From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Hearing Prep
Start Date/Time: Mon 6/5/2017 1:30:00 PM
End Date/Time: Mon 6/5/2017 3:30:00 PM

9:30 – 10:00 – Accomplishments (Sam and Brittany)

10:00 – 10:30 – Air (Mandy)

10:30 – 11:00 – Chemicals (Nancy)

11:00 – 11:30 – Themes (Liz)

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: WOTUS Rule
Start Date/Time: Fri 3/17/2017 5:30:00 PM
End Date/Time: Fri 3/17/2017 6:00:00 PM

Topic: WOTUS Rule

Location: Administrator's Office

Attendees: Admin. Pruitt, Sarah, Ryan, Sam, Byron, Justin

From: Ex. 6 - Administrator's Calendar Account
Location: Trump International Hotel
Importance: Normal
Subject: American Petroleum Institute's Executive Committee and Board of Directors Dinner
Start Date/Time: Wed 3/22/2017 10:30:00 PM
End Date/Time: Thur 3/23/2017 12:30:00 AM

Topic: Environment, regulations and energy policy as well as the administration's plans on US oil and natural gas development.

Location: Trump International Hotel, 1100 Pennsylvania Ave NW, Washington DC.

Attendees: API's Board of Directors is composed of 45 CEOs representing a broad spectrum of the U.S. oil and natural gas industry

Staffing: Ryan and Samantha

POC: Khary Cauthen 202-682-8209 (o); Ex. 6 - Personal Privacy (c); cauthenk@api.org

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Bilateral Meeting Canadian Minister McKenna
Start Date/Time: Thur 3/16/2017 7:15:00 PM
End Date/Time: Thur 3/16/2017 8:15:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's office
Importance: Normal
Subject: Meeting with BMW Global Chairman CEO Harald Kruger
Start Date/Time: Fri 3/17/2017 12:30:00 PM
End Date/Time: Fri 3/17/2017 1:15:00 PM

Topic:

Location: Administrator's Office

Staffing: Ryan and Sam

Attendees: Admin. Pruitt, Ryan, Sam, Harald Kruger, Maximilian Schoeberl, Thomas Becker, Bryan Jacobs

POC: **Ex. 6 - Personal Privacy**

Note: BMW's 's Global Chairman and CEO, Harald Krüger, will be in the US and meeting with the Vice President on March 14

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Hearing Prep
Start Date/Time: Wed 5/31/2017 2:30:00 PM
End Date/Time: Wed 5/31/2017 3:45:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Briefing re: RVP
Start Date/Time: Fri 5/19/2017 2:00:00 PM
End Date/Time: Fri 5/19/2017 2:30:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Prep for Principal's Infrastructure Meeting
Start Date/Time: Tue 5/16/2017 7:15:00 PM
End Date/Time: Tue 5/16/2017 8:05:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Meeting with Renewal Energy Group CEO Dan Oh
Start Date/Time: Wed 5/10/2017 9:30:00 PM
End Date/Time: Wed 5/10/2017 10:00:00 PM
[Untitled].pdf

Ex. 5 - Deliberative Process

Attendees:

Dan Oh, CEO

Brad Aldin, VP

Tana Goertz

Anthony ?

Lindsey ?

POC Tana Goertz Ex. 6 - Personal Privacy

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Briefing re: Meeting with Chris Liddell and Reed Cordish
Start Date/Time: Wed 5/3/2017 12:00:00 PM
End Date/Time: Wed 5/3/2017 12:15:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Meeting with Chris Liddell and Reed Cordish
Start Date/Time: Wed 5/3/2017 12:15:00 PM
End Date/Time: Wed 5/3/2017 1:00:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Adminsitrator's Office
Importance: Normal
Subject: Briefing re: International Travel
Start Date/Time: Fri 4/28/2017 3:00:00 PM
End Date/Time: Fri 4/28/2017 3:45:00 PM

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Meeting with Interstate Oil and Gas Compact Commission
Start Date/Time: Wed 4/26/2017 3:00:00 PM
End Date/Time: Wed 4/26/2017 3:30:00 PM

Topic: discuss exploring a new approach for state regulations of oil and gas, that would generally involve state governors, congressmen and members of the Trump Administration

Location: Administrator's Office

Staffing:

Attendees: Admin. Pruitt, Mike Smith

POC: Hannah Phan, Hannah.phan@iogcc.state.ok.us; 405.525.3556 ext: 101

From: Ex. 6 - Administrator's Calendar Account
Location: Administrator's Office
Importance: Normal
Subject: Paris Meeting Prep/Bring in Lunch
Start Date/Time: Thur 4/27/2017 4:15:00 PM
End Date/Time: Thur 4/27/2017 5:15:00 PM

From: Ex. 6 - Administrator's Account
Location: Alm Room
Importance: Normal
Subject: Meeting with Auto Alliance
Start Date/Time: Thur 4/27/2017 3:45:00 PM
End Date/Time: Thur 4/27/2017 4:15:00 PM
Alliance Board Invitation to Administrator E. Scott Pruitt 2-28-17.pdf
2017 - April Board Meeting Attendees_Administrator Pruitt.doc

Topic: key EPA priorities affecting the auto industry
Location: Administrator's Office
Staffing: Sam and Brittany
Attendees: CEOs: Ford, GM, FCA, Toyota, VW, Mercedes Benz, BMW, Jaguar Land Rover, Mazda, Mitsubishi, Porsche,
and Volvo.
POC: David Schwietert: Ex. 6 - Personal Privacy | dschwietert@autoalliance.org
2017 - April Board Meeting Attendees_Administrator Pruitt.doc

From: Ex. 6 - Administrator's Account
Location: Administrator's Office
Importance: Normal
Subject: Prep for POTUS Meeting
Start Date/Time: Tue 4/4/2017 5:45:00 PM
End Date/Time: Tue 4/4/2017 6:45:00 PM

Handling: Ryan and Sarah

To: Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]
From: Jackson, Ryan
Sent: Thur 4/20/2017 10:06:19 AM
Subject: Fwd: Agency accomplishments in the first 100 days

We are well on our way for this.

Liz, can you spearhead this document? I think the report card for Pruitt and this should simply be the same document. I believe we have a great start to this. Can you identify gaps we need to reach out to stake holders about to shore up economic and jobs numbers?

I'd like to have a solid draft of this given this timetable by tomorrow morning.

Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "Porter, Robert R. EOP/WHO" < Ex. 6 - Personal Privacy
Date: April 19, 2017 at 10:49:21 PM EDT
To: Staff Secretary < Ex. 6 - Personal Privacy
Cc: "McGinley, William J. EOP/WHO" < Ex. 6 - Personal Privacy "Miller, Stephen EOP/WHO" Ex. 6 - Personal Privacy >, "Shah, Raj S. EOP/WHO" Ex. 6 - Personal Privacy, Reince Priebus Ex. 6 - Personal Privacy
Subject: Agency accomplishments in the first 100 days

Cabinet Chiefs,

The White House is preparing materials for our efforts in the lead up to the Administration's 100-Day mark. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Please send your completed materials to Staff Sec (copied) by Noon on Monday, April 24.
Let me know if you have any questions.

All best,
Rob

Robert Porter
Assistant to the President for Policy Coordination
White House Staff Secretary

Ex. 6 - Personal Privacy

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Ex. 6 - JP Freire Personal Email Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Jackson, Ryan
Sent: Thur 3/16/2017 2:26:47 AM
Subject: Re: RE: RE:

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 15, 2017, at 8:17 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

From: Jackson, Ryan
Sent: Wednesday, March 15, 2017 9:14 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Ex. 6 - JP Freire Personal Email Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re: RE:

Ex. 5 - Deliberative Process

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 15, 2017, at 7:54 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

I am making some edits and I will get them to you in next hour, but I think you need to totally re-work this Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

This needs wholesale revisions.

From: Konkus, John
Sent: Wednesday, March 15, 2017 8:44 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Ex. 6 - JP Freire Personal Email Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re:

Let me take a look when I get home

On Mar 15, 2017, at 8:36 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

> Please kill me. I can't get used to this Dell laptop. My track changes are not tracking.. did you guys lock editing on this or something??
>
> Samantha Dravis
>
> Senior Counsel / Associate Adminstrator for Policy
>
> U.S. Environmental Protection Agency

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Jackson, Ryan
Sent: Mon 4/24/2017 8:23:23 PM
Subject: BNA today

Reinforces proposing statutory limits generally but argues against a reset letting corn ethanol make up the deficiencies.

judge Sees Possible Overreach in EPA's Biofuels Decision

Posted April 24, 2017, 02:46 P.M. ET

By Brian Dabbs

Scaling back advanced biofuel blending requirements between 2013 and 2014 may mark an abuse of the EPA's authority, said Judge Brett Kavanaugh, who sits on the nation's top regulatory court (Ams. for Clean Energy v. EPA, et al, D.C. Cir., No. 16-1005, argued 4/24/17).

The Environmental Protection Agency acted to meet the goals of the renewable fuel standard, which Congress passed into law in 2005 and amended two years later, by aiming to ensure the most biofuel possible actually reached consumers, Justice Department attorney Samara Spence argued April 24 on the agency's behalf. The oral arguments are part of a biofuel industry challenge to the EPA's belated rule on RFS volume requirements for 2014-2016, which the agency finalized in December 2015.

A limited amount of retail stations selling higher-blend fuels and the lack of cars designed to run off that fuel would have made it difficult to require more advanced biofuels in the fuel supply, Spence said. Therefore, the agency couldn't advance the statute's goals of reducing greenhouse gases, she said.

But Kavanaugh cautiously dismissed that argument as agency overreach. "I don't see this statute as necessarily that kind of grand authority for EPA," Kavanaugh said. "If things are totally screwed up, then Congress should fix it."

The EPA has a range of waiver authorities under the law.

Patricia Millett, another judge on the U.S. Court of Appeals for the District of Columbia Circuit, stressed the statute aims to create a market for biofuel in U.S. transportation, saying Congress designed the law to force the market to adapt to annually-increasing biofuel blending mandates.

The EPA required petroleum refiners and importers to blend 2.75 billion gallons of advanced biofuel in 2013 but just 2.67 billion the following year. The 2013 threshold met congressional targets while the 2014 figure fell below by more than 1 billion gallons. Advanced biofuel ethanol made from feedstocks other than corn and results in far fewer greenhouse gas emissions than conventional biofuels.

A recent 2017 final rule requires the blending of 4.28 billion gallons of advanced biofuel into the fuel supply that year

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Thur 3/16/2017 1:14:33 AM
Subject: Re: All hands?

Right. Were you there for my call?

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

> On Mar 15, 2017, at 7:32 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
>
> It's just like.. enough with the DRAMA
>
> -----Original Message-----
> From: Kenny, Shannon
> Sent: Wednesday, March 15, 2017 8:29 PM
> To: Dravis, Samantha <dravis.samantha@epa.gov>
> Subject: All hands?
>
> Hi Samantha, with the budget announcement tomorrow morning, many HQ programs and Regions are hosting all hands meetings to talk with staff. The senior career folks had a 5:30 pm meeting tonight, and Ryan offered us some basic talking points. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

> Shannon
>
> Sent from my iPhone

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Ex. 6 - JP Freire Personal Email Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Jackson, Ryan
Sent: Thur 3/16/2017 1:20:14 AM
Subject: Re: RE: RE:

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 15, 2017, at 8:14 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

From: Jackson, Ryan
Sent: Wednesday, March 15, 2017 9:14 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Ex. 6 - JP Freire Personal Email Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re: RE:

Ex. 5 - Deliberative Process

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 15, 2017, at 7:54 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

I am making some edits and I will get them to you in next hour, but I think you need to totally re-work this Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

This needs wholesale revisions.

From: Konkus, John
Sent: Wednesday, March 15, 2017 8:44 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Ex. 6 - JP Freire Personal Email Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re:

Let me take a look when I get home

On Mar 15, 2017, at 8:36 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

> Please kill me. I can't get used to this Dell laptop. My track changes are not tracking.. did you guys lock editing on this or something??
>
> Samantha Dravis
>
> Senior Counsel / Associate Adminstrator for Policy
>
> U.S. Environmental Protection Agency

To: Konkus, John[konkus.john@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Jackson, Ryan
Sent: Thur 3/16/2017 12:02:24 AM
Subject: Re: Draft Gold King Release for Tomorrow

I like the gold king release.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 15, 2017, at 7:01 PM, Konkus, John <konkus.john@epa.gov> wrote:

Team: Please take a look at this as well tonight. It would be good to send this tomorrow and then Flint and E. Chicago on Friday. That would be one heck of a way to send a message at the end of the week…

From: Konkus, John
Sent: Wednesday, March 15, 2017 5:55 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Draft Gold King Release for Tomorrow

This is written in coordination with OLEM and OGC…

NEWS BRIEF

EPA Continues Reimbursing Gold King Mine Costs

Today, the U.S. Environmental Protection Agency (EPA) has disbursed over $90,000 in additional reimbursements to five entities in Colorado and Utah for their costs incurred

responding to the Aug. 5, 2015, Gold King Mine release.

