

GASOLINE REGULATIONS ACT OF 2012

JUNE 6, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4471]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4471) to require analyses of the cumulative impacts of certain rules and actions of the Environmental Protection Agency that impact gasoline, diesel fuel, and natural gas prices, jobs, and the economy, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4471, the “Gasoline Regulations Act of 2012,” was introduced by Representative Ed Whitfield with Representative John Barrow on April 23, 2012. The legislation would establish an inter-agency committee for the cumulative analysis of certain significant Environmental Protection Agency (EPA) regulations that impact gasoline and other motor fuels in the United States. Key provisions of this bill would:

- Create an interagency committee chaired by the Secretary of Energy to analyze the cumulative impacts of certain EPA rules and regulatory actions on gasoline prices, jobs, and the economy.
- Require the committee to issue a preliminary study within 90 days of enactment, provide 60 days for public comment, and issue a final study within 60 days.
- Defer finalization of new Tier 3 motor vehicle emissions and fuel standards, petroleum refinery new source performance standards, and ozone standards until at least 6 months after the final report is submitted to Congress.
- Require that EPA consider cost and feasibility in setting any new ozone standards.

BACKGROUND AND NEED FOR LEGISLATION

Introduction

The American people face the economic burden of high gasoline prices in the midst of a weak economic recovery. Several factors contribute to the price of gasoline and other motor fuels, including the underlying cost of crude oil as well as the cost of refining oil into gasoline. Refining costs are substantially affected by a wide range of Federal rules, including those issued by the EPA under authority of the Federal Clean Air Act (CAA).

EPA has promulgated a number of rules and actions that both specify the composition of fuels and control emissions from the Nation’s refineries. EPA also has announced it plans to issue the following new regulations pursuant to the CAA that affect gasoline and other motor fuels:

- Tier 3 Standards: Under the CAA, EPA has authority to revise motor vehicle emissions and fuel standards. EPA promulgated Tier 2 motor vehicle emissions standards and gasoline sulfur control requirements in 2000 that reduced sulfur in gasoline by 90%. EPA initiated another rulemaking on February 18, 2011, to establish Tier 3 standards, and cost estimates range from a low of less than 1 cent per gallon to a high of up to 9 cents per gallon.
- Refinery New Source Performance Standards: Under the CAA, refineries have been subject to new source performance standards (NSPS) since 1974. EPA has amended them several times, including in June 2008. In December 2010, EPA announced it had entered into a settlement agreement requiring the Agency to propose NSPS to address greenhouse gas (GHG) and other emissions from petroleum refineries and announced a schedule to issue standards in November 2012.
- Ozone Standards: Under the CAA, EPA has established National Ambient Air Quality Standards (NAAQS) for ground-level

ozone. EPA last revised these standards in 2008 and is currently scheduled to propose a rule reviewing those standards in 2013.

The need for cumulative assessment of EPA's fuel-related regulations

To date, there has been no cumulative analysis of the impact of EPA's rules and actions on gas prices, employment, consumers, or international competitiveness. The prices of petroleum and refined product are projected by the Energy Information Administration (EIA) to remain well above their historic averages in the years ahead. Furthermore, the list of refineries that have ceased to operate continues to grow, including several recently-announced closures or sales of refineries serving the East Coast. The underlying stresses on fuel markets and prices are unlikely to be relieved in the near term, indicating that an assessment of the cumulative impacts of additional Federal measures would be prudent.

Analysis completed for some previous individual rules demonstrates that, individually, the rules are expected to increase gas prices, but the rules have not been analyzed cumulatively. For example, the Agency's Regulatory Impact Analysis (RIA) of its 2000 Tier 2 rule for gasoline, which required a 90 percent reduction in sulfur levels from 300 parts per million (ppm) to 30 ppm, was projected by the Agency to cost up to 2 cents per gallon. Estimates of gas price increases that would result from new Tier 3 standards range from 1 to 9 cents per gallon.

Previous analyses and witness testimony demonstrate the potential for the Agency's individual rules to contribute to refinery closings, jobs losses, and other employment impacts. A March 2011 Department of Energy report, "Small Refinery Exemption Study: An Investigation into Disproportionate Economic Hardship," concludes that compliance with environmental regulations "contributed to economic stresses that resulted in the shutdown of 66 refineries from 1990 through 2010." At the March 28, 2012 hearing, Matthew L. Smorch, Vice President of Strategy for CountryMark Cooperative, testified that for CountryMark and other small refiners, "compliance costs are disproportionately higher because we lack economies of scale." Noting that small refiners have been among those that have closed and that others are still at risk, he added that "if domestic refining capacity is reduced, EPA regulations will actually increase the U.S. demand for imported fuels and consumer prices will increase." Mr. Smorch also added that "EPA reviews each regulation separately to determine the impacts on the industry," and that there is a need to "take a time out and let the experts review the cumulative aspects of all EPA rulemakings and their effect on the consumer, the industry, and the American worker."

Consumers may be adversely impacted by increased gas prices through both increased transportation costs and through potentially higher prices for services, or food and consumer goods that are transported from the point of production or manufacture to the point of sale. There has been no cumulative analysis of the impact of rules on consumers. At a March 28, 2012, hearing on "The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices," Niger Innis, Co-Chairman of the Affordable Power Alliance, testified about the disproportionate impacts of high energy costs on low income households. He said that "what high en-

ergy costs represent to poor people in particular and working class Americans is the most vicious regressive tax,” and that “it takes away income that could be made available for other things, including healthcare.” Similarly, Robert Meyers, a former acting administrator for the Office of Air and Radiation at EPA, concluded that “[w]hile current regulatory analysis is in many cases informative, it is limited by the scope of the analysis to the effect of the specific rulemaking under consideration.” He also testified that “[a] broader analysis of the entire sector could provide vital insights into the interactions of various rulemakings.”

