

9-12-13

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AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect consumers by prohibiting the Administrator of the Environmental Protection Agency from promulgating as final certain energy-related rules that are estimated to cost more than \$1,000,000,000 and will cause significant adverse effects to the economy.

IN THE

	AMENDMENT N^o 1893	sess.
By	<u>Heller</u>	
To	<u>S. 1392</u>	
Refer	<u>6</u>	nd
	Page(s)	
	<small>GPO: 2012 77-320 (mac)</small>	

for himself and Mr. Flake

AMENDMENT intended to be proposed by Mr. HELLER

Viz:

- 1 At the beginning of title IV, insert the following:
- 2 **SEC. 4 . ENERGY CONSUMERS RELIEF.**
- 3 (a) DEFINITIONS.—In this section:
- 4 (1) ADMINISTRATOR.—The term “Adminis-
- 5 trator” means the Administrator of the Environ-
- 6 mental Protection Agency.
- 7 (2) COVERED ENERGY-RELATED RULE.—The
- 8 term “covered energy-related rule” means a rule of
- 9 the Environmental Protection Agency that—

1 (A) regulates any aspect of the production,
2 supply, distribution, or use of energy or pro-
3 vides for that regulation by States or other gov-
4 ernmental entities; and

5 (B) is estimated by the Administrator or
6 the Director of the Office of Management and
7 Budget to impose direct costs and indirect
8 costs, in the aggregate, of more than
9 \$1,000,000,000.

10 (3) DIRECT COSTS.—The term “direct costs”
11 has the meaning given the term in chapter 8 of the
12 document of the Environmental Protection Agency
13 entitled “Guidelines for Preparing Economic Anal-
14 yses” and dated December 17, 2010.

15 (4) INDIRECT COSTS.—The term “indirect
16 costs” has the meaning given the term in chapter 8
17 of the document of the Environmental Protection
18 Agency entitled “Guidelines for Preparing Economic
19 Analyses” and dated December 17, 2010.

20 (5) RULE.—The term “rule” has the meaning
21 given the term in section 551 of title 5, United
22 States Code.

23 (b) PROHIBITION AGAINST FINALIZING CERTAIN EN-
24 ERGY-RELATED RULES THAT WILL CAUSE SIGNIFICANT
25 ADVERSE EFFECTS TO THE ECONOMY.—Notwithstanding

1 any other provision of law, the Administrator shall not
2 promulgate as final any covered energy-related rule if the
3 Secretary determines under subsection (c)(4) that the rule
4 will result in significant adverse effects to the economy.

5 (c) REPORTS AND DETERMINATIONS PRIOR TO PRO-
6 MULGATING AS FINAL CERTAIN ENERGY-RELATED
7 RULES.—

8 (1) IN GENERAL.—Before promulgating as final
9 any covered energy-related rule, the Administrator
10 shall carry out the activities described in paragraphs
11 (3) and (4).

12 (2) REPORT TO CONGRESS.—For each covered
13 energy-related rule, the Administrator shall submit
14 to Congress a report (and transmit a copy to the
15 Secretary) containing—

16 (A) a copy of the rule;

17 (B) a concise general statement relating to
18 the rule;

19 (C) an estimate of the total costs of the
20 rule, including the direct costs and indirect
21 costs of the rule;

22 (D) an estimate of—

23 (i) the total benefits of the rule; and

24 (ii) when those benefits are expected
25 to be realized;

1 (E) a description of the modeling, the as-
2 sumptions, and the limitations due to uncer-
3 tainty, speculation, or lack of information asso-
4 ciated with the estimates under subparagraph
5 (D);

6 (F) an estimate of the increases in energy
7 prices, including potential increases in gasoline
8 or electricity prices for consumers, that may re-
9 sult from implementation or enforcement of the
10 rule; and

11 (G) a detailed description of the employ-
12 ment effects, including potential job losses and
13 shifts in employment, that may result from im-
14 plementation or enforcement of the rule.

15 (3) INITIAL DETERMINATION ON INCREASES
16 AND IMPACTS.—The Secretary, in consultation with
17 the Federal Energy Regulatory Commission and the
18 Administrator of the Energy Information Adminis-
19 tration, shall prepare an independent analysis to de-
20 termine whether the covered energy-related rule will
21 cause—

22 (A) any increase in energy prices for con-
23 sumers, including low-income households, small
24 businesses, and manufacturers;

1 (B) any impact on fuel diversity of the
2 electricity generation portfolio of the United
3 States or on national, regional, or local electric
4 reliability;

5 (C) any adverse effect on energy supply,
6 distribution, or use due to the economic or tech-
7 nical infeasibility of implementing the rule; or

8 (D) any other adverse effect on energy
9 supply, distribution, or use (including a short-
10 fall in supply and increased use of foreign sup-
11 plies).

12 (4) SUBSEQUENT DETERMINATION ON ADVERSE
13 EFFECTS TO THE ECONOMY.—If the Secretary deter-
14 mines, under paragraph (3), that the rule will result
15 in an increase, impact, or effect described in that
16 subsection, then the Secretary, in consultation with
17 the Administrator, the Secretary of Commerce, the
18 Secretary of Labor, and the Administrator of the
19 Small Business Administration, shall—

20 (A) determine whether the rule will result
21 in significant adverse effects to the economy,
22 taking into consideration—

23 (i) the costs and benefits of the rule
24 and limitations in calculating those costs

1 and benefits due to uncertainty, specula-
2 tion, or lack of information; and

3 (ii) the positive and negative impacts
4 of the rule on economic indicators, includ-
5 ing those related to gross domestic prod-
6 uct, unemployment, wages, consumer
7 prices, and business and manufacturing ac-
8 tivity; and

9 (B) publish the results of that determina-
10 tion in the Federal Register.