These payments represent requests received by EPA prior to December 16, 2016 that had adequate documentation. They were evaluated following enactment of the Water Infrastructure Improvements for the Nation (WIIN) Act on December 16. 2016. EPA is still evaluating other reimbursement requests, some of which were received after December 16, 2016.

The payments are made using guidelines for determining which response costs related to the Gold King Mine release are eligible for reimbursement under the recently passed WIIN Act. A link to the guidance is below.

To date, EPA has dedicated more than $29 million to address the Gold King Mine release, including reimbursing more than $3.5 million in documented and allowable response costs, as well as monitoring costs, to 10 state, tribal, and local governments.

"States, tribes, and local governments are valued partners. With the Gold King Mine and the rest of the Bonita Peak Mining District now on the Superfund Priorities List, we look forward to improving the environment for everyone involved and ensuring Gold King costs are handled in a timely and fair manner," said EPA Administrator Scott Pruitt.

Link to letter providing guidance: LINK

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/28/2017 3:42:39 PM
Subject: Re: WSJ Editorial Report on FOX

Awesome.

And Liz if you want your email to be Liz instead of Elizabeth we can do that.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 28, 2017, at 11:39 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

> Kim Strassel texted me. – Journal Editorial Report would like to have him on the show this week
>
> JP, I will be handing over your number.

To: Konkus, John[konkus.john@epa.gov]
Cc: Greaves, Holly[greaves.holly@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Wed 3/15/2017 3:18:28 PM
Subject: Re: EPA Talking Points

Holly please continue to update the whole team from this morning in the budget. We need a message and it doesn't have to be long but message today.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

> On Mar 15, 2017, at 11:07 AM, Konkus, John <konkus.john@epa.gov> wrote:
>
> Budget points from OMB comms specific to EPA...
>
> -----Original Message-----
> From: Dorr, Kaelan K. EOP/WHO [mailto Ex. 6 - Personal Privacy
> Sent: Wednesday, March 15, 2017 10:54 AM
> To: Konkus, John <konkus.john@epa.gov>; Rateike, Bradley A. EOP/WHO
Ex. 6 - Personal Privacy Baker, John < Ex. 6 - Personal Privacy
> Subject: EPA Talking Points
>
> Hi all -
>
> Per our phone conversation this AM please find talking points specific to your agency re: the budget blueprint. Please reach out to Coalter, myself, or Brad with any questions, comments or concerns.
>
> Best,
>
> Kaelan
>
> Kaelan Dorr
> Strategic Communications Advisor and Special Projects Manager Ex. 6 - Personal Privacy
> Ex. 6 - Personal Privacy
>
>
> <Environmental Protection Agency.pdf>

To: JP Freire Ex. 6 - Personal Privacy Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Konkus, John[konkus.john@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/21/2017 12:56:50 AM
Subject: RE: Query from the Associated Press

Ex. 5 - Deliberative Process

From: JP Freire Ex. 6 - Personal Privacy
Sent: Monday, March 20, 2017 8:56 PM
To: Brown, Byron <brown.byron@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Re: Query from the Associated Press

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

On Mon, Mar 20, 2017 at 8:18 PM Konkus, John <konkus.john@epa.gov> wrote:

Opportunity

Begin forwarded message:

Resent-From: <Press@epa.gov>
From: "Elliott, Dan" <delliott@ap.org>
Date: March 20, 2017 at 8:15:36 PM EDT
To: Press <Press@epa.gov>
Subject: Query from the Associated Press

Greetings.

Has Administrator Pruitt reviewed the EPA's Jan. 13 decision that it could not pay any of the $1.2 billion in claims for economic damage and personal injury from the Gold

King Mine spill in Colorado? Has he reached a decision?

During a Jan. 18 confirmation hearing before the Senate Committee on Environment and Public Works, Sen. John Barrasso asked him, "If confirmed, will you commit that you'll review that decision and use what ever authority is available to you under the law to help the people that have been harmed by EPA's negligence?" and he replied, "Yes, Mr. Chairman."

Thank you. My deadline is 5 p.m. ET Tuesday.

Dan Elliott

To: Freire, JP (Hatch)[JP_Freire@hatch.senate.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Fri 3/17/2017 8:54:24 PM
Subject: Re: Draft Flint Op-Ed 415 Words

Let me know when you arrive and we'll meet in my office.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 17, 2017, at 4:09 PM, Freire, JP (Hatch) <JP_Freire@hatch.senate.gov> wrote:

> Folks, we will be sitting down at 4:50 or so to go over the plan for next week. I'm not sure about the available meeting space but if someone could make a call on that I'd be much obliged.
>
> On Mar 16, 2017, at 12:47 PM, Konkus, John <konkus.john@epa.gov> wrote:
>
>> Working on placement now. If you all want to work on edits in the meantime…

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Konkus, John[konkus.john@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Ferguson, Lincoln
Sent: Fri 3/17/2017 1:54:05 PM
Subject: Re: Draft Flint Op-Ed 465 Words

I think we are holding off on this for now

Sent from my iPhone

On Mar 17, 2017, at 9:52 AM, Konkus, John <konkus.john@epa.gov> wrote:

> We have a commitment from the Flint Journal to run this over the weekend, but it needs to go to the paper within the next hour or two. Also I added an OMB approved paragraph about water infrastructure.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Konkus, John[konkus.john@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Fri 3/17/2017 2:06:38 PM
Subject: Re: Draft Flint Op-Ed 465 Words

I just don't like the way this starts. I'm not a fan and don't have suggestions on how to fix it.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 17, 2017, at 9:52 AM, Konkus, John <konkus.john@epa.gov> wrote:

> We have a commitment from the Flint Journal to run this over the weekend, but it needs to go to the paper within the next hour or two. Also I added an OMB approved paragraph about water infrastructure.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Konkus, John[konkus.john@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]; Schnare, David[schnare.david@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 3:32:50 PM
Subject: Re: Draft Talking Points

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 9:24 AM, Konkus, John <konkus.john@epa.gov> wrote:

Ex. 5 - Deliberative Process

From: Jackson, Ryan
Sent: Tuesday, March 7, 2017 9:56 AM
To: Konkus, John <konkus.john@epa.gov>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Schnare, David <schnare.david@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: Re: Draft Talking Points

Ex. 5 - Deliberative Process

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 6, 2017, at 4:29 PM, Konkus, John <konkus.john@epa.gov> wrote:

Draft talking points in both pocket card and memo format attached.

Thank you,

John Konkus

From: Jackson, Ryan
Sent: Monday, March 6, 2017 1:27 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Schnare, David <schnare.david@epa.gov>; Konkus, John <konkus.john@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: Fwd: Pruitt

John, we'll need talking points in this. SRF, WIFIA, stories, need. That type of thing.

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

Begin forwarded message:

From: "Gunn, Ashley L. EOP/WHO" <Ex. 6 - Personal Privacy
Date: March 6, 2017 at 11:10:14 AM MST
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Murphy, Christine M. EOP/WHO" Ex. 6 - Personal Privacy

"Hale, Michelle" <hale.michelle@epa.gov>
Subject: Re: Pruitt

Shd be coming out tonight or in the am. Will forward asap!

Thank you,
Ashley Gunn
Senior Director
Cabinet Affairs
The White House
Ex. 6 - Personal Privacy

Please excuse typos. Sent from my iPhone

On Mar 6, 2017, at 1:05 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Yes for sure. Do you have more info on it attendees, and the itinerary yet?

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 6, 2017, at 10:42 AM, Gunn, Ashley L. EOP/WHO
Ex. 6 - Personal Privacy > wrote:

And is he aware/confirmed for the Wed Infrastructure meeting? There is first a working meeting from 9-12:30 in EEOB, followed by 12:30-1:30 lunch with POTUS in Roosevelt Room.

-----Original Message-----

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]

Sent: Monday, March 6, 2017 11:24 AM

To: Gunn, Ashley L. EOP/WHO Ex. 6 - Personal Privacy

Subject: Pruitt

Ashley, I'm sorry for the late notice but the Administrator is speaking to the National Association of Manufacturers today in Scottsdale at their board meeting. He'll be back in Washington tomorrow. He's planning to speak Thursday afternoon at CERA Week in Houston.

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

<EPA Infrastructure Talking Points.docx>

<WH Infrastructure Speech Card.docx>

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Reeder, John
Sent: Mon 5/15/2017 2:10:11 AM
Subject: Re: Reimbursement

Samantha, Yes the voucher was approved a few days ago.
Best,
JReeder

Sent from my iPhone

On May 14, 2017, at 5:47 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Did you find this and can you please approve it? Thanks

On May 11, 2017, at 2:19 PM, Reeder, John <Reeder.John@epa.gov> wrote:

Samantha,

We're trying to set up this system for Ryan to approve the AA's. Reggie won't be doing these.

Meanwhile I'll see if I can find it and move this one along.

John R.

564 6082

From: Dravis, Samantha
Sent: Thursday, May 11, 2017 1:04 PM
To: Allen, Reginald <Allen.Reginald@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Reeder, John <Reeder.John@epa.gov>

Subject: FW: Reimbursement

Reggie,

Carolyn submitted a voucher for your approval on May 1st. Can you let us know what if any reason there is for the delay in approval on your end?

Thanks.

Samantha

From: Inge, Carolyn
Sent: Thursday, May 11, 2017 1:03 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: Reimbursement

I process the voucher on 5/1 so it's been waiting in Concur for approval since the May 1.Thx.

Carolyn Inge

US Environmental Protection Agency

Office of Policy

1301 Constitution Avenue NW

Washington, DC 20004

(202) 566-2845-Work

From: Dravis, Samantha

Sent: Thursday, May 11, 2017 12:46 PM
To: Inge, Carolyn <Inge.Carolyn@epa.gov>
Subject: RE: Reimbursement

When did you submit it to Reggie? What day?

From: Inge, Carolyn
Sent: Thursday, May 11, 2017 12:46 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: Reimbursement

Waiting on Reggie Allen then to Cincinnati for processing to her account.

Carolyn Inge

US Environmental Protection Agency

Office of Policy

1301 Constitution Avenue NW

Washington, DC 20004

(202) 566-2845-Work

From: Dravis, Samantha
Sent: Thursday, May 11, 2017 12:01 PM
To: Inge, Carolyn <Inge.Carolyn@epa.gov>
Cc: Kime, Robin <Kime.Robin@epa.gov>
Subject: Reimbursement

Is it pending John Reeder's approval, or where is it in the process?

To: Reeder, John[Reeder.John@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Vizian, Donna
Sent: Tue 4/18/2017 3:58:13 PM
Subject: Re: American flag

We just learned from GSA that the mechanism to raise the flag broke and is being fixed.

On Apr 18, 2017, at 11:04 AM, Vizian, Donna <Vizian.Donna@epa.gov> wrote:

Thanks for passing this along. We have notified GSA and they are working to replace it. The security folks are also looking to see if we have information on the tapes from our cameras determine what happened.

From: Reeder, John
Sent: Tuesday, April 18, 2017 8:42 AM
To: Vizian, Donna <Vizian.Donna@epa.gov>
Subject: Fwd: American flag

Sent from my iPhone

Begin forwarded message:

From: "Dravis, Samantha" <dravis.samantha@epa.gov>
Date: April 18, 2017 at 8:38:47 AM EDT
To: "Reeder, John" <Reeder.John@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: American flag

The American flag is not flying outside the EPA building, it looks like it either got taken down or fell down? It's just the EPA flag. Can you please find out who can fix this?

Thanks

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 8:57:22 PM
Subject: FW: Canadian Energy

Is this something you're shop would like to do?

From: Rozsa, Gabe [mailto:Gabe.Rozsa@prime-policy.com]
Sent: Wednesday, March 8, 2017 3:31 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Canadian Energy

Ryan,

I wanted to ask for your advice on whether a meeting with the Administrator or his senior staff might be possible to talk about North American energy integration and streamlining environmental reviews for cross border energy projects. The meeting would be on either April 4 or 5 with a client who is a leader in the oil sands region of Alberta.

