUFFY, Mr. ROSKAM, Mrs. MYRICK, Mr. OLSON, Mr. JOHNSON of Illinois, Mr. ROKITA, Mr. COSTA, Mr. HOLDEN, and Mr. ROGERS of Kentucky) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Transparency in Regulatory Analysis of Impacts on the Nation Act of 2011'.

SEC. 2. COMMITTEE FOR THE CUMULATIVE ANALYSIS OF REGULATIONS THAT IMPACT ENERGY AND MANUFACTURING IN THE UNITED STATES.

(a) Establishment- The President shall establish a committee to be known as the Committee for the Cumulative Analysis of Regulations that Impact Energy and Manufacturing in the United States (in this Act referred to as the 'Committee') to analyze and report on the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, in accordance with sections 3 and 4.

(b) Members- The Committee shall be composed of the following officials (or their designees):

- (1) The Secretary of Agriculture, acting through the Chief Economist.
 - (2) The Secretary of Commerce, acting through the Chief Economist and the Under Secretary for International Trade.
 - (3) The Secretary of Labor, acting through the Commissioner of the Bureau of Labor Statistics.
 - (4) The Secretary of Energy, acting through the Administrator of the Energy Information Administration.
 - (5) The Secretary of the Treasury, acting through the Deputy Assistant Secretary for Environment and Energy of the Department of the Treasury.
 - (6) The Administrator of the Environmental Protection Agency.
 - (7) The Chairman of the Council of Economic Advisors.
 - (8) The Chairman of the Federal Energy Regulatory Commission.
 - (9) The Administrator of the Office of Information and Regulatory Affairs.
 - (10) The Chief Counsel for Advocacy of the Small Business Administration.
 - (11) The Chairman of the United States International Trade Commission, acting through the Office of Economics.
- (c) Chair- The Secretary of Commerce shall serve as Chair of the Committee. In carrying out the functions of the Chair, the Secretary of Commerce shall consult with the members serving on the Committee pursuant to paragraphs (5) and (11) of subsection (b).
- (d) Consultation- In conducting analyses under section 3 and preparing reports under section 4, the Committee shall consult with, and consider pertinent reports issued by, the Electric Reliability Organization certified under section 215(c) of the Federal Power Act (16 U.S.C. 824o(c)).
- (e) Termination- The Committee shall terminate 60 days after submitting its final report pursuant to section 4(c).

SEC. 3. ANALYSES.

(a) Scope- The Committee shall conduct analyses, for each of the calendar years 2016, 2020, and 2030, of the following:

- (1) The cumulative impact of covered rules that are promulgated as final regulations on or before January 1, 2012, in combination with covered actions.
- (2) The cumulative impact of all covered rules (including covered rules that have not been promulgated as final regulations on or before January 1, 2012), in combination with covered actions.
- (3) The incremental impact of each covered rule not promulgated as a final regulation on or before

January 1, 2012, relative to an analytic baseline representing the results of the analysis conducted under paragraph (1).

(b) Contents- The Committee shall include in each analysis conducted under this section the following:

(1) Estimates of the impacts of the covered rules and covered actions with regard to--

(A) the global economic competitiveness of the United States, particularly with respect to energy intensive and trade sensitive industries;

(B) other cumulative costs and cumulative benefits, including evaluation through a general equilibrium model approach;

(C) any resulting change in national, State, and regional electricity prices;

(D) any resulting change in national, State, and regional fuel prices;

(E) the impact on national, State, and regional employment during the 5-year period beginning on the date of enactment of this Act, and also in the long term, including secondary impacts associated with increased energy prices and facility closures; and

(F) the reliability and adequacy of bulk power supply in the United States.

(2) Discussion of key uncertainties and assumptions associated with each estimate.

(3) A sensitivity analysis.

(4) Discussion, and where feasible an assessment, of the cumulative impact of the covered rules and covered actions on--

(A) consumers;

(B) small businesses;

(C) regional economies;

(D) State, local, and tribal governments;

(E) local and industry-specific labor markets; and

(F) agriculture,

as well as key uncertainties associated with each topic.