The international competitiveness of U.S. refineries relative to overseas facilities facing lower regulatory costs has not yet been analyzed. At a March 7, 2012, hearing on “The American Energy Initiative: A Focus on Rising Gas Prices,” Charles Drevna, President of the American Fuel & Petrochemical Manufacturers, testified that “the size, scope, and cumulative burden of current and impending regulatory activity is creating both significant regulatory uncertainty and a slew of conflicting regulations that will impose significant burdens on domestic fuel manufacturers and eventually consumers.” He further testified that “India, China and other growing economies are not imposing the type of carbon restrictions on themselves that EPA is imposing on the American economy.” He added that such U.S.-only regulatory costs “strengthen foreign competitors eager to replace American manufacturers and replace American workers, weaken the U.S. economy, make America more reliant on nations in unstable parts of the world for vital fuels and petrochemicals, and endanger our national security.” H.R. 4471 would require agencies with relevant expertise to undertake a more complete assessment of the impact of with respect to certain existing and pending EPA regulations international competitiveness.

The objective of H.R. 4471 is feasible and consistent with current regulatory policies. The rulemaking process is lengthy and iterative. Months, often years, of work precede publication of a notice of proposed rulemaking. EPA’s own Action Development Process guidance, published in March 2011, requires submission of the completed analyses to the Office of Management and Budget for interagency review up to 7 months prior to publication of a notice of proposed rulemaking in the Federal Register.

Moreover, such regulatory analyses are already required by Executive Order 12866 “Regulatory Planning and Review,” Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” as well as section 201 of the Unfunded Mandates Reform Act of 1995, and other executive orders and statutes. At the March 28, 2012, hearing on “The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices,” Robert Meyers testified that “it is clear that current regulatory policies express a similar objective to bring rational analysis to rulemakings that have a major impact on our nation’s economy.” He also stated that “[i]f the schedule provided in the legislation is achieved, any delay in EPA’s rulemaking activity should be either non-existent or minimal.”

H.R. 4471, "The Gasoline Regulations Act"

Under H.R. 4471, the President would establish a Transportation Fuels Regulatory Committee to analyze and report on the cumulative impacts of major EPA rules and actions affecting gasoline and other motor fuels. The Committee would be chaired by the Secretary of Energy, and include as members the Secretaries of Transportation (through the Administrator of the National Highway Traffic Safety Administration), Commerce (through the Chief Economist and the Under Secretary for International Trade), Labor (through the Commissioner of the Bureau of Labor Statistics), Treasury (through Deputy Assistant Secretary for Environment and Energy) and Agriculture (through the Chief Economist), the Administrator of EPA, the Chairman of the U.S. International Trade Commission, and the Administrator of the Energy Information Administration.

The Committee would be required to study the impacts of planned Tier 3 motor vehicle emission standards, new source performance standards for petroleum refineries, renewable fuel standards, ozone standards, and GHG Prevention of Significant Deterioration and Title V permitting actions. The Committee would be directed to analyze the cumulative impacts of these planned rules or actions on:

- National or regional gasoline, diesel fuel and natural gas prices;
- Global economic competitiveness;
- Required investment and projected costs;
- National, state and regional employment; and
- Impacts on consumers, small businesses, low-income communities, regional economies, state and local governments, and public health.

The Committee would be required to issue a preliminary study within 90 days of enactment, provide 60 days for public comment, and issue a final study not later than 60 days thereafter.

Under H.R. 4471, EPA would be directed not to finalize new Tier 3, refinery new source performance standards or ozone standards until at least 6 months after the Committee's final report is submitted to Congress. This would ensure that regulators understand the potential impacts of these rules on gasoline prices before the rules are finalized rather than afterwards. EPA has not announced its schedule for finalizing any of these rules so the bill may not delay the finalizing of any of the rulemakings.

Finally, H.R. 4471 would direct that the Administrator take into consideration feasibility and cost among other statutory factors in revising or supplementing any national primary or secondary ambient air quality standards for ozone under section 109 of the CAA. In *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001), the U.S. Supreme Court recognized that under the CAA, Congress explicitly required the Administrator to take costs into account in the context of setting many CAA standards. H.R. 4471 is consistent with other parts of the CAA where Congress has expressly directed the EPA Administrator to consider cost and feasibility in addition to other statutory factors when making policy decisions relating to CAA standards, including those parts of the CAA authorizing the Administrator to set new source performance standards, automobile emissions standards, aircraft emissions

standards, and standards for fuel additives and reformulated gasoline.

This consideration of costs and feasibility, together with other statutory factors, is necessary because, as the standards have become more stringent, it has become clear that areas designated to be in nonattainment become subject to regulatory burdens with resulting adverse social welfare and economic consequences. While EPA set stringent new ozone standards as recently as 2008, the Administrator in 2010 proposed alternate revised standards that EPA itself projected could not be met by 77% to 96% of the counties in the U.S. that currently have ozone monitors. EPA further projected that the annual compliance costs for the new standards would be \$19 to \$90 billion per year by 2020, while other entities believed the costs could be even higher, and that the standards may not be achievable at all given the lack of available technology. H.R. 4471 would ensure that the Administrator consider costs and feasibility before mandating changes to existing ozone standards or promulgation of any new ozone standards that would impose social cost and economic hardship for many areas of the country.