As the Trump Administration and the Congress rethink the US energy policy, I know integration of North American energy, including the role of Canadian oil in helping to meet domestic needs and the role of pipelines like KXL is again be on the agenda. Although KXL finally is on track for approval, there remain many regulatory issues involved and likely other pipelines issues in the future raising issues to consider.

We represent a group of Canadian oil companies that are drilling for oil in Alberta. Bill McCaffrey, the CEO of MEG Energy and the leading force behind our client, the In situ Oil Sands Alliance (IOSA), will be in DC for meetings on April 4 and 5 and I was hoping to schedule time with you or someone you might recommend at EPA to discuss next steps toward better integration and North American energy independence. MEG and IOSA have done some pioneering work in the in situ process which is estimated to represent 80% of the available Canadian oil sands resource. A little biographically information about Bill can be found here which summarizes an award he recently received for his dynamic leadership in energy issues including innovative development and transport of the resource. I also expect a few other executives from MEG and/or IOSA on the trip.

I know staffing at the agencies is still pretty thin but please let me know what you recommend.

Gabe

Gabe Rozsa

Managing Director

1110 Vermont Avenue, NW | Suite 1000 | Washington, DC 20005

202 530 4843 | Fax: 202 530 4800 | Cell: 202 701 7710

www.prime-policy.com

A WPP Group Company: www.wpp.com

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To: Hale, Michelle[hale.michelle@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Jackson, Ryan
Sent: Thur 5/4/2017 2:47:14 PM
Subject: Re: From POTUS

Do you guys want to sit in this one too?

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

> On May 4, 2017, at 10:26 AM, Hale, Michelle <hale.michelle@epa.gov> wrote:
>
> Meeting set today at 4:30 at the request of POTUS
>
> -----Original Message-----
> From: Westerhout, Madeleine E. EOP/WHO [mailto: Ex. 6 - Personal Privacy
> Sent: Thursday, May 4, 2017 10:16 AM
> To: Hale, Michelle <hale.michelle@epa.gov>
> Subject: From POTUS
> Importance: High
>
> Michelle - can you please have the Administrator call the folks in the attached note and set up a 15 minute meeting today or tomorrow, per the request of the President?
>
> Tana Gertz Ex. 6 - Personal Privacy
> Brad Albin
>
> Thank you!
> Madeleine
>
> Madeleine Westerhout
> Executive Assistant to the President of the United States
> Office: Ex. 6 - Personal Privacy
> Cell: Ex. 6 - Personal Privacy
>
>
>
> <[Untitled].pdf>

To: Jackson, Ryan[jackson.ryan@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]
Cc: Coleman, Sam[Coleman.Sam@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Shinkman, Susan[Shinkman.Susan@epa.gov]; Seager, Cheryl[Seager.Cheryl@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Torma, Tim[Torma.Tim@epa.gov]
From: Starfield, Lawrence
Sent: Fri 3/24/2017 10:06:14 PM
Subject: Briefing Paper for meeting with Houston Mayor
City of Houston Briefing Paper (3-24-17).docx

Ryan (and others),

We understand that the Administrator will be meeting with the Mayor of Houston, TX on Tuesday, and Sam Coleman and I thought it would be useful to provide him with a short briefing paper (attached). **Ex. 5 - Deliberative Process, Ex 7a**

Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

Please let Sam or me know if you need any further information.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance
(202) 564-8179 (direct)
(202) 505-0961 (cell)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

CITY OF HOUSTON, TEXAS

Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

To: Bennitt, Ian[Ian.Bennitt@mail.house.gov]
Cc: Tillery, Samantha[Samantha.Tillery@mail.house.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Fri 3/17/2017 10:59:01 PM
Subject: Re: Call with Congressman Garret Graves (R-LA6)

Thank you guys.

I've CC'd Samantha Dravis on this. She's the associate administrator for policy and handling much of the RFS issues in her office. Soon joining your team is Mandy Gunasekara who will also work in a number of air issues.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 17, 2017, at 11:59 AM, Bennitt, Ian <Ian.Bennitt@mail.house.gov> wrote:

Ryan – I'm reaching out on behalf of my boss, Congressman Garret Graves (LA-6). He would like to get on the phone with the appropriate person at EPA to discuss the attached letter we sent to Administrator Pruitt on March 7. Local refiners, oil marketers, convenience stores and gas stations are heading into the summer months facing a mandate to lower the Reid Vapor Pressure (RVP) of gasoline. For the past 2 years the industry has been required to implement the lower RVP by the state DEQ. It can however be waived, and has been done so in several areas around the country (info below). EPA can provide the flexibility for the state to eliminate the requirement, and that is our ask. As summer is fast approaching, timing is of the essence. I have cc'd our scheduler who can provide the Congressman's cellphone number and otherwise handle logistics of setting up a quick call. Thank you very much for your help on this.

Ian

BACKGROUND

•□□□□□□□□ Today, Reid Vapor Pressure (RVP) limits provide minimal benefit to ozone air quality because of improvements in vehicular emission equipment and the inability to blend ethanol lower than 8.8 RVP. These combined factors result in very few to no measurable benefits for ozone reduction.

•□□□□□□□□ Producing different RVP grades creates higher production costs for the refiner and these costs are passed on to the consumer (up to $0.10/gallon).

•□□□□□□□□ Having different standards of RVP requires additional inspection and enforcement efforts.

•□□□□□□□□ RVP limits will not likely be considered an effective method to reduce ozone in the future, since the EPA recently strengthened the National Ambient Air Quality Standards (NAAQS) to 70ppb.

•□□□□□□□□ The 7.8 RVP requirement has been eliminated in other areas such as: Denver and Boulder, CO; Grant Parish, LA; Florida; Raleigh, Durham, and Chapel Hill, NC; Greensboro, NC; Winston and Salem, NC; High Point area in North Carolina; Jefferson and Shelby counties (Birmingham area) in Alabama; and Mecklenburg and Gaston counties in North Carolina. The EPA is currently considering eliminating the RVP requirement in Pittsburgh, PA, a city very similar to Baton Rouge, LA.

Ian Bennitt | Legislative Director
Office of Congressman Garret Graves (LA-06)

202-225-3901 (office) | garretgraves.house.gov

<image001.png> <image002.png> <image003.png> <image004.png>

Stay up to date with Garret's work in Congress, sign up for his e-newsletter here.

<20170308142919993.pdf>

To: Konkus, John[konkus.john@epa.gov]
Cc: Grantham, Nancy[Grantham.Nancy@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Wed 3/15/2017 5:40:50 PM
Subject: Re: MLive: Flint mayor says she'll meet Trump in Ypsilanti to discuss water crisis

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 15, 2017, at 1:11 PM, Konkus, John <konkus.john@epa.gov> wrote:

Ex. 5 - Deliberative Process

From: Grantham, Nancy
Sent: Wednesday, March 15, 2017 1:10 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: MLive: Flint mayor says she'll meet Trump in Ypsilanti to discuss water crisis

Ex. 5 - Deliberative Process

Thanks ng

Nancy Grantham

Office of Public Affairs

US Environmental Protection Agency

202-564-6879 (desk)

202-253-7056 (mobile)

From: Jackson, Ryan
Sent: Wednesday, March 15, 2017 1:05 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: Re: MLive: Flint mayor says she'll meet Trump in Ypsilanti to discuss water crisis

We need to tee up the flint award announcement.

Announced in a release. Not an event.

Nancy, the Administrator is very interested in the oped. Investment infrastructure and there's clearly work to do.

Please let me know the plan on release and draft on oped.

Thank you guys.

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 15, 2017, at 11:32 AM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Nowotarski, Allison" <nowotarski.allison@epa.gov>
Date: March 15, 2017 at 10:25:28 AM EDT
To: "Kelley, Jeff" <kelley.jeff@epa.gov>, "Rowan, Anne" <rowan.anne@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Kaplan, Robert" <kaplan.robert@epa.gov>
Subject: MLive: Flint mayor says she'll meet Trump in Ypsilanti to discuss water crisis

Flint mayor says she'll meet Trump in Ypsilanti to discuss water crisis

http://www.mlive.com/news/flint/index.ssf/2017/03/flint_mayor_says_shell_meet_tr.html

By Ron Fonger | rfonger1@mlive.com

on March 15, 2017 at 10:01 AM, updated March 15, 2017 at 10:08 AM

FLINT, MI -- Mayor Karen Weaver says she has accepted an invitation to meet with President Trump in Ypsilanti during his visit today, March 15.

Weaver issued a statement on the meeting, which says the Flint water crisis will be a topic of discussion.

"I'm thankful that President Donald Trump reached out to me to discuss the Flint Water Crisis. I will be asking the President to do all things within his power to make our city whole and great again after the horrific man-made injustice that was caused here," the statement says.

"I will not rest until the residents and businesses that I have the pleasure of serving are able to drink, cook and bathe with water straight from the tap which is a basic human right."

Trump visited Flint during the 2016 presidential campaign, stopping at a local church and the city water plant.

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Flynn, Mike[Flynn.Mike@epa.gov]; Kenny, Shannon[Kenny.Shannon@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Schnare, David[schnare.david@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]; Anderson, Denise[anderson.denise@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; Connors, Sandra[Connors.Sandra@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 7:55:37 PM
Subject: Re: List of Requested Briefings

We are simply looking for paper initially. If he would like a staff briefing we can schedule that. I'm sorry for not making that more clear. The briefings already prepared in a number of issues like the point of obligation, chry... pesticide, gold king, and flint have been very digestible and ether takes care of the issue for the moment or has informed discussions about it he has had with members of Congress or other cabinet secretaries. I believe it's been going well.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 2:25 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Mike,

Ex. 5 - Deliberative Process

Best,

Samantha

From: Flynn, Mike
Sent: Tuesday, March 7, 2017 12:11 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Kenny, Shannon <Kenny.Shannon@epa.gov>
Cc: Reeder, John <Reeder.John@epa.gov>; Schnare, David <schnare.david@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Anderson, Denise <anderson.denise@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>
Subject: List of Requested Briefings

Hi Samantha,

As you know, there are numerous briefings for the Administrator that have been requested by the program offices, that Ryan has asked to set up, or may have been mentioned in the program office briefings for the Administrator (a couple of which you attended). To help Ryan and the scheduling team, I had folks put together a list of the requested briefings (attached). The first group are the ones that seem to be the most urgent. We've gone over this with Michelle and wanted to get your and your team's input before sharing with Ryan. I'd like to share with Ryan later today so he can confirm which meetings he would like to be scheduled with the Administrator in the short term.

This is just to jump start getting key meetings on the calendar for the Administrator. I realize more discussions with Ryan will be needed going forward to make sure we have a smooth process with everyone involved who needs to be.

Thanks for your help.

Mike

Mike Flynn

Acting Deputy Administrator

U.S. Environmental Protection Agency

202-564-4711

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Schnare, David[schnare.david@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 4:04:22 PM
Subject: Re: Must meeting

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 9:57 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Perhaps 90 minutes is gratuitous, I sort of just suggested some sort of meeting where we tackle outstanding policy issues.

Ex. 5 - Deliberative Process

From: Jackson, Ryan
Sent: Tuesday, March 7, 2017 10:28 AM
To: Schnare, David <schnare.david@epa.gov>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Flynn, Mike <Flynn.Mike@epa.gov>
Subject: Re: Must meeting

Ex. 5 - Deliberative Process

I'll be back later this afternoon and need to set him up for Wednesday morning's infrastructure meeting at the White House, budget meeting with Mulvaney, and prep for CERA.

We can talk about further procedures after that.

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Mar 7, 2017, at 9:16 AM, Schnare, David <schnare.david@epa.gov> wrote:

Ryan:

Mike Flynn and I need to meet with you asap to sort out scheduling and how to get time critical issues to the Administrator.

Samantha is thinking we should schedule a 90 minute policy meeting with him to clear out several issues that are currently backlogged. That could work.

But, we need a routine approach to move critical issues forward for decision by the Administrator, hence the need for a brief meeting with you, Mike and me.

David.

To: Brown, Byron[brown.byron@epa.gov]
Cc: Hale, Michelle[hale.michelle@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 4:36:34 AM
Subject: Re: Meeting Request with Administrator Pruitt Before March 20, 2017 - City of Taunton/Taunton Estuary Municipal Coalition

We need to gather more information despite their hair on fire request.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 6, 2017, at 4:49 PM, Brown, Byron <brown.byron@epa.gov> wrote:

I will ask Justin if he has more information on the underlying litigation.