(c) Methods- In conducting analyses under this section, the Committee shall use the best available methods, consistent with guidance from the Office of Information and Regulatory Affairs and the Office of Management and Budget Circular A-4.

(d) Data- In conducting analyses under this section, the Committee--

(1) shall use the best data that is available to the public or supplied to the Committee by its members, including the most recent such data appropriate for this analysis representing air quality, facility emissions, and installed controls; and

(2) is not required to create data or to use data that is not readily accessible.

(e) Covered Rules- In this section, the term 'covered rule' means the following:

(1) The following published rules (including any successor or substantially similar rule):

(A) 'Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone', published at 75 Fed. Reg. 45210 (August 2, 2010).

(B) 'National Ambient Air Quality Standards for Ozone', published at 75 Fed. Reg. 2938 (January 19, 2010).

(C) 'National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters', published at 76 Fed. Reg. 15608 (March 21, 2011).

(D) 'National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers', published at 76 Fed. Reg. 15554 (March 21, 2011).

(E) 'National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units', signed by Administrator Lisa P. Jackson on March 16, 2011.

(F) 'Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities', published at 75 Fed. Reg. 35127 (June 21, 2010).

(G) 'Primary National Ambient Air Quality Standard for Sulfur Dioxide', published at 75 Fed. Reg. 35520 (June 22, 2010).

(H) 'Primary National Ambient Air Quality Standards for Nitrogen Dioxide', published at 75 Fed. Reg. 6474 (February 9, 2010).

(2) The following additional rules or guidelines promulgated on or after January 1, 2009:

(A) Any rule or guideline promulgated under section 111(b) or 111(d) of the Clean Air Act (42 U.S.C. 7411(b), 7411(d)) to address climate change.

(B) Any rule or guideline promulgated by the Administrator of the Environmental Protection Agency, a State, a local government, or a permitting agency under or as the result of section 169A or 169B of the Clean Air Act (42 U.S.C. 7491, 7492).

(C) Any rule establishing or modifying a national ambient air quality standard under section 109 of the Clean Air Act (42 U.S.C. 7409).

(f) Covered Actions- In this section, the term 'covered action' means any action on or after January 1, 2009, by the Administrator of the Environmental Protection Agency, a State, a local government, or a permitting agency as a result of the application of part C of title I (relating to prevention of significant deterioration of air quality) or title V (relating to permitting) of the Clean Air Act (42 U.S.C. 7401 et seq.), if such application occurs with respect to an air pollutant that is identified as a greenhouse gas in 'Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act', published at 74 Fed. Reg. 66496 (December 15, 2009).

SEC. 4. REPORTS; PUBLIC COMMENT.

(a) Preliminary Report- Not later than January 31, 2012, the Committee shall make public and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a preliminary report containing the results of the analyses conducted under section 3.

(b) Public Comment Period- The Committee shall accept public comments regarding the preliminary report submitted under subsection (a) for a period of 90 days after such submission.

(c) Final Report- Not later than August 1, 2012, the Committee shall submit to Congress a final report containing the analyses conducted under section 3, including any revisions to such analyses made as a result of public comments, and a response to such comments.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization- There are authorized to be appropriated to carry out this Act for fiscal year 2012--

(1) \$3,000,000 to the Department of Commerce, of which not more than \$2,000,000 shall be for carrying out section 3; and

(2) \$500,000 to the Environmental Protection Agency.

(b) Offset- Effective October 1, 2011, section 797(a) of the Energy Policy Act of 2005, as amended by section 2(e) of the Diesel Emissions Reduction Act of 2010 (Public Law 111-364), is amended to read as follows:

'(a) In General- There are authorized to be appropriated to carry out this subtitle \$46,000,000 for fiscal year 2012 and \$50,000,000 for each of fiscal years 2013 through 2016, to remain available until expended.'

END