HEARINGS

On March 28, 2012, the Subcommittee on Energy and Power held a legislative hearing on “The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices” including discussion drafts of the “Gasoline Regulations Act of 2012” and the “Strategic Energy Production Act of 2012,” and received testimony from:

- Gina McCarthy, Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency;
- Robert Abbey, Director, Bureau of Land Management, U.S. Department of the Interior;
- Christopher A. Smith, Deputy Assistant Secretary of Oil and Natural Gas, Office of Fossil Energy, U.S. Department of Energy;
- James Burkhard, Managing Director-Global Oil Group, IHS Cambridge Energy Research Associates;
- Jackson Coleman, Managing Partner and General Counsel, EnergyNorthAmerica, LLC;
- Matthew L. Smorch, Vice President-Strategy, CountryMark Cooperative, LLC;
- George Schink, Managing Director and Principal, Navigant Economics;
- Robert Meyers, Senior Counsel, Crowell & Moring;
- Niger Innis, Co-Chairman, Affordable Power Alliance; and
- Joseph Romm, Senior Fellow, Center for American Progress.

COMMITTEE CONSIDERATION

On April 17, 2012, the Subcommittee on Energy and Power forwarded a committee print entitled the “Gasoline Regulations Act of 2012,” as amended, to the full Committee by a roll call vote of 15 yeas and 8 nays. During the markup, an amendment in the nature of a substitute was offered and adopted by voice vote. The committee print was subsequently introduced on April 23, 2012, by Representative Ed Whitfield (together with Rep. John Barrow) as

H.R. 4471. On May 16 and 17, 2012, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4471 reported to the House by a roll call vote of 28 yeas and 13 nays.

COMMITTEE VOTES

Clause 3(b) of rule XII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Upton to order H.R. 4471, reported to the House, as amended, was agreed to by a record vote of 28 yeas and 13 nays. The following reflects the recorded votes taken during the Committee consideration, including the names of those Members voting for and against.

**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 110**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: An amendment offered by Mr. Waxman, No. 1, to provide that EPA not delay rules if the pollution that would be controlled by the rules is found to contribute to harm to human health rules.

DISPOSITION: NOT AGREED TO, by a roll call vote of 9 yeas and 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton		X		Mr. Dingell	X		
Mr. Stearns		X		Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone			
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack				Ms. Eshoo	X		
Mr. Walden		X		Mr. Engel			
Mr. Terry		X		Mr. Green		X	
Mr. Rogers				Ms. DeGette	X		
Mrs. Myrick				Mrs. Capps			
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy		X		Ms. Schakowsky			
Mr. Burgess		X		Mr. Gonzalez			
Mrs. Blackburn		X		Ms. Baldwin			
Mr. Bilbray		X		Mr. Ross		X	
Mr. Bass		X		Mr. Matheson			
Mr. Gingrey		X		Mr. Butterfield	X		
Mr. Scalise				Mr. Barrow		X	
Mr. Latta		X		Ms. Matsui	X		
Mrs. McMorris Rodgers		X		Mrs. Christensen	X		
Mr. Harper		X		Ms. Castor			
Mr. Lance		X		Mr. Sarbanes			
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley							
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

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**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 111**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: An amendment offered by Mrs. Christensen, No. 3, to add Congressional findings regarding refineries, gasoline consumption, market conditions, and certain recently announced refinery closures or sales.

DISPOSITION: NOT AGREED TO, by a roll call vote of 16 yeas and 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton		X		Mr. Dingell			
Mr. Stearns		X		Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack		X		Ms. Eshoo	X		
Mr. Walden		X		Mr. Engel	X		
Mr. Terry		X		Mr. Green	X		
Mr. Rogers		X		Ms. DeGette	X		
Mrs. Myrick		X		Mrs. Capps	X		
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy		X		Ms. Schakowsky	X		
Mr. Burgess		X		Mr. Gonzalez			
Mrs. Blackburn				Ms. Baldwin			
Mr. Bilbray				Mr. Ross		X	
Mr. Bass		X		Mr. Matheson		X	
Mr. Gingrey		X		Mr. Butterfield	X		
Mr. Scalise				Mr. Barrow	X		
Mr. Latta		X		Ms. Matsui	X		
Mrs. McMorris Rodgers		X		Mrs. Christensen	X		
Mr. Harper		X		Ms. Castor	X		
Mr. Lance		X		Mr. Sarbanes	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

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**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 112**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: An amendment offered by Mr. Green, No. 4, to strike provisions requiring the consideration of cost and feasibility in establishing new ozone ambient air standards.

DISPOSITION: NOT AGREED TO, by a roll call vote of 18 yeas and 28 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton		X		Mr. Dingell	X		
Mr. Stearns				Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack		X		Ms. Eshoo			
Mr. Walden		X		Mr. Engel	X		
Mr. Terry		X		Mr. Green	X		
Mr. Rogers		X		Ms. DeGette	X		
Mrs. Myrick		X		Mrs. Capps	X		
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy		X		Ms. Schakowsky	X		
Mr. Burgess		X		Mr. Gonzalez			
Mrs. Blackburn		X		Ms. Baldwin			
Mr. Bilbray		X		Mr. Ross	X		
Mr. Bass		X		Mr. Matheson	X		
Mr. Gingrey				Mr. Butterfield	X		
Mr. Scalise				Mr. Barrow	X		
Mr. Latta		X		Ms. Matsui	X		
Mrs. McMorris Rodgers		X		Mrs. Christensen	X		
Mr. Harper		X		Ms. Castor	X		
Mr. Lance		X		Mr. Sarbanes	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

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**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 113**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: An amendment offered by Mrs. Capps, No. 5, to allow the Secretary of Energy to determine if the analyses required are feasible or useful, and that if the analysis were determined to be infeasible or not useful the provisions requiring analyses would not be effective.