From: Hale, Michelle
Sent: Monday, March 6, 2017 6:13 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: FW: Meeting Request with Administrator Pruitt Before March 20, 2017 - City of Taunton/Taunton Estuary Municipal Coalition
Importance: High

This may be a priority

From: Tonja Scott [mailto:tscott@hall-associates.com]
Sent: Monday, March 6, 2017 11:39 AM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: John Hall <jhall@hall-associates.com>
Subject: Meeting Request with Administrator Pruitt Before March 20, 2017 - City of Taunton/Taunton Estuary Municipal Coalition

Importance: High

Hi Michelle, it was so good to talk with you this morning. As promised, I've listed the details below, in regards to John's meeting request with Administrator Pruitt. Note, Due to litigation deadlines, this meeting will need to take place before March 20th. As always, thank you for your assistance.

WHO: City of Taunton/ Taunton Estuary Municipal Coalition

SUPPORTED BY: Congressman Kennedy; Governor Baker

TIME REQURED FOR DISCUSSION: 30 minutes

TOPIC: Stringent Nitrogen Limits Imposed on Cities using Highly Questionable Procedures That Have Never Been Peer Reviewed and Which by Three Nationally Recognized Experts Concluded Are Not Scientifically Defensible.

COST IMPACTS: Hundreds of Millions

REQUESTED ACTION: Stay ongoing litigation for settlement discussion; refer matter to independent peer review

DESCRIPTION OF PROBLEM:

The City of Taunton is requesting that their permit challenge pending before the 1st Circuit be put in abeyance, to allow settlement discussion of the issues with EPA to occur. As noted in the attached correspondence from the Taunton Estuary Municipal Coalition, EPA's permitting action directly conflicted with the accepted,

peer reviewed scientific methods for evaluating nutrient effects and failed to follow the "rule of law". In particular, the extreme nitrogen reduction mandate and other limits imposed on these economically depressed cities are a result of an environmental agenda to regulate more restrictively, regardless of the facts. That group of impacted municipal entities is requesting that EPA's approach be subjected to an independent peer review to assess its technical validity.

The Coalition is confident that a frank discussion of the events that transpired and a fair review of the science and regulatory requirements applicable to such cases would result in an agreement that this permit action needs to be withdrawn and reconsidered. If the Agency would inform the Justice Department and the City that the Agency is agreeable to putting the matter in abeyance, pending settlement discussions (e.g., alternative dispute resolution), the appropriate motion could be filed with the 1st Circuit. Such action would allow the City's limited resources to be directed at a productive resolution of the matter.

Tonja

Tonja L. Scott

Manager

Hall & Associates

1620 I Street, NW - Suite 701

Washington, DC 20006

Telephone: 202-463-1166

Facsimile: 202-463-4207

Email: tscott@hall-associates.com

From: John Hall
Sent: Monday, February 13, 2017 1:43 PM
To: 'Benton.donald@Epa.gov'; 'Schnare, David'; 'scott.pruitt@oag.ok.gov'
Cc: Ex. 6 - M. Hale personal email Ex. 6 - S. Dravis personal email 'Buckley, Sarah (ENRD)'; 'Mayor Jon Mitchell'; thoye@taunton-ma.gov; Mayor@fallriverma.org
Subject: RE: Request for EPA Agreement to Alternative Dispute Resolution - City of Taunton v. EPA
Importance: High

Dear Administrator Pruitt:

Attached please find a letter from the Taunton Estuary Municipal Coalition requesting that the Agency reconsider, under the alternative dispute resolution process and independent peer review, the need for the stringent "state of the art" nitrogen limitations that EPA Region I has imposed on the City of Taunton (and is planning to further impose on other nearby communities). (Attachments). In October 2016, the City of Taunton was forced to file a Circuit Court appeal regarding the stringent nitrogen limitations, as well as other limitations that the City contends were beyond EPA's statutory authority (*e.g.*, flow limits). That permit appeal action is presently pending before the 1St Circuit Court of Appeals. As explained in the attached letter from the Municipal Coalition, EPA's action ignored the finding of three nationally recognized experts who all uniformly concluded that the agency's "technical" approach (sentinel method) used to create the stringent nitrogen limitations was fundamentally flawed and would not result in meaningful ecological improvement in the Taunton Estuary. EPA Headquarters also refused to conduct a "peer review" of the Region's unproven sentinel method (Attachment 2) , even after acknowledging, under FOIA, that it possessed no records showing that the new methodology used to set the limits was scientifically defensible (Attachment 1 and 1a) and the lead researcher for the Taunton Estuary informed the Region that his data were being misapplied in deriving the stringent limits. (Attachment 3).

The City of Taunton and the Municipal Coalition believe this is precisely the type of arbitrary regulatory action that the Trump Administration has committed to address to avoid wasting local resources. Regarding the ongoing litigation, in December 2016, EPA informed the 1st Circuit Mediation official - Hon. Patrick J. King (ret.), that EPA would not participate in any form of alternative dispute resolution. *It would be greatly appreciated if you would inform the City whether the new Administration would reconsider that position.* If so, appropriate filings with the 1st Circuit could occur to place the case in abeyance, pending such dispute resolution discussions.

The Municipal Coalition (and Center for Regulatory Reasonableness) would also look forward to participating in an independent peer review that could evaluate the reasonableness of using Region I's unproven methodology in future permit actions. If such an independent peer review confirms that the Region's novel approach, as applied, is scientifically defensible, the communities would support further nutrient

reduction expenditures, knowing that those resources are well spent.

Thank you for your consideration of these requests.

John C. Hall

President

Hall & Associates

1620 I Street, NW, Suite 701

Washington, DC 20006

Phone: 202-463-1166

Fax: 202-463-4207

E-Mail: jhall@hall-associates.com

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To: Burden, Susan[Burden.Susan@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Konkus, John[konkus.john@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: Jackson, Ryan
Sent: Thur 5/4/2017 1:19:22 PM
Subject: Re: Autopen Authorization Request // C&T FR Package

Autopen approved. Thanks for this.

I'm not sure this is release worthy but it is stakeholder outreach worthy so they can do what they need to do.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On May 4, 2017, at 9:08 AM, Burden, Susan <Burden.Susan@epa.gov> wrote:

Hi Ryan,

The following proposed rule is ready for signature:

•□□□□□□□□ Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date [Tier 2; SAN 5007; RIN 2070-AJ20]

This proposed rule extends the effective date of the Certification of Pesticide Applicators Rule to May 22, 2018 (the current effective date is May 22, 2017). There will be a 7 day public comment period before EPA issues a final rule.

Please let me know if you concur and approve the use of autopen for this proposed rule. The final rule needs to be issued before the current effective date, so we are hoping for signature this morning in order to get the proposed rule to the Federal Register asap.

Your schedule looks like you are free at 9:30 am, so I will stop by your office with the

package then if I don't hear from you via email.

Thanks,

Susan

Susan Burden, Ph.D.

Special Assistant (ORD, OCSPP, OCHP, SAB)

Office of the Administrator

U.S. Environmental Protection Agency

Office: (202) 564-6308

Cell: (202) 740-0169

To: Hale, Michelle[hale.michelle@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/6/2017 10:47:51 PM
Subject: Fwd: Request from Michigan Governor Snyder for Meeting with Administrator Pruitt on March 15

Michelle we need to accommodate this before Pruitt leaves Wednesday.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "Gunn, Ashley L. EOP/WHO" <Ex. 6 - Personal Privacy
Date: March 6, 2017 at 3:28:14 PM MST
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: FW: Request from Michigan Governor Snyder for Meeting with Administrator Pruitt on March 15

FYI

From: Hoelscher, Douglas L. EOP/WHO
Sent: Monday, March 6, 2017 4:24 PM
To: Benton, Donald <benton.donald@epa.gov>; Gunn, Ashley L. EOP/WHO <Ex. 6 - Personal Privacy>; Flynn, Matthew J. EOP/WHO Ex. 6 - Personal Privacy; Mashburn, John K. EOP/WHO Ex. 6 - Personal Privacy>; bowles.jack@epa.gov
Cc: Johnson, Julia B. EOP/WHO <Ex. 6 - Personal Privacy
Subject: Request from Michigan Governor Snyder for Meeting with Administrator Pruitt on March 15
Importance: High

Hi Team EPA and Team Cabinet Affairs,

Governor Snyder (R, MI) will be in Washington D.C. on Wednesday, March 15 and has available time from 2:00-5:00 p.m. for meetings.

Ex. 5 - Deliberative Process

*Julia – please log.

Sincerely,

Doug Hoelscher

Michigan Staff Point of Contact:

Bill McBride

Director

State of Michigan Washington D.C. Office

444 North Capitol Street N.W. Suite 411

Washington D.C. 20001

202-624-5840

mcbrideb@michigan.gov

www.michigan.gov

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/13/2017 11:54:23 PM
Subject: Re: Update on Meeting Request from Murray Energy

Thank you.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 13, 2017, at 6:13 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Ryan- Thank you for agreeing last week to meet with representatives from Murray Energy as they requested. They asked for the meeting with you during our attempts to reach an agreement to toll certain obligations contained in the district court order that we have now appealed to the Fourth Circuit Court of Appeals. We now need to set a time to meet and a time for us to brief you before the meeting.

Of the times suggested by Murray, the morning of Monday March 27th works for Jeff Wood from DOJ. I have cc'd Sharnett to see if you would be able to meet on that date. If so, please let us know when, and we will inform DOJ. Meeting on the 27th will allow us plenty of time to get on your calendar for a pre-brief in advance of the meeting as well.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/14/2017 2:14:33 AM
Subject: Re: Social Cost of Carbon

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 13, 2017, at 8:37 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

Begin forwarded message:

From: "McGartland, Al" <McGartland.Al@epa.gov>
Date: March 13, 2017 at 8:13:10 PM EDT
To: "Dravis, Samantha" <dravis.samantha@epa.gov>
Subject: Social Cost of Carbon

Hi again. Just heard from my OMB friends. Forthcoming EO on social cost of carbon will say existing technical support documents are void and agencies should use a domestic SCC a(no more global benefits) with discount rates consistent with OMB guidance A-4 requiring 3 and 7 percent. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

I am not sure about snow tomorrow. I live i **Ex. 6 - Personal Privacy** -- forecast is for more snow here. But I will be working from home if I can't commute.

Stay safe.

Sent from my iPhone

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Torma, Tim[Torma.Tim@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Starfield, Lawrence
Sent: Fri 5/12/2017 8:07:26 PM
Subject: Daily enforcement report
OECA Daily Report carry-over items 5 12 17.docx

Ryan,

Here is today's daily report from OECA, with two "heads up" items:

-

Fiat Chrysler Automobiles (FCA): Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

-

-

GAO Inquiry re: Proposed *Harley Davidson* Compliance Agreement: In November 2016, GAO received a congressional request for a legal opinion regarding a mitigation project that is included in the Consent Decree signed by the US and Harley Davidson. On May 9, 2017, as part of its review, GAO sent DOJ and EPA a list of questions about the mitigation project. The GAO letter has been provided to Byron Brown, Justin Schwab, and Mandy Gunasekara. OECA and OGC are working with DOJ to provide the response, which is due on June 12, 2017.

Also attached is the list of the items awaiting clearance. Please let us know if you have

questions or need further information.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

(202) 564-2440 (office)
(202) 564-8179 (direct)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

OECA Daily Reports - Carry-over items awaiting clearance

From 5/12 – heads up on Alon USA compliance agreement and Black Elk Energy guilty plea.

From 5/11 – no new items, Nevada Cement cleared

From 5/10 – no new items, no report

From 5/9 – no new items, no report

From 5/8 – no new items, no report

From 5/5 – no new items, no report

From 5/4 – no new items, no report

From 5/3 – heads up on proposed order for Gowanus Canal Superfund Site

From 5/2 – heads up on criminal plea in Yazoo City, Mississippi case involving illegal disposal of gasoline into sewer system.

From 4/27, 4/28, 5/1 – no new items, no report.

From 4/26 – heads up on Syngenta Seeds, LLC.

Ex. 5 - Deliberative Process

From 4/25 - heads up on Vopac settlement and VW decision to not perform emission modifications

From 4/24 – no new items, no report

From 4/21 – no new items, no report

From 4/20 – Heads up on Motion to Enter Freeport Superfund Site Settlement, and criminal sentencing in Gen X Energy.

