



June 2015

## Summary of H.R. 2042

### THE RATEPAYER PROTECTION ACT

Committee on Energy and Commerce, Democratic Staff

H.R. 2042 is part of the Republicans' ongoing attack on the Environmental Protection Agency's (EPA) efforts to address climate change. The bill effectively guts EPA's proposed Clean Power Plan. The so called "Ratepayer Protection Act" is not only dangerous, but also premature, unnecessary and poorly conceived. It asks Congress to legislate to address phantom problems in a rule that has not yet been finalized and it gives individual governors the unfettered ability to thumb their nose at the Clean Air Act.

**The Clean Power Plan:** As the Supreme Court has confirmed, the Clean Air Act gives EPA authority to control carbon pollution to address harms from climate change. On June 2, 2014, EPA issued a proposed rule - known as the Clean Power Plan - that establishes emission guidelines for states to follow in developing plans to control carbon pollution from existing power plants. These plants are the largest source of uncontrolled carbon pollution in the United States. The Clean Power Plan is expected to be finalized this summer, and will help cut carbon pollution from the power sector by 30% in 2030.

**H.R. 2042 Delays Implementation of the Clean Power Plan:** H.R. 2042 automatically delays implementation of the Clean Power Plan by extending all deadlines by however long it takes to complete all possible litigation. This blanket extension would be given to all polluters without regard for the merits of the legal challenges or their final outcome. Opponents of the Clean Power Plan would be given an incentive to "run the clock" on frivolous litigation, simply to put off having to reduce their carbon pollution.

**H.R. 2042 Allows Governors to "Just Say No" to the Clean Power Plan:** Under current law, EPA sets the emissions reduction goals and it is up to the states to decide how to best to meet those goals. EPA must step in with their own plan when a state cannot—or will not—comply with the requirements of the law. Section 3 of the bill disregards decades of success under the Clean Air Act's use of cooperative federalism to ensure all public health and environmental risks are addressed. Instead H.R. 2042 would allow governors to "opt-out" of the requirements Clean Power Plan, and refuse to comply unconditionally with a federal law. A governor would be able to take the "just say no" approach to reducing carbon emissions by simply determining that compliance with a phantom plan would adversely impact ratepayers or electric reliability, without any checks on that decision.

**H.R. 2042 Would Legislate Away a Proposed Rule:** EPA's proposed Clean Power Plan is just that – a proposal. EPA has undertaken an unprecedented level of outreach to hear the concerns of all stakeholders, which EPA will take into account in developing the final Clean Power Plan. The D.C. Circuit recently declined to review legal challenges to the Clean Power Plan because it is just a proposal. A Republican appointed Judge even noted that asking the court to review a proposed rule is a "morass." Yet it is exactly that morass into which H.R. 2042 would have all of Congress jump head first. Legal challenges to proposed rules are highly problematic—but what is even more problematic is Congress attempting to legislate away a proposed rule. It would be irresponsible and a waste of time for Congress to interfere when EPA has not had a chance to do its job.

**It Is Time to Act on Climate:** The National Academy of Sciences and the British Royal Society concluded: "it is now more certain than ever, based on many lines of evidence, that humans are changing Earth's climate." EPA's clean air rules are a critical part of our national strategy to reduce carbon pollution and protect the climate. The Clean Power Plan outlines a path to cleaner air, better health, a safer climate, and a stronger economy. H.R. 2042 would push states to "just say no" to the Clean Power Plan, and replace it with nothing.