DISPOSITION: NOT AGREED TO, by a roll call vote of 14 yeas and 31 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton				Mr. Dingell	X		
Mr. Stearns				Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack		X		Ms. Eshoo			
Mr. Walden		X		Mr. Engel	X		
Mr. Terry		X		Mr. Green		X	
Mr. Rogers		X		Ms. DeGette	X		
Mrs. Myrick		X		Mrs. Capps	X		
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy		X		Ms. Schakowsky	X		
Mr. Burgess		X		Mr. Gonzalez			
Mrs. Blackburn		X		Ms. Baldwin			
Mr. Bilbray		X		Mr. Ross		X	
Mr. Bass		X		Mr. Matheson		X	
Mr. Gingrey				Mr. Butterfield	X		
Mr. Scalise				Mr. Barrow		X	
Mr. Latta		X		Ms. Matsui	X		
Mrs. McMorris Rodgers		X		Mrs. Christensen	X		
Mr. Harper		X		Ms. Castor	X		
Mr. Lance		X		Mr. Sarbanes	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

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**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 114**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: An amendment offered by Ms. Schakowsky, No. 6, to require that a fee be assessed on and collected from the oil industry to pay for the implementation of the Act.

DISPOSITION: NOT AGREED TO, by a roll call vote of 9 yeas and 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton				Mr. Dingell	X		
Mr. Stearns		X		Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush			
Mrs. Bono Mack				Ms. Eshoo			
Mr. Walden		X		Mr. Engel			
Mr. Terry		X		Mr. Green		X	
Mr. Rogers				Ms. DeGette	X		
Mrs. Myrick		X		Mrs. Capps			
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy		X		Ms. Schakowsky	X		
Mr. Burgess				Mr. Gonzalez			
Mrs. Blackburn		X		Ms. Baldwin			
Mr. Bilbray		X		Mr. Ross		X	
Mr. Bass		X		Mr. Matheson		X	
Mr. Gingrey				Mr. Butterfield	X		
Mr. Scalise		X		Mr. Barrow		X	
Mr. Latta		X		Ms. Matsui	X		
Mrs. McMorris Rodgers		X		Mrs. Christensen			
Mr. Harper		X		Ms. Castor			
Mr. Lance		X		Mr. Sarbanes	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo							
Mr. Kinzinger		X					
Mr. Griffith		X					

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**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 115**

BILL: H.R. 4471, the "Gasoline Regulations Act of 2012"

AMENDMENT: A motion by Mr. Upton to order H.R. 4471 favorably reported to the House. (Final Passage)

DISPOSITION: AGREED TO, by a roll call vote of 28 yeas and 13 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton	X			Mr. Waxman		X	
Mr. Barton	X			Mr. Dingell		X	
Mr. Stearns	X			Mr. Markey			
Mr. Whitfield	X			Mr. Towns			
Mr. Shimkus	X			Mr. Pallone		X	
Mr. Pitts	X			Mr. Rush			
Mrs. Bono Mack				Ms. Eshoo			
Mr. Walden	X			Mr. Engel			
Mr. Terry	X			Mr. Green		X	
Mr. Rogers				Ms. DeGette		X	
Mrs. Myrick	X			Mrs. Capps		X	
Mr. Sullivan	X			Mr. Doyle		X	
Mr. Murphy	X			Ms. Schakowsky		X	
Mr. Burgess				Mr. Gonzalez			
Mrs. Blackburn				Ms. Baldwin			
Mr. Bilbray	X			Mr. Ross	X		
Mr. Bass		X		Mr. Matheson	X		
Mr. Gingrey				Mr. Butterfield		X	
Mr. Scalise	X			Mr. Barrow	X		
Mr. Latta	X			Ms. Matsui		X	
Mrs. McMorris Rodgers	X			Mrs. Christensen			
Mr. Harper	X			Ms. Castor		X	
Mr. Lance	X			Mr. Sarbanes		X	
Mr. Cassidy	X						
Mr. Guthrie	X						
Mr. Olson	X						
Mr. McKinley	X						
Mr. Gardner	X						
Mr. Pompeo	X						
Mr. Kinzinger	X						
Mr. Griffith	X						

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COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE, GOALS AND OBJECTIVES

H.R. 4471, requires an interagency committee to conduct an analysis of certain rules and actions of the EPA that impact gasoline and diesel fuel prices, and for other purposes. It specifies the rules and actions the committee will analyze, the scope and content of that analysis, and the procedures for finalizing and submitting the report. It defers the finalization of certain rules until at least 6 months after the final report is submitted, and it explicitly requires consideration of cost and feasibility in revising or supplementing national ambient air quality standards for ozone.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4471, the “Gasoline Regulations Act of 2012,” would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4471, the “Gasoline Regulations Act of 2011,” contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

MAY 29, 2012.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4471, the Gasoline Regulations Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

H.R. 4471—Gasoline Regulations Act of 2012

H.R. 4471 would establish an interagency committee—the Transportation Fuels Regulatory Committee—to analyze and report to

the Congress in 2013 on the impact a variety of rules and actions taken by the Environmental Protection Agency (EPA) would have on gasoline and diesel fuel prices. The Secretary of Energy would chair the committee, which would consist of representatives from various agencies, including EPA, the Department of Labor, and the Department of Transportation. The committee would analyze the potential economic impact of specific EPA rules and actions that are scheduled to become final in 2016 and 2020. The bill also would delay the implementation of several EPA rules until six months after the release of the committee's report. Finally, the bill would require that revisions to any national standards regarding ozone and ambient air quality take into account feasibility and cost.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 4471 would cost \$3 million over the 2013–2017 period. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4471 would require the Transportation Fuels Regulatory Committee to conduct a variety of analyses of certain EPA rules and actions, including the Tier 3 Motor Vehicle Emission and Fuel Standards, new or revised standards under section 111 or 112 of the Clean Air Act applicable to petroleum refineries, and new Renewable Fuels Program rules. Such analyses would include estimates of the cumulative impact of the covered rules and actions in relation to changes in prices of gasoline and diesel fuel, costs for capital investments, and employment. The committee also would analyze the cumulative impact of the covered rules and actions on consumers; small businesses; regional economies; public health; state, local, and tribal governments; and other areas. According to the Energy Information Administration, completing a thorough analysis of such issues could require a significant increase in funding to gather new data and expand the agency's analytical capacity. However, the bill requires that the analyses be completed during the year following enactment and rely on readily available, existing data. Given those specifications and based on information about the cost of similar work by EPA and the Energy Information Administration, CBO estimates that this work would cost \$3 million in 2013.