From 4/18 – No new items

From 4/17 – No new items, XTO Energy cleared

From 4/14 - No new items, reminder of deadline on XTO Energy

From 4/13 - No new items, no report

From 4/12 – No new items, no report

From 4/11 – Report on deadline for XTO Energy

From 4/10 – Heads up on appellate brief in U.S. v. Citgo

From 4/7 – no new items, no report

From 4/6 - Heads up on deliverables under the VW settlement. No new items needing Clearance.

From 4/5 – No new items, no report.

From 4/4 – Report on deadline for NEPA comments on Atlantic Coast Pipeline – cleared.

From 4/3 - No new items needing clearance

From 3/31 – No new items needing clearance.

From 3/30 – No new items needing clearance

From 3/29/17 – no report. Shifting to morning reports.

From 3/28/17 No new items.

From 3/27/17

From 3/24/17 No new items.

From 3/23/17 - Report on Manke Lumber -- cleared, 4/4/17. Report on Ex. 7(a) - cleared, 3/31/17.

From 3/22/17 No new items.

From 3/21/17 daily report – deadline on S.H. Bell - -cleared 3/23/17.

From 3/20/17 daily report – Deadline on VW case – cleared 3/23/17. Deadline on Maxus SF case – cleared 3/22/17.

From 3/17/17 daily report – Report on Toa Alta -- cleared, 4/10/17.

From 3/16/17 daily report – Report on Westward Seafoods -- cleared, 4/10/17.

From 3/15/17 daily report: Report on US v. Luminant – cleared 4/4.

From 3/14/17 daily report:

Clean Air Act Section 114 information requests – Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

From 3/13/17 daily report:

U.S. v. Harley Davidson – Harley Davidson sold over 340,000 devises that illegally increased emissions from motor cycles and 12,000 motor cycles that were not properly certified under the Clean Air Act, resulting in significant emissions of hydrocarbons and NOx. This week, DOJ would like to file a Motion to Enter the compliance agreement in which Harley agreed to pay a penalty of $12M for these violations. Harley also agreed to mitigate the effects of its violations through funding the replacement of wood stoves with cleaner appliances, valued at $3M. Cong. Jason Chaffetz raised a question about the wood stoves project, Ex. 5 - Deliberative Process Ex. 5 - Deliberative Process Enforcement of the mobile source provisions of the Clean Air Act is not delegated to the states. [Update: DOJ is contacting GAO, and we will discuss next steps thereafter.]

To: Dravis, Samantha[dravis.samantha@epa.gov]; Campau, Anthony P. EOP/OMB[**Ex. 6 - Personal Privacy**
Cc: Bolen, Brittany[bolen.brittany@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Catanzaro, Michael J. EOP/WHO
Sent: Wed 5/10/2017 1:46:15 PM
Subject: RE: Connection

Thanks Samantha. I think a meeting is a good idea to get square on the process. We'll follow up asap to get something scheduled.

-----Original Message-----
From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]
Sent: Wednesday, May 10, 2017 9:22 AM
To: Campau, Anthony P. EOP/OMB < **Ex. 6 - Personal Privacy**
Cc: Bolen, Brittany <bolen.brittany@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Catanzaro, Michael J. EOP/WHO < **Ex. 6 - Personal Privacy** ; Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: Connection

Anthony:

I have to staff the Administrator this morning now and Brittany is speaking at a panel. If this is about the nano rule extension, it's a short term extension. It is not significant.

Ex. 5 - Deliberative Process

Samantha

-----Original Message-----
From: Campau, Anthony P. EOP/OMB [mailto: **Ex. 6 - Personal Privacy**
Sent: Wednesday, May 10, 2017 2:55 AM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: Connection

Great, thanks. Let's connect at 9:00 a.m. then.

Thanks again.

-----Original Message-----
From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]

Sent: Tuesday, May 9, 2017 10:03 PM
To: Campau, Anthony P. EOP/OMB <Ex. 6 - Personal Privacy
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: Connection

I'm free tomorrow from 9-9:30am.

> On May 9, 2017, at 9:35 PM, Campau, Anthony P. EOP/OMB <Ex. 6 - Personal Privacy wrote:
>
> Hey, team. Could you please give me a call at Ex. 6 - Personal Privacy when you get a minute?
>
> Thanks,
> Anthony
>
> Sent from my iPhone

To: Peacock, Marcus C. EOP/OMB[Ex. 6 - Personal Privacy
Cc: Campau, Anthony P. EOP/OMB Ex. 6 - Personal Privacy]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/20/2017 8:17:32 PM
Subject: RE: Reg team meet and greet

That's very welcome.

In the meantime while we are staffing up, I think meeting with Samantha, Byron, Mandy, Sarah, Justin, and I would be best.

From: Peacock, Marcus C. EOP/OMB [mailto: Ex. 6 - Personal Privacy
Sent: Monday, March 20, 2017 10:51 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Campau, Anthony P. EOP/OMB < Ex. 6 - Personal Privacy
Subject: Reg team meet and greet

Ryan,

About six weeks ago I came over with another member of the OMB Beachhead regulatory team (Charlie Dankert) and met with Don Benton, Justin Schwab and Holly Greaves just so we could all see the faces behind the emails and answer any questions they had.

It seems to me it would be a very good idea to do that again as the players continue to change. Specifically Anthony Campau (copied) and myself from the OMB Beachhead could meet with whomever you think would benefit most from such a meeting but, in particular, the policy person (people) running the Policy Shop right now as that is the main interface with OMB on regs. Other policy folks from the major offices (e.g., Air, Water, OSWER) may also be good. We would come to you.

I suggest any of the afternoons of Wednesday or Thursday of this week or Tuesday of next week as possible times to meet.

Marcus

To: Hupp, Sydney[hupp.sydney@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Perrotta, Pasquale[Perrotta.Pasquale@epa.gov]
From: Jackson, Ryan
Sent: Thur 6/1/2017 9:59:16 AM
Subject: Fwd: Morning Energy: Trump's final Paris decision comes today at 3 p.m. — States, cities look at filling climate void — Dakota Access begins shipping today

Well so here's the deal. 3pm.

We'll need to block 2 to 4 for this I think and have him over there before the 3pm. I'll gather more info on specifics.

I guess we are getting the final rose at the boardroom scene at 3. Something like that.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: June 1, 2017 at 5:44:40 AM EDT
To: <jackson.ryan@epa.gov>
Subject: Morning Energy: Trump's final Paris decision comes today at 3 p.m. — States, cities look at filling climate void — Dakota Access begins shipping today
Reply-To: "POLITICO subscriptions" <reply-fe901276736d067d77-630326_HTML-786581600-1376319-0@politicoemail.com>

By Anthony Adragna | 06/01/2017 05:42 AM EDT

With help from Esther Whieldon

DECISION DAY: In a scene that could come straight from reality TV, President Donald Trump today will announce his decision on whether to abandon the 2015 landmark Paris climate agreement today at 3 p.m. in the Rose Garden, he tweeted Wednesday night. Withdrawing from the pact would honor his campaign pledge to "cancel" the deal, but go against the wishes of vast swathes of the U.S. business community, many of his own aides and the international community. Three officials tell POLITICO's Andrew Restuccia and Josh Dawsey that Trump plans to pull out of the deal, though they noted he could still change his mind at the last minute.

Trump's decision comes after months of internal clashes between Trump's warring factions of advisers spilled into the open with a rush of leaks Wednesday, Andrew and Josh report.

And if Trump follows through and withdraws, as expected, opponents of the agreement will have to thank the months-long effort by White House strategist Steve Bannon and EPA Administrator Scott Pruitt to play to his populist instincts and publicly push the narrative the accord was effectively dead. One White House official said the president's team was furiously working on an announcement of the withdrawal on Wednesday.

Some aides were still clinging to hope late Wednesday that Trump may change course and stay in the deal, while drastically scaling back the Obama administration's non-binding carbon cleanup promises, in line with a plan they had previously pushed. Trump had not officially told his entire team of senior aides he was considering leaving the agreement Wednesday when news leaked out, and administration officials cautioned against definitive reporting, warning that the president is notoriously fickle.

Takeaway from one former U.S. official: "Will global leaders trust the U.S. to negotiate a climate treaty ever again? After Kyoto and Paris, who will trust us to keep our word as a nation? Our credibility is gone."

Meanwhile, cities and states aren't waiting: Talks are just getting off the ground but several states, municipalities, and business leaders are in early discussions to create a carbon reduction agreement to replace the cuts that Trump is expected to eliminate, Pro's Eric Wolff reports . Potentially modeled after the "Nationally Determined Contributions" nations submitted to join the Paris agreement, the possible reduction pledge would help show the international community that climate action continues in the U.S. "It is really important to the international community to understand to avoid a knock-on effect of U.S. withdrawal on the actions of other countries," a source working to facilitate the conversations told Eric. Meanwhile, a group of West Coast Democratic lawmakers urged the governors of California, Washington and Oregon to keep pursuing climate policies to "send a signal" to the international community absent federal action.

California not pleased: Gov. Jerry Brown didn't mince words in calling Trump's intent to withdraw from the Paris accord "outrageous" while predicting its effects would be short-lived, POLITICO California's David Siders reports. "I think Trump, paradoxically, is giving climate denial such a bad name that he's actually building the very movement that he is [purporting] to undermine," Brown said in an interview. "You can't fight reality with a tweet."

More European reverberations: European Commission President Jean-Claude Juncker warned Trump about the consequences of following through on withdrawing from the Paris deal, POLITICO Europe's Kalina Oroschakoff reports . "I am a trans-Atlanticist, but if the American president said in the next hours or days that he wants to get out of the Paris climate deal, then it is the duty of Europe to say, 'No, that's not how it works,'" Juncker said at an event in Berlin. "Eighty-three countries run into danger of disappearing from the surface of the Earth if we don't resolutely start the fight against climate change."

Clinton weighs in too: Trump's election rival, Hillary Clinton, said it would be "really stupid" and "totally incomprehensible" to squander the economic opportunities that arise

from addressing climate change if the administration withdraws from the pact. "The President is a very impulsive, reactive personality," she said at the Code Conference in California. "So if we all like the Paris Agreement, he may decide to get out of it. Not even understanding one bit about what that means."

But it's worth taking a step back to remember that regardless of the fate of Paris, Trump has been busy chipping away at Obama's climate policies. Your Pro Energy team looks at all the ways he's already taken shots at Obama's green legacy here.

Carper invokes Exxon vote: Top Senate EPW Democrat Tom Carper urged Trump to look at the fact that more than 62 percent of Exxon Mobil shareholders on Wednesday called for the company to assess how climate change and global efforts to limit temperature increases will affect its business as he mulls the fate of the Paris deal. "President Trump should take note of what happened today as he decides the fate of our country's participation in the Paris Climate Agreement," he said in a statement. "We should seize the economic opportunities that come from combating climate change, not cede our role as a global leader."

Greens gather today: Environmental groups, including 350.org, Sierra Club, Natural Resources Defense Council, Peoples Climate Movement, NextGen Climate and the Center for American Progress Action Fund, are holding a rally outside the White House today at 5 p.m. in support of the Paris accord. The Sierra Club said more than 20,000 people have already called the White House to voice their opposition to withdrawal.

WELCOME TO THURSDAY! I'm your host Anthony Adragna, and congrats to Van Ness Feldman's Jonathan Simon for being first out of the box to correctly guess there are six non-voting members of the House (D.C., Guam, Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands and American Samoa). For today: Who was D.C.'s first modern delegate in Congress? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy , and @POLITICOPro.

CATANZARO GIVEN ETHICS WAIVER: The White House has granted an ethics waiver for energy aide Mike Catanzaro, a former partner at CGCN Group LLC, to participate in matters related to EPA's Clean Power Plan, waters of the U.S. rule and methane regulations. His past clients include Devon Energy, an Oklahoma oil and gas company close to Pruitt, and he has lobbied on behalf of the American Fuel and Petrochemical Manufacturers and the American Chemistry Council, among others. Catanzaro's is one of more than a dozen waivers quietly released Wednesday night after a dust up between the Office of Government Ethics and White House, which initially refused to disclose them.

DAKOTA ACCESS BEGINS SHIPPING TODAY: The hotly-contested Dakota Access pipeline is expected to begin shipping North Dakota oil today to a distribution point in Illinois, the Associated Press reports. That comes even as the North Dakota Public Service Commission plans to look later this summer at whether the pipeline's developer, Energy Transfer Partners, violated state rules during its construction.