The bill also would delay the implementation of several EPA rules related to fuel consumption and emissions, but CBO estimates that delay would not have a significant impact on the federal budget. Additionally, the bill would require EPA to consider feasibility and cost when revising any ambient-air-quality standards for ozone. Based on information from EPA, CBO estimates that such considerations would require some additional work by EPA, but costs to carry out that work would total less than \$500,000 annually.

H.R. 4471 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Susanne S. Mehlman. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1—Short title

Section 1 provides the short title of “Gasoline Regulations Act of 2012.”

Section 2—Transportation fuels regulatory committee

Section 2 establishes an interagency committee (the “Committee”) for the cumulative analysis of rules that impact gasoline, diesel fuel, and natural gas prices. Section 2(b) provides that the Committee will be chaired by the Secretary of Energy, and will include the Departments of Transportation, Commerce, Labor, Treasury, and Agriculture, the Administrator of the Environmental Protection Agency, the Chairman of the United States International Trade Commission, and the Administrator of the Energy Information Administration. The Committee will terminate 60 days after submitting a final report.

Section 3—Analyses

Section 3 describes the analyses that the Committee will conduct for the years 2016 and 2020, including estimates of changes in gasoline, diesel fuel, and natural gas prices; capital investments; global economic competitiveness; other cumulative cost and cumulative benefit impacts; and jobs. The Committee also will provide a discussion of the cumulative impact of the covered rules and actions on consumers, small businesses, regional economies, State, local, and tribal governments, low-income communities, public health, and local and industry-specific labor markets.

Section 3 also identifies the covered rules and actions that are to be analyzed. These covered rules and actions include EPA’s Tier 3 Motor Vehicle Emission and Fuel Standards, new or revised standards of performance or emission standards under section 111 or 112 of the CAA applicable to petroleum refineries, new Renewable Fuels Program rules, the 2008 National Ambient Air Quality Standards for Ozone and any subsequent rule revising or supplementing those standards, and Greenhouse Gas permitting under the Prevention of Significant Deterioration and Title V programs.

Section 4—Reports; public comment

Section 4 requires a preliminary report be made public and submitted to Congress within 90 days of enactment. Public comments are to be accepted on the preliminary report for 60 days. The final report is then due by 60 days after the close of the public comment period.

Section 5—No final action on certain rules

Section 5 defers until at least 6 months after submission of the final report the following new rules: EPA's Tier 3 Motor Vehicle Emission and Fuel Standards, new or revised standards of performance or emission standards under section 111 or 112 of the CAA applicable to petroleum refineries, and any new rule revising or supplementing the National Ambient Air Quality Standards for Ozone issued in 2008.

Section 6—Consideration of feasibility and cost in revising or supplementing national ambient air quality standards for ozone

Section 6 requires that revisions to any National Ambient Air Quality Standards for Ozone shall take into account feasibility and cost.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

DISSENTING VIEWS

I. PURPOSE OF THE LEGISLATION

The bill would create a new government bureaucracy to compile an impossible analysis of EPA rules that have not been proposed using data that does not exist. In the meantime, under the guise of lowering gasoline prices, the bill would block EPA from finalizing several important air quality rules. The bill also would gut EPA's proven scientific process for setting national ambient air quality standards for ozone pollution.

The bill would do nothing to protect consumers from gasoline price spikes. At the legislative hearing on the discussion draft of H.R. 4471, Gina McCarthy, Assistant Administrator for EPA's Office of Air and Radiation, testified that the bill "does not address the reasons for the recent increase in the price of gasoline, while rolling back core aspects of the Clean Air Act—which was passed on a bipartisan basis and signed by a Republican President."¹ During the markup of H.R. 4471 in the Subcommittee on Energy and Power, Chairman Whitfield himself stated, "there is nothing in our legislation, nor have we ever indicated there is anything in this legislation, that would, in and of itself, reduce gasoline prices."²

II. H.R. 4471 GUTS A KEY PROVISION OF THE CLEAN AIR ACT

The Clean Air Act requires EPA to set national ambient air quality standards (NAAQS) for pollutants that endanger public health or welfare.³ In essence, the NAAQS identify the levels of pollution that may remain in the air without making it harmful to breathe. Based upon the best medical and scientific evidence, EPA sets permissible levels of pollution that are requisite to protect public health with an adequate margin of safety.⁴ The Clean Air Act requires EPA to review and, as appropriate, update each NAAQS at minimum every five years.⁵

In 2001, the U.S. Supreme Court unanimously affirmed that the Clean Air Act requires EPA to set NAAQS based on the scientific and technical information about health effects, and without considering the economic costs of implementing the standards.⁶

¹Committee on Energy and Commerce, Testimony of Gina McCarthy, Assistant Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency, *The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices*, 112th Cong. (Mar. 28, 2012) (hereinafter "McCarthy testimony").

²Committee on Energy and Commerce, Subcommittee on Energy and Power, Statement of Chairman Ed Whitfield, *Markup of H.R. _____, The Gasoline Regulations Act of 2012, and H.R. _____, The Strategic Energy Production Act of 2012*, 112th Cong. (Apr. 17, 2012).

³Clean Air Act §108.

⁴Clean Air Act §109(b)(1).

⁵*Id.* at (d)(1).

⁶*Whitman v. American Trucking Associations*, 531 U.S. 457, 121 S. Ct. 903 (2001).

Section 6 of H.R. 4471 would override 40 years of clean air policy and principles, as well as the unanimous ruling of the Supreme Court, by requiring EPA to consider “feasibility and cost” when “revising or supplementing” the health-based ambient air quality standard for ozone. EPA Assistant Administrator Gina McCarthy testified that this provision would “fundamentally change the cornerstone of the Clean Air Act—the requirement that EPA set air quality standards for smog at the level that is necessary to protect public health based on a vigorous review of the science and without consideration of costs.”⁷

During full Committee consideration of H.R. 4471, Subcommittee Chairman Ed Whitfield argued in favor of section 6 of the bill by saying “the only reason costs are not being considered there today is because the Supreme Court said the language [in the Clean Air Act] was ambiguous.”⁸ This is not the case. In writing for a unanimous court, Justice Antonin Scalia stated: “The text of § 109(b), interpreted in its statutory and historical context and with appreciation for its importance to the CAA as a whole, unambiguously bars cost considerations from the NAAQS-setting process, and thus ends the matter for us as well as the EPA.”⁹

Notably, the Clean Air Act already emphasizes cost considerations to ensure only the most cost-effective air pollution controls are adopted to achieve the air quality standards. After EPA sets a NAAQS for a pollutant, the agency and states work together to identify nonattainment areas that exceed that health-based standard, based on monitored pollution levels. State and local governments then have up to three years to determine how to best reduce pollution in those areas and produce state implementation plans that outline the measures they will implement to attain the standard.¹⁰ During this stage, EPA and states identify the primary pollution sources and opportunities to control that pollution. The cost of controlling the pollution is considered before any controls are required, as state and local governments examine the cost-effectiveness of controls for various pollution sources and the feasibility of requiring such controls when developing strategies for achieving attainment with the NAAQS.

During consideration of H.R. 4471 by the full Committee, Rep. Gene Green introduced an amendment to strip section 6 of the bill. Rep. Green stated that “[f]undamentally changing the Clean Air Act is not going to bring down gas prices and we are setting a dangerous precedent in the Committee by saying that unhealthy levels of pollution become healthy when costs of cleaning up are too high.”¹¹ This amendment was defeated 18–28.

⁷ McCarthy testimony.

⁸ Committee on Energy and Commerce, Statement of Chairman Ed Whitfield, *Markup of H.R. 4471, The Gasoline Regulations Act of 2012, and H.R. 4480, The Strategic Energy Production Act of 2012*, 112th Cong. (May 17, 2012).

⁹ *Whitman v. American Trucking Associations*, 531 U.S. 457, 121 S. Ct. 903 (2001).

¹⁰ *Id.* at 110(a).

¹¹ Committee on Energy and Commerce, Statement of Rep. Gene Green, *Markup of H.R. 4471, The Gasoline Regulations Act of 2012, and H.R. 4480, The Strategic Energy Production Act of 2012*, 112th Cong. (May 17, 2012).

III. H.R. 4471 BLOCKS EPA AIR QUALITY RULES

The bill blocks EPA from finalizing several rules until after a new interagency committee submits a final report on the cumulative impacts of numerous EPA programs. The future rules blocked by this bill would reduce tailpipe pollution from motor vehicles and toxic air pollution from oil refineries; provide states guidance needed to implement the 2008 ambient air quality standards for ozone; and update the 2008 ozone standard based on developments in the peer-reviewed health research over the past five years.

Section 4 of the bill gives the new committee seven months to draft this complicated analysis, solicit public comment, and finalize the report; section 5 prevents EPA from finalizing these rules for *at least* six months after the report is complete. This means that these rules will be blocked for at least 13 months. As a practical matter, however, it is substantially more difficult for EPA to issue rules that do not have statutory deadlines. Thus, the elimination of any statutory deadlines for several of these rules could indefinitely delay the rules.

Specifically, section 5 of the bill would block the following rules:

A. TIER 3 MOTOR VEHICLE EMISSION AND FUEL STANDARDS

EPA is working to develop a “Tier 3” program for motor vehicle tailpipe emissions and fuels but has not yet proposed new regulations. In a letter to Subcommittee Chairman Ed Whitfield, EPA stated that the agency is developing the Tier 3 standards to improve air quality and help states and localities meet the “health-based air quality standards in a cost-effective and timely way.”¹² The program also will help automakers by enabling a harmonized national vehicle emissions control program and facilitating the development of lower cost technologies to improve fuel economy.¹³

EPA told Subcommittee Chairman Whitfield that the “the only fuel requirement we are considering for Tier 3 is one that would lower the amount of sulfur in gasoline.”¹⁴ EPA estimates that such a requirement will cost approximately one penny per gallon in 2017, based on modeling conducted by MathPro, an energy economics firm.¹⁵ According to the National Association of Clean Air Agencies, a Tier 3 program with low-sulfur gasoline would be a highly cost-effective measure for meeting the ambient air quality standards, and absent this program, states and localities would be forced “to turn to other, more expensive, less cost-effective measures” to meet air quality standards.¹⁶

B. AIR EMISSION STANDARDS FOR OIL REFINERIES

Section 5 of the bill would block EPA from issuing rules to reduce toxic air pollution from refineries, which can cause cancer,

¹²Letter from Gina McCarthy, Assistant Administrator, U.S. Environmental Protection Agency, to Rep. Ed Whitfield, Chairman, Subcommittee on Energy and Power, Committee on Energy and Commerce (Feb. 27, 2012).