GROUP SEEKS REVIEW OF HARLEY SETTLEMENT: The free-market Cause of Action Institute is taking aim at a settlement the Obama administration reached with Harley-Davidson over after-market "super tuner" devices the company sold to boost motorcycles' performance that allegedly led to Clean Air Act Violations. The August 2016 settlement with EPA required the motorcycle manufacturer to fund a program to replace or retrofit wood-burning stoves with cleaner appliances. But Cause of Action says that approach violates the agency's own guidance, and the group says Pruitt ought to take another look at the settlement. "EPA is overstepping its authority by requiring Harley-Davidson to implement an emissions mitigation project that lacks such a sufficient nexus to the underlying violation," the group wrote today in a letter to Pruitt, along with a FOIA request for documents related to the settlement negotiations.

ORDER AIMS AT BOOSTING ALASKAN ENERGY PRODUCTION: Interior Secretary Ryan Zinke signed an order Wednesday calling for a review of opportunities to increase oil drilling in Alaska. He directed Interior to examine whether oil production can increase in the National Petroleum Reserve in Alaska and assess how much oil and gas could be extracted from a piece of the Arctic National Wildlife Refuge, Pro's Ben Lefebvre reports. Officials have 31 days to develop a plan to implement his order. Zinke signed the order following a speech at an Alaska Oil and Gas Association conference in Anchorage. "Rules should be based on science and best practice not on arbitrariness," he said.

Alaska's congressional delegation hailed the move. "This Secretarial Order is exactly the type of announcement that so many Alaskans have been asking for: a smart, timely step to restore access to our lands, throughput to our Trans-Alaska Pipeline, and growth to our economy under reasonable regulations that do not sacrifice environmental protections," Senate Energy Chairman Lisa Murkowski said in a statement.

As for Paris, Zinke sidestepped a question on the climate change agreement that's on everyone's mind this week. Zinke told reporters in Alaska that he has "yet to read what the actual Paris agreement is," and declined to weigh in without having a chance to "sit down and read" it, the Associated Press reports.

RUSSIA LATEST COMPLICATION IN FILLING VACANCIES: Some potential federal appointees are having second thoughts about executive branch appointments given the ongoing investigations into the Trump campaign's ties with Russia, POLITICO's Andrew Restuccia and Josh Dawsey report. "You're going to have a situation where they're going to have trouble getting A-list or even B-list people to sign up," one lawyer advising potential appointees said. The administration has announced nominees for just 117 of the 559 most-important Senate-confirmed positions.

CASSIDY DOWNPLAYS PROPOSED EPA CUTS: Louisiana Sen. Bill Cassidy told attendees of a Covington, La. town hall meeting Tuesday that "EPA is not being dismantled" despite Trump's proposed cut of one-third of the agency's budget and efforts to roll back landmark Obama-era regulations addressing climate change and water quality, among other issues. "Certainly there are regulations being rolled back," Cassidy said. "But the Clean Water Act is still in place. There will not be mercury spewing out. All those

regulations are still in place." (h/t Pro Health Care's Jennifer Haberkorn)

PERRY'S MOVE TOWARD JAPAN: Energy Secretary Rick Perry kicks off a week-long trip to Asia today. He'll stop in Japan and China. Stops include a trip to the Fukushima Daiichi nuclear site where Perry will look at efforts to recover from the 2011 earthquake and participation in the 8th Annual Clean Energy and Mission Innovation Ministerials in Beijing where energy ministers from around the world discuss clean energy efforts.

EPA BOOSTS EAST CHICAGO EFFORTS: Fresh off a visit to the East Chicago, Ind., Superfund site, Pruitt ordered a dedicated community coordinator deployed to the area of the contaminated site and vowed the agency would monthly community meetings to provide updates on cleanup progress. "We will take a more hands-on approach to ensure proper oversight and attention to the Superfund program at the highest levels of the agency," he said in a statement. More information is available here.

ZINKE TO FOCUS ON FOREST FIRES FRIDAY: Zinke and Agriculture Secretary Sonny Perdue will spend Friday in Boise, Idaho — the home of the National Interagency Fire Center — where the two will likely talk about forest fires and prevention techniques. The secretaries will also speak at Boise State University in the morning.

WATCHDOG QUESTIONS IF TILLERSON VIOLATED ETHICS PLEDGE: A nonprofit watchdog group launched to track the Trump administration's activities is questioning whether Secretary of State Rex Tillerson violated his ethics pledge. The group, American Oversight, is raising questions over reports Tillerson appeared at a signing ceremony between his former employer, Exxon Mobil, and the Saudi Basic Industries Corporation concerning a proposed petrochemical complex slated for Texas. American Oversight filed FOIA requests seeking any guidance or waivers issued to Tillerson regarding the signing ceremony, as well as photos of the event and his calendar. Tillerson pledged during his confirmation process not to participate in any matters related to Exxon for one year.

MAIL CALL! STRENGTHEN ENVIRONMENTAL JUSTICE PROGRAM: Democratic Reps. Donald McEachin, Nanette Diaz Barragán and Pramila Jayapal released a letter to Pruitt urging him to build upon and strengthen EPA's environmental justice program. "We must act on climate change, recognizing that frontline communities have continually been most impacted by the effects of climate change," the letter, signed by 43 other congressmen, said. Their calls are likely to fall on deaf ears, though, given Trump's budget zeroed out the program.

MOVE THOSE FERC NOMS ALONG: The U.S. Chamber of Commerce sent a letter to the top Republican and Democrat on the Senate Energy Committee Wednesday, urging them to swiftly advance the nominations Robert Powelson and Neil Chatterjee for open slots on the quorumless FERC. "Mr. Powelson and Mr. Chatterjee have demonstrated a solid grasp on the subject matter within FERC's overview and have a demonstrated record of advocating policy over partisanship," Neil Bradley, chief policy officer for the Chamber, wrote.

PERRIELLO NABS McKIBBEN ENDORSEMENT: Two weeks ahead of the Virginia gubernatorial primary election, Tom Perriello picked up the endorsement of prominent environmentalist Bill McKibben on Wednesday. "Tom Perriello, for the first time in Virginia's political history, has stood up to Dominion Energy," McKibben said. "That's a smart move — what the politically connected utility wants to do is lock the Commonwealth into a future of pipelines and power plants, even as the energy landscape is changing fast in the direction of renewables."

NEEDS IMPROVEMENT: EPA needs to do better at tracking spending on contracts and grants to small businesses to develop and commercialize innovative technologies, GAO said in a report released Wednesday.

EDF PLANS CHALLENGE TO PRUITT METHANE ACTION: Joining the Natural Resources Defense Council, the Environmental Defense Fund announced Wednesday it would challenge Pruitt's decision to stay additional components of the agency's 2016 rule setting methane emissions limits for new oil and gas industry sources. "Colorado, Wyoming and Ohio, already have similar protections in place, which demonstrate the reasonableness of these clean air measures," Peter Zalzal, lead attorney for the group, said in a statement.

The American Petroleum Institute praised Pruitt's decision in its own statement. "As demonstrated through previous regulatory efforts, EPA's focus should be on cost-effective regulations that target emissions of volatile organic compounds, providing the co-benefit of methane emission reductions," the group said in statement.

QUICK HITS

— God 'can take care of' climate change if it's a real problem, congressman says. MLive.

— Lawsuit alleges EPA failed to protect Shenandoah River. AP.

— Trump is deciding on the Paris climate agreement with virtually no science advisers on staff. Vox.

— California, Canada are teaming up to fight climate change — again. USA Today.

— Controversial EPA chief skips Lexington speech, but groups still protest. Lexington Herald Leader.

— EPA sues over tailings near Park City. Salt Lake Tribune.

— Gas May Be Killing the Nuclear Option. Bloomberg.

HAPPENING TODAY

11:30 a.m. — API to release new report on safety, environmental stewardship, and benefits

to local communities, RSVP: SammonB@api.org

12:30 p.m. — "The Political Economy of Forests: REDD+, Good Governance and Land Rights," World Resources Institute, 10 G Street NE, Suite 800

THAT'S ALL FOR ME!

To view online:
https://www.politicopro.com/tipsheets/morning-energy/2017/06/how-pruitt-bannon-outsmarted-ivanka-on-paris-023090

Stories from POLITICO Pro

How Bannon and Pruitt boxed in Trump on climate pact Back

By Andrew Restuccia and Josh Dawsey | 05/31/2017 08:00 PM EDT

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Steve Bannon and Scott Pruitt have sought to outsmart the administration's pro-Paris group of advisers, including Trump's daughter Ivanka, who were hoping the president could be swayed by a global swell of support for the deal from major corporations, U.S. allies, Al Gore and even the pope. But some of that pro-Paris sentiment wound up being surprisingly tepid, according to White House aides who had expected that European leaders would make a stronger case during Trump's trip abroad earlier this month.

Those who want Trump to remain also faced an insurmountable hurdle: The president has long believed, rightly or wrongly, that the U.S. is getting a raw deal under the accord, and it proved nearly impossible to change his mind.

The internal reality show will culminate Thursday when Trump finally announces his decision, after a rush of leaks Wednesday from administration officials saying he was on the verge of pulling the plug on U.S. participation in history's most comprehensive global climate agreement.

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As the news of the impending decision spread Wednesday, White House chief of staff Reince Priebus began calling and fielding calls from lawmakers, indicating that the U.S. was unlikely to stay in the agreement, one person familiar with the conversations said.

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Bannon similarly argued in meetings with Trump and his team that the president would be

breaking his campaign promise to "cancel" the agreement if he decided to remain. And he argued that the accord is a bad deal for the United States because other countries aren't doing enough to curb their emissions.

Pruitt and Bannon's anti-Paris campaign was meant to counter a separate offensive by members of the administration who supported staying in the pact, including Ivanka Trump and her husband, Jared Kushner.

In recent months, Ivanka Trump set up a process in which the president would regularly hear from people who supported remaining in the agreement, according to administration officials.

The remain camp believed, perhaps naively, that Trump could be influenced by the support the Paris deal has received from major corporations, including Exxon Mobil, which Secretary of State Rex Tillerson led for more than a decade.

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Indeed, European officials received a series of mixed messages from Trump's team during the summit. National Economic Council Director Gary Cohn, a Paris supporter and the only U.S. official permitted to attend meetings with G-7 leaders, told reporters that Trump was "evolving" on climate change, which many interpreted to mean that he would remain.

White House officials chalked up Cohn's comments to Trump's habit of echoing the perspective of the last person he talked to. By that time, Bannon and other opponents of the agreement had returned the United States. But Trump's decision to delay a final verdict on the agreement gave Pruitt and Bannon a final opportunity to make their case. Pruitt met with Trump to discuss Paris on Tuesday.

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By Andrew Restuccia and Josh Dawsey | 05/31/2017 08:00 PM EDT

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Trump aides weighing staying in Paris deal, but rejecting Obama pledge Back

By Andrew Restuccia | 03/09/2017 03:08 PM EDT

Trump administration officials are considering a plan to remain part of the nearly 200-nation Paris climate change agreement, while weakening former President Barack Obama's pledge to reduce U.S. greenhouse gas emissions, multiple sources told POLITICO.

The plan has not yet won the buy-in of key Trump aides and the president has not signed off. Sources familiar with the plan cautioned that it remains in flux, and could be scuttled by Trump advisers who are critical of the agreement.

But keeping the U.S. in the 2015 Paris pact would be a victory for some in the Trump administration, including the president's daughter Ivanka and his son-in-law Jared Kushner, who have sought to boost the president's green credentials and fear that pulling out would damage relations with key U.S. allies. Many conservatives have been pushing President Donald Trump to withdraw from the deal altogether, as the president himself pledged to do during the campaign.

One way to square those conflicting imperatives would be to reject the pledge Obama offered as part of the 2015 Paris pact — a nonbinding target for reducing the United States' emissions of planet-warming greenhouse gas emissions. That's increasingly seen within the White House as a possible way forward.

Obama had pledged that by 2025 the U.S. would reduce its greenhouse gas emissions by 26 percent to 28 percent below where it was in 2005.

Weakening Obama's pledge would probably frustrate many American allies, who see the United States' commitment to tackling climate change as a bedrock of the Paris agreement. It would also reflect the likelihood that Trump's push to revoke key Obama environmental regulations would make it more difficult to meet the existing target.

George David Banks, a White House senior adviser on international energy and environmental issues, has briefed people outside the administration on the plan in recent days, according to people who have spoken with him.