¹³*Id.*

¹⁴*Id.*

¹⁵*Id.*

¹⁶National Association of Clean Air Agencies, *Cleaner Cars, Cleaner Fuel, Cleaner Air: The Need for and Benefits of Tier 3 Vehicle and Fuel Regulations*, 15 (Oct. 31, 2011).

birth defects, and other serious health problems, as well as rules to reduce carbon pollution from new refineries, which contributes to climate change.

Section 112 of the Clean Air Act requires EPA to set specific emission limits for toxic air pollutants from categories of industrial sources (e.g., refineries) based on the emission levels already being achieved by similar facilities. These regulations are known as Maximum Achievable Control Technology—or MACT—standards. Within eight years of setting a MACT standard for a source category, EPA must conduct a risk assessment and determine if any changes are needed to reduce the residual risks to human health.¹⁷ Because control technologies improve over time, the Clean Air Act also requires EPA to review the MACT standards every eight years and revise them as appropriate to reflect developments in practices, processes, and control technologies.¹⁸ Section 5 of the bill would block EPA from finalizing the residual risk and technology review of existing standards for refineries and would indefinitely delay the final rules by eliminating all statutory deadlines for their issuance.

In addition, section 111 of the Clean Air Act requires EPA to establish new source performance standards (NSPS) for new facilities (and modified facilities that significantly increase emissions) reflecting the application of the best system of emissions reductions using demonstrated control technology. Section 5 of the bill would block EPA from setting NSPS for greenhouse gas emissions from oil refineries and indefinitely delay the rules by eliminating all statutory deadlines for their issuance.

C. NATIONAL AMBIENT AIR QUALITY STANDARD FOR OZONE

Section 5 would prevent EPA from finalizing “any rule revising or supplementing the national ambient air quality standards for ozone.” This would block EPA from updating the 2008 ozone standard to reflect the best available science. The provision eliminates the current statutory deadline for updating the ozone standard, allowing at least an additional five-year delay in updating the standard (i.e., it appears that EPA would have no operative statutory deadline for updating the ozone standard prior to 2018, at minimum). In addition, because the bill blocks any rules that “supplement” the standard and does not define “supplement,” this provision could have the effect of blocking the rules necessary to implement even the 2008 ozone standard. As a result, this would leave only the 1997 ozone standard in effect, which the Clean Air Science Advisory Board and two EPA Administrators have found to be insufficient to protect public health.

During consideration of H.R. 4471 by the full Committee, Ranking Member Henry Waxman introduced an amendment that would allow EPA to finalize the rules blocked by section 5 of the bill if the rules would control pollution linked to asthma attacks, heart attacks, cancer, birth defects, neurological damage, premature death, and other serious harm to human health. This amendment was defeated 9–29. Rep. Bobby Rush introduced an amendment requiring the Energy Information Administration (EIA) to determine

¹⁷ Clean Air Act § 112(f)(2).

¹⁸ *Id.* at (d)(6).

whether implementation of the Gasoline Regulations Act is projected to lower gasoline prices in the United States within 10 years. If EIA determines that the bill is not projected to lower gasoline prices, then section 5 (delaying final action on several EPA rules) and section 6 (re-writing the health-based standard-setting process for ozone) would have no effect. This amendment was defeated by voice vote.

IV. SECTION-BY-SECTION ANALYSIS

A. SECTION 2. TRANSPORTATION FUELS REGULATORY COMMITTEE

This section establishes a new interagency committee to analyze the cumulative impacts of certain EPA rules and actions, as described in section 3. The Secretary of Energy is tasked to serve as the committee's chair. Chris Smith, Deputy Assistant Secretary for Oil and Natural Gas in the Office of Fossil Energy at the Department of Energy (DOE), raised concerns about this new interagency committee and the bill's requirement that DOE serve as chair. He noted that "much of the expertise in conducting such analyses of regulatory actions lies outside DOE."¹⁹

B. SECTION 3. ANALYSES

This section requires the interagency committee to conduct an analysis of the cumulative impact of "covered rules" and "covered actions."

Section 3 defines "covered rule" to include rules that have not yet been proposed and rules that have not even been contemplated. The definition includes the following rules, as well as "any successor or substantially similar rules:"

- The Tier 3 motor vehicle emission and fuel standards (not yet proposed);
- Any new source performance standard or air toxics standard for refineries proposed after March 15, 2012;
- Any rule proposed after March 15, 2012, to implement the Renewable Fuels Program; and
- The 2008 rule establishing the NAAQS for ozone; EPA's potential reconsideration of the ozone standard, currently slated for 2013; and "any subsequent rule revising or supplementing" the ozone NAAQS.

Section 3 defines "covered action" to mean any action taken since January 1, 2009, by EPA, a state agency, a local government, or a permitting agency to issue a permit for greenhouse gas emissions from facilities involved in the production, transportation, or distribution of gasoline or diesel fuel, under titles I or V of the Clean Air Act.

Section 3 outlines the parameters of the interagency committee's analysis. The committee must estimate the cumulative impacts of the covered rules and actions on several end points, including gasoline prices, capital investments and projected maintenance and operation of new equipment, refinery capacity, employment, other cu-

¹⁹Committee on Energy and Commerce, Testimony of Chris Smith, Assistant Secretary for Oil and Natural Gas in the Office of Fossil Energy, Department of Energy, *The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices*, 112th Cong. (Mar. 28, 2012).

mulative costs and benefits, and even the global economic competitiveness of the United States.

Since most of the “covered rules” have yet to be proposed, it is unclear how the interagency committee could estimate the levels of pollution control that may be required, predict compliance options, and assess the specified effects. Given all of the uncertainties and guesswork inherent in such an analysis, it is unclear how the committee could produce an economic analysis of the rules with any measure of credibility. EPA Assistant Administrator Gina McCarthy testified “it is unclear how the new committee would analyze rules that have not yet been proposed, or how the public could comment on that analysis in an informed way.”²⁰ She also noted that such an analysis would be redundant and a waste of government resources, given the extensive analysis EPA already completes as part of the rulemaking process and the interagency review conducted by OMB.²¹

Furthermore, while section 3 states that the Committee is not required to create or use data that is not readily accessible, it appears that much of the necessary data does not currently exist. EIA, which is better positioned than any other government agency to tackle this analysis, told Democratic Committee staff it currently does not have the analytic capability to conduct the state or regional level breakdowns required by section 3 and would have to collect or purchase new data. Even if EIA just conducted a national-level analysis, “there could be some considerable additional costs for EIA, as contractor expertise and manpower would likely be needed to supplement EIA’s staffing.”²² EIA also concluded that the scope of the study covers a “wide area of activity that would be difficult to track much less analyze,” such as actions by any state, local government, or permitting agency.²³

During consideration of H.R. 4471 by the full Committee, Rep. Lois Capps offered an amendment that would nullify section 4 (requiring the interagency committee to produce a report) and section 5 (delaying certain EPA rules) if the Secretary of Energy determined that the analyses required under section 3 are infeasible to conduct, require data that does not exist, or would generate results subject to such large estimates of uncertainty that the results would be neither reliable nor useful. This amendment was defeated 14–31.

C. SECTION 4. REPORTS; PUBLIC COMMENT

Even if it were possible to conduct a credible analysis of proposed rules that do not yet exist, it could prove impossible to do so by the statutory deadline. Section 4 requires the interagency committee to finish a preliminary report within 90 days of enactment; accept public comment for 60 days; and complete a final report within 60 days of closing the comment period. That allows just seven months for completion of this complex economic analysis. The more limited economic analysis of a single proposed regulation commonly takes

²⁰ McCarthy testimony.

²¹ *Id.*

²² E-mail from Energy Information Administration to Energy and Commerce Committee Democratic staff (May 15, 2012).

²³ *Id.*

almost as long as is provided here for the entire cumulative analysis.

D. SECTION 5. NO FINAL ACTION ON CERTAIN RULES

Section 5 blocks EPA from finalizing three rules for at least six months after the day on which the interagency committee submits its final report. This section also allows the rules to be indefinitely delayed by overriding existing statutory deadlines for the rules and by failing to establish any new deadlines (except for the Tier 3 standards, which do not currently have a deadline). The blocked rules include:

- The Tier 3 motor vehicle emission and fuel standards, which have not yet been proposed;
- Any new source performance standard or air toxics standard for refineries proposed after March 15, 2012; and
- Any rule “revising or supplementing” the NAAQS for ozone.

See section III above for a description of the rules blocked by H.R. 4471.

E. SECTION 6. CONSIDERATION OF FEASIBILITY AND COST IN REVISING OR SUPPLEMENTING NAAQS FOR OZONE

Section 6 of H.R. 4471 would override 40 years of clean air policy and principles, as well as a unanimous ruling of the Supreme Court, by requiring EPA to consider “feasibility and cost” when “revising or supplementing” the health-based ambient air quality standard for ozone. See section II above for a more detailed discussion of the implications of this provision.

V. AMENDMENTS OFFERED IN FULL COMMITTEE

During consideration of H.R. 4471 by the full Committee, Ranking Member Henry Waxman introduced an amendment that would allow EPA to finalize the rules blocked by section 5 of the bill if the rules would control pollution linked to asthma attacks, heart attacks, cancer, birth defects, neurological damage, premature death, and other serious harm to human health. This amendment was defeated 9–29.

Rep. Bobby Rush introduced an amendment requiring EIA to determine whether implementation of the Gasoline Regulations Act is projected to lower gasoline prices in the United States within 10 years. If EIA determines that the bill is not projected to lower gasoline prices, then section 5 (delaying final action on several EPA rules) and section 6 (re-writing the health-based standard-setting process for ozone) would have no effect. This amendment was defeated by voice vote.

Rep. Gene Green introduced an amendment to strip section 6 of the bill, which would gut the Clean Air Act requirement to set air quality standards for ozone based on the best available science. This amendment was defeated 18–28.

Rep. Lois Capps offered an amendment that would nullify section 4 (requiring the interagency committee to produce a report) and section 5 (delaying certain EPA rules) if the Secretary of Energy determined that the analyses required under section 3 are infeasible.

ble to conduct, require data that does not exist, or would generate results subject to such large estimates of uncertainty that the results would be neither reliable nor useful. This amendment was defeated 14–31.

Rep. Jan Schakowsky offered an amendment saying that the Gasoline Regulations Act would not take effect until a fee is assessed on and collected from the oil industry to pay for the cost of implementing the legislation. The legislation otherwise does not authorize appropriations for the new interagency committee to complete the mandated study. This amendment was defeated 9–29.

Rep. Donna Christensen offered an amendment to add findings to the bill about the root causes of a spate of East Coast refinery closures and sales in late 2011 and early 2012. These findings stated that market forces, not environmental regulations, were the primary factors driving companies to close or sell their refineries in Pennsylvania and the U.S. Virgin Islands. This amendment was defeated 16–30.

VI. CONCLUSION

Because H.R. 4471 poses a significant threat to the public health by blocking important regulations to reduce air pollution, and provides no benefits, we dissent from the decision to favorably report the legislation.

HENRY A. WAXMAN.
BOBBY L. RUSH.

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