Banks discussed the plan during a Thursday meeting with about a dozen fossil fuel industry officials, according to people familiar with the closed-door discussion.

Banks did not respond to a request for comment. A White House spokeswoman said, "We have no announcements to make at this time."

It's unclear when the Trump administration will announce a final decision on its approach to Paris. Sources cautioned a verdict may not be made public for weeks or even months, and could hinge on broader energy-related discussions with other countries.

Ivanka Trump and Kushner, a senior adviser to the president, have been strong advocates of

staying in the agreement, sources said. And other advisers raised fears that withdrawing altogether would greatly damage U.S. diplomatic relations with other countries.

Trump's appointees are separately taking steps to revoke regulations requiring cuts in greenhouse gas pollution from the nation's power plants, among other rollbacks of Obama-era environmental rules.

Those regulations were the bulwark of Obama's promise that the United States, the world's second-largest carbon polluter, would do its share to address the problem — even though scientists have said steeper cuts are needed to avoid catastrophic harm from climate change.

Trump's advisers have sometimes been at odds over how to approach Paris — and Trump's chief strategist, Steve Bannon, is said to be advocating for withdrawing from the agreement. Bannon's influence with Trump could undercut the proposal to stay in the deal.

Some Trump supporters have even hoped he would pull out from the entire decades-old "framework" of United Nations climate negotiations. Such a step would have been even more extreme than former President George W. Bush's abandonment of the 1997 Kyoto climate accord, which made the U.S. an untrusted figure in international climate circles for years afterward.

To clinch the Paris agreement, the Obama administration had to pull off some tricky diplomatic gymnastics, bringing together rich and poor countries that had disagreed for decades about how to divide the burden of curbing the world's carbon output. The pact, reached in December 2015 after two weeks of negotiations in a Paris suburb, followed months of U.S. pressure on China and India to make their own commitments, despite arguments from the developing world that already-wealthy nations should be doing the lion's share.

Ultimately, the talks were successful because negotiators allowed countries to write their own domestic pledges to tackle climate change, rather than imposing across-the-board mandates to slash emissions.

Those pledges are largely nonbinding, which enabled Obama to avoid a politically disastrous ratification fight in the Senate. But that also makes it easier for Trump to change Obama's pledge.

Even if Obama's target remained in place, scientists and climate activists have warned that the deal won't cut carbon pollution enough to prevent the worst effects of climate change, including rising seas and worsening droughts and storms. Instead, they said, countries would need to steadily escalate their targets.

The agreement calls on countries to aim to limit global warming to "well below" 3.6 degrees Fahrenheit from pre-industrial levels, and it said countries should "pursue efforts" to keep temperature increases to 2.7 degrees Fahrenheit. Under a business-as-usual scenario, global temperatures could rise by 4.7 to 8.6 degrees Fahrenheit by the end of the

century, according to scientists, an increase that would have catastrophic consequences for the planet.

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Back

States, cities to boost climate action as Trump's Paris withdrawal looms Back

By Eric Wolff | 05/31/2017 07:49 PM EDT

Amid news that President Donald Trump is preparing to withdraw the U.S. from the Paris climate agreement, several cities, states and private businesses are hoping to accelerate their efforts to fight climate change and fill any gap left by Washington.

Mayors of New York, Los Angeles and other cities are promising to maintain their own commitments to reduce their cities' carbon dioxide emissions, and New York Gov. Andrew Cuomo responded to Wednesday's leaks from the White House with a new proclamation that he would advance "bold" renewable energy goals.

While governments below the national level cannot officially sign onto the Paris agreement, Trump's expected move to pull out of the 2015 accord signed by 195 countries is prompting them to look for other paths they can follow to contribute to the international effort. Sources tell POLITICO that several states, municipalities, and business leaders are in early discussions to create a carbon reduction agreement that could be called a "Societally Determined Contribution," a name that aims to mimic the "Nationally Determined Contribution" that each of the Paris accord's members submitted.

Liberal states like New York and California have already launched efforts to fight greenhouse gas emissions, and climate change is becoming an issue in Virginia's gubernatorial race. And while questions remain whether states, cities and businesses have the political will and the capacity to make a significant contribution to reducing the pollution blamed for global warming, for climate activists,they offer the best chance to reduce emissions.

"Local governments, corporations, individuals, they're the ones who have made a difference in America, and not the Obama administration," said former New York Mayor Michael Bloomberg, now the U.N. Special Envoy for Cities and Climate change. "I think the danger and the damage that the Trump administration decision to pull out would [have] is more psychological -- it isolates us from the rest of the world, it sends exactly the wrong message."

Former President Barack Obama had pledged under the U.S.' Nationally Determined Contribution to reduce carbon dioxide emissions between 26 percent to 28 percent of 2005 levels by 2025. That promise, though not legally binding, was built on Obama's policies like

the Clean Power Plan, which would have shrunk emissions at power plants but is now being unwound by Trump's administration.

Trump tweeted that he'd announce a decision in the "next few days," prompting calls from business heavyweights like Apple's Tim Cook and Tesla's Elon Musk to remain in the global deal, but the local and state leaders are working to develop their plan B to step in for the U.S. on the international climate scene, sources tell POLITICO.

Discussions are still very preliminary, but the participants are trying to come up with a combined carbon reduction from states, cities and businesses to replace the cuts that Trump is expected to eliminate. The structure and operation of the group behind the "SDC" is still unknown, as is the final target, whether it would set a single reduction target for the group or if there will be other clean energy or carbon reduction goals. Developing an agreement would require analysis to determine whether policies like California's carbon price and commitments like Facebook's promise to rely solely on renewable power could be merged, but proponents are hopeful they can find some way to set a target.

"It strikes folks as an obvious thing, a great way to show the international community that there's a lot going on in the U.S." said a source working to facilitate the conversations. "It is really important to the international community to understand to avoid a knock-on effect of U.S. withdrawal on the actions of other countries."

Even without a binding document, states are moving into the space created by the absence of federal action. A group of 18 lawmakers led by Democratic Reps. Earl Blumenauer (Ore.), Jared Huffman (Calif.), and Suzan DelBene (Wash.). sent a letter to Govs. Kate Brown (Ore.), Jerry Brown (Calif.) , and Jay Inslee (Wash.), calling for them to act.

"Given the vacuum in climate leadership that has resulted from the election of Donald Trump, our states must continue to form a 'green wall' in the West that will maintain climate leadership in the United States. The Paris Agreement calls for significant reductions in greenhouse gas emissions, and if Donald Trump's administration won't lead, our states must," the lawmakers wrote.

Virginia Gov. Terry McAuliffe enacted a series of policies that will make the commonwealth "trading ready" for a carbon cap-and-trade program, a move seen as a precursor to Virginia's joining the nine-state Regional Greenhouse Gas Initiative. McAuliffe's successor will have to decide whether to take that next step, thrusting the issue into this year's gubernatorial race, where Republican candidates have been critical of his efforts.

To be sure, there may be limits to what the green-minded cities and states can do. California plus the nine states in RGGI comprised less than 14 percent of U.S. emissions in 2014, according to the Energy Information Administration, and they have been working toward decarbonization for years. Meanwhile, Texas, a state with an intensive energy industry and little appetite for carbon action, contributes nearly 12 percent of U.S. emissions on its own.

Pennsylvania and Illinois are the third and fourth biggest emitters among U.S. states, and both states have active coal-mining industries that would likely oppose aggressive state action. Pennsylvania Gov. Tom Wolf, who signed a letter calling on Trump to stay in the Paris agreement earlier this month, made joining RGGI a campaign promise, but has rarely mentioned it since taking office.

Critics of climate change policies say any state efforts are likely to have no effect, except to raise energy prices.

"Climate regulations at the state and local levels will still be all cost and no climate benefit but I would say that if states want to pursue climate policies that's their prerogative," said Nick Loris, an economist at the conservative Heritage Foundation. "There's also a matter of politics. Even a pretty liberal state like Washington couldn't get through an aggressive carbon tax policy because environmental groups didn't like that the money wasn't being spent on green technologies."

But for environmental leaders, like California's Brown, Trump's expected rejection of the Paris pact has only helped make the case for climate action clearer.

"This current departure from reality in Washington will be very short-lived, that I promise you," Brown told POLITICO in an interview. "I've spoken with Republicans here in the legislature, and they're beginning to get very serious about climate action, so the momentum is all the other way. And I think Trump, paradoxically, is giving climate denial such a bad name that he's actually building the very movement that he is [purporting] to undermine."

Helena Bottemiller Evich and David Siders contributed to this report

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Back

Brown: 'The rest of the world is against' Trump Back

By David Siders | 05/31/2017 04:10 PM EDT

LOS ANGELES — California Gov. Jerry Brown, one of the nation's foremost proponents of efforts to address climate change, on Wednesday called President Donald Trump's planned withdrawal from the Paris climate accord "outrageous," while predicting the effect of the move will be short-lived.

"This current departure from reality in Washington will be very short-lived, that I promise you," Brown told POLITICO in an interview. "I've spoken with Republicans here in the Legislature, and they're beginning to get very serious about climate action, so the momentum is all the other way. And I think Trump, paradoxically, is giving climate denial such a bad name that he's actually building the very movement that he is [purporting] to

undermine."

Brown added, "You can't fight reality with a tweet."

News of the president's decision drew ire from Democrats and environmental groups across the country, nowhere more so than in California, where the state Senate hours later passed major climate legislation requiring utilities to obtain 100 percent of their electricity from renewable sources by 2045.

After the vote, state Senate President Pro Tem Kevin de León told reporters that Trump's decision is "distressing" but that California "will forge ahead."

Brown has been harshly critical of Trump on climate policy, but he said last week that he believed the Republican president to be a political "realist" and that progress on the issue might be "not as disastrous as we thought a few months ago."

On Wednesday, Brown said, "I don't think the Trump deviation will stand."

"Yes, he's making this announcement," the governor said. "But the rest of the world is against him. California is against him. New York is against him. We are for sensible, scientifically based climate action. And this is unfortunate, even tragic, but we will overcome it. And through Trump's outrageous action, the contrary movement is galvanized, and we're mobilizing people, states, provinces and working with other countries to move in a direction that is sustainable and is compatible with what we know we must do to survive."

Brown is preparing to travel this week to China, where he will participate in an international climate summit, meet with Chinese officials and rally support for local efforts to counteract the effects of climate change. The fourth-term Democratic governor, a longtime champion of environmental causes, has helped sign more than 170 mostly subnational governments to a nonbinding pact to limit greenhouse gas emissions.

Asked what he would tell Chinese officials about Trump, Brown said, "I don't think I'll have much to say about the president. I'll have a lot to say about California, and I'll have a lot to say about the 170-plus states and provinces that have joined with California in the 'Under 2' initiative."

To view online click here.

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All the ways Trump is shredding Obama's climate agenda Back

By Ben Lefebvre, Esther Whieldon, Darius Dixon, Alex Guillén and Andrew Restuccia | 05/31/2017 04:45 PM EDT

President Donald Trump's expected decision to withdraw the United States from the Paris climate agreement is a huge morale blow to the worldwide effort to head off the worst effects of global warming. But it's just the latest step in his determined campaign to erase Barack Obama's green agenda.

Pulling out of the Paris deal means that the United States — the world's second-largest producer of greenhouse gases — would no longer take part in the most comprehensive international pact ever crafted on climate change, joining Syria and Nicaragua as the only holdouts among nearly 200 nations.

But Trump's domestic environmental efforts will have the most immediate real-world impact on the planet's fate, by halting Obama's attempts to achieve steep cuts in U.S. carbon emissions and shift the country away from fossil fuels. The impact of those regulation rollbacks and other steps could be equivalent to adding almost 2 percent to the world's carbon output by 2025 compared with Obama's targets, based on recent analyses — at a time when climate researchers say the world urgently needs to accelerate its reductions.

This is POLITICO's rundown of the steps Trump has already set in motion:

Lifting limits on coal

— Trump ordered the Environmental Protection Agency to take the first steps toward repealing Obama's Clean Power Plan, a suite of curbs on greenhouse gas pollution from thousands of existing power plants. Those restrictions, and a separate regulation on future plants, would have encouraged power companies to shift away from coal.

— The administration lifted Obama's freeze on new coal leases on federal land, and halted the Interior Department's formal environmental review of coal leasing charges.

— Interior announced it will repeal an Obama-era rule that threatened to increase companies' royalty payments for coal, oil and natural gas they extract on federal lands.

— Energy Secretary Rick Perry ordered a 60-day review of tax and regulatory policies that "are responsible for forcing the premature retirement of baseload power plants," language suggesting the report will criticize federal support for wind and solar power.

Drill, baby drill

— Trump ordered Interior to end restrictions on oil drilling in Arctic waters, and told it to consider opening up the Atlantic coast for drilling.

— He ordered Interior to rewrite a 2015 rule that called for tighter environmental standards for fracked oil and gas wells on public lands. He also ordered reviews of a rule on offshore oil well safety, as well as one relating to air quality evaluations for offshore oil and gas drillers.

— He signed a congressional repeal of an Interior Department land-use planning update after fossil fuel companies complained it would hurt their access to federal lands.

— EPA withdrew a request for information from oil and gas companies about methane emissions from their operations. The Obama administration's request had been seen as an early step toward regulating those sources.

— Trump ordered the Commerce Department to review all marine sanctuaries established or expanded in the past 10 years for possible oil and natural gas drilling opportunities.

— He reversed Obama's denial of a permit for the Keystone XL pipeline and ordered the Army Corps of Engineers to allow final construction on the Dakota Access pipeline. Neither project would have much impact on the climate by itself, but the moves sent a strong signal of the administration's intention to increase fossil fuel production.

Rolling back regulations

— Trump ordered EPA to reopen its review of Obama's tightened automobile emissions standards for model years 2022-2025. The review is the first step toward relaxing the standards.

— The administration froze the rollout of several Energy Department energy efficiency rules.

— EPA is reviewing whether to continue a 2013 waiver that lets California impose stricter air pollution limits regulations than the federal government does on "non-road" diesel engines like bulldozers and tractors.

— EPA is reviewing several regulations still in litigation, including rules on mercury from power plants, ozone, wetlands and waterways, pollution from heavy-duty trucks, methane emissions from new oil and gas operations, coal plants' pollution discharges into waterways and refrigerants, plus a rule that would let citizen groups sue power plants that exceed emissions limits during startup, shutdown or malfunction.

Cutting climate and green energy programs

— Trump's 2018 budget request proposed a 31 percent cut to EPA's budget, which especially targeted its climate programs. He also proposed cutting climate research at other agencies, including Interior's U.S. Geological Survey.

— EPA reassigned employees who had been working on adapting to the effects of climate change.

— Trump called for eliminating DOE's loan program and its Advanced Research Projects Agency-Energy, which supports commercially risky technologies aimed at reducing

greenhouse gas emissions. The administration also sought deep cuts to offices devoted to fossil, nuclear and renewable energy as well as energy efficiency.

— DOE placed a hold on funding for nearly two dozen ARPA-E projects. Only three have gotten approval under the Trump administration.

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Exxon shareholders win vote to build Paris climate pact into plans Back

By Ben Lefebvre | 05/31/2017 02:37 PM EDT

The Trump administration may be preparing to withdraw the U.S. from the Paris climate change accords, but shareholders at Exxon Mobil and at least one other U.S. oil company are demanding the companies incorporate the international deal in their business models.

Nearly two-thirds of Exxon's shareholders backed a proposal on Wednesday calling for the company to assess how climate change and global efforts to limit temperature increases will affect its business. The vote is non-binding, but the results show that the once-fringe idea of linking climate change to big oil's operations has gained momentum.

The vote at the Exxon annual shareholder meeting in Dallas came after investors in its smaller rival Occidental Petroleum earlier this month cast more than two-thirds of their votes for a measure calling for the company to assess how its business would be affected by the Paris climate change accord's target of holding global warming to 2-degrees. Company credit rating agency Moody's said last year it would start to use the Paris pledge to assess financial risk for corporations.

"Shareholders have spoken clearly on climate," said Danielle Fugere, president and chief counsel for As You Sow, a group that helps shareholders introduce environmental proposals. "If there's less demand for oil and the world is awash in oil, there's going to be more competition among these companies. Shareholders are trying to figure out who is the best bet."

Not all of these climate-related investor proposals succeeded, however. Chevron shareholders Wednesday morning rejected a motion that the company issue a report on how limiting global temperature increase to 2 degrees Celsius (3.6 degrees Fahrenheit) would affect its business. Only 27 percent of voting shareholders approved the proposal, down from more than 40 percent who voted for a similar proposal last year.

Exxon, Chevron and other energy companies facing such proposals argue that they are already taking the Paris agreement seriously and incorporating it into their business plans. Exxon in particular pointed out that it was developing technology that would capture the

carbon emitted at natural gas power plans and then either store it or use it to produce more electricity.

"We believe the goal of carbon policy is to reduce emissions at the lowest cost to society," Exxon Chief Executive Darren Woods said at the shareholder meeting. "These goals led us to support the Paris Agreement." Woods sent President Donald Trump a letter earlier this month urging the U.S. to stay in the Paris deal.

For Exxon, the votes also illustrate how entangled the company has become in New York state climate change politics. The climate change proposal shareholders approved was partly sponsored by the New York State Common Retirement Fund, which is run by the State's comptroller. Meanwhile, the company is embroiled in a lawsuit with the New York and Massachusetts attorneys general over whether it withheld its own research on climate change from shareholders.

"The burden is now on Exxon Mobil to respond swiftly and demonstrate that it takes shareholder concerns about climate risk seriously," New York State Comptroller Thomas P. DiNapoli said in a prepared statement after the vote.

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Feds reach settlement with Harley-Davidson over defeat devices Back

By Alex Guillén | 08/18/2016 12:32 PM EDT

Harley-Davidson riders may have to do a little less freewheel burning after the motorcycle maker agreed to stop selling defeat devices that had EPA spitting flames.

In a lawsuit and settlement announced today, the Justice Department and EPA allege that Harley-Davidson sold 340,000 "super tuners," after-market defeat devices that can be installed on motorcycles to boost their performance. But they also increase emissions of hydrocarbons and nitrogen oxides, which contribute to smog formation.

The company has agreed to buy back and destroy the devices, which it sold at dealerships across the U.S. since 2008. It also will pay a $12 million civil penalty and spend $3 million on air quality mitigation projects.

"Given Harley-Davidson's prominence in the industry, this is a very significant step toward our goal of stopping the sale of illegal aftermarket defeat devices that cause harmful pollution on our roads and in our communities," said John Cruden, DOJ's top environmental prosecutor.

The violations were discovered following a "routine" inspection, according to the agencies.

Any tuners Harley-Davidson looks to sell in the future will have to be approved by the California Air Resources Board.

DOJ and EPA also say Harley-Davidson sold more than 12,000 bikes from 2006 to 2008 that were not covered by a key EPA certification. The company agreed to have all future motorcycle models certified by EPA.

The deal is open to a 30-day public comment period and judicial approval.

To view online click here.

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Zinke signs order to promote oil drilling in Alaska Back

By Ben Lefebvre | 05/31/2017 05:27 PM EDT

Interior Secretary Ryan Zinke today signed an order aimed at sparking additional oil development in Alaska.

Interior will review the possibility of increasing oil production in the National Petroleum Reserve in Alaska and to assess how much oil and gas could be extracted from part of the Arctic National Wildlife Refuge.

The order seeks to revise BLM's Integrated Activity Plan to evaluate "efficiently and effectively maximizing the tracts offered for sale during the next NPR-A lease sale."

It also tells officials to come up with a plan to measure undiscovered, technically recoverable oil and natural gas resources of Alaska's North Slope, focusing in part on Section 1002 of the ANWR.

"Working with the Alaska Native community, Interior will identify areas in the NPR-A where responsible energy development makes the most sense and devise a plan to extract resources," Zinke said in a statement. "We will do it in a way that both respects the environment and traditional uses of the land as well as maintains subsistence hunting and fishing access."

Alaskan Republican Sens. Lisa Murkowski and Dan Sullivan hailed the move. Both senators have submitted bills this year in an attempt to jump-start energy production in the state.

The U.S Geological Survey in 2010 estimated the NPR-A held about 895 million barrels of economically recoverable oil and 52.8 trillion cubic feet of natural gas. In 1995, then-President Bill Clinton vetoed legislation Congress sent him that called for oil and gas

exploration in the 1.5-million-acre Section 1002 of the ANWR.

WHAT'S NEXT: Interior officials have 31 days to come up with a plan to implement Zinke's directive.

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Russia probe scares off potential appointees Back

By Andrew Restuccia and Josh Dawsey | 05/31/2017 05:05 AM EDT

President Donald Trump's effort to fill hundreds of vacant jobs across the federal government has hit a new snag: Russia.

Potential hires are paying close attention to the expanding investigations, which have now begun to touch senior Trump aides, with some questioning whether they want to join the administration.

Four people who work closely with prospective nominees told POLITICO that some potential hires are having second thoughts about trying to land executive branch appointments as federal and congressional investigations threaten to pose a serious distraction to Trump's agenda.

"It's an additional factor that makes what was an already complicated process of staffing the government even harder," said Max Stier, head of the Partnership for Public Service, which has advised the Trump transition on hiring.

According to the nonpartisan Partnership for Public Service, the White House has announced nominees for just 117 of the 559 most important Senate-confirmed positions.

That trails the records of Presidents Barack Obama and George W. Bush, who had each nominated about twice as many people by this point in the first year of their first terms.

Trump has not yet nominated a No. 2 at the Agriculture Department, Education Department, Department of Veterans Affairs or Environmental Protection Agency, and dozens of top positions at every federal agency remain vacant. Trump's nominees for deputy secretary of Commerce and Treasury both withdrew.

One lawyer who represents prospective political appointees told POLITICO that three clients said over the past two weeks that they are no longer interested in working for the Trump administration following the appointment of Robert Mueller as special counsel overseeing the federal investigation into Trump associates' contacts with Russian officials during the campaign.

"There's no doubt in my mind that people are being very cautious, to put it mildly," this lawyer said, adding that there is growing concern in Republican circles that the caliber of hires could deteriorate if the administration's top picks drop out.

"You're going to have a situation where they're going to have trouble getting A-list or even B-list people to sign up," the lawyer added.

Others agreed. "With all that is going on now, there is certainly a greater amount of hesitation," said a former government official who regularly speaks with one of Trump's Cabinet secretaries. "They have a real talent problem that continues to grow."

A White House spokeswoman said the Russia investigation and the series of news stories that have pummeled the administration in recent weeks have had no impact on hiring. She said the president is recruiting individuals "of the highest quality."

But the steady stream of palace intrigue stories about internal tensions and plans for a staff shakeup — after months of rumors about various senior officials getting pushed out — are making it harder to persuade people to join the administration, another White House official said.

White House communications director Michael Dubke said Tuesday he will leave his role, while Trump is weighing the possibility of bringing former campaign aides Corey Lewandowski and David Bossie into the White House.

"It's not the best place to work right now, but you're still working at the White House, so there are far worse jobs," the official said.

Former Bush and Obama administration officials who worked on personnel issues told POLITICO they never struggled to find qualified candidates for top jobs.

"I can't speak to Republicans not wanting to join this administration but, as a general matter, we didn't have trouble recruiting people — quite the opposite," said Lisa Brown, who served as White House staff secretary under Obama for two years.

Along with distracting from lower-level hires, the Russia probe has slowed and complicated the process of filling the administration's highest-profile vacancy — director of the FBI.

Trump administration officials have been frustrated by the difficulties they've faced in finding a new FBI director. Top White House officials, including chief of staff Reince Priebus and chief strategist Steve Bannon, hoped to have made a decision made by now.

Instead, leading candidates Sen. John Cornyn (R-Texas), Rep. Trey Gowdy (R-S.C.) and former Sen. Joe Lieberman have all withdrawn from consideration. The White House is now looking at a new field of candidates, and Trump met with two possibilities — John Pistole and Chris Wray — on Tuesday.

"It's not so easy to find an FBI director in the Trump administration," the White House official said.

The official added that Trump and his senior team are aware that hiring is not moving fast enough at agencies but said that, right now, "It's just not priority No. 1."

A second White House official said he was not aware of any potential nominees dropping out because of the recent news but echoed concerns that the Russia probe would inevitably add to further delays filling empty jobs.

"The problem we are likely to have is it may be difficult to get people to focus on hiring with all of this going on," the official said.

To view online click here.

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EPA to reconsider more provisions of oil and gas well emissions rule Back

By Alex Guillén | 05/31/2017 11:55 AM EDT

EPA today placed a 90-day stay on several additional portions of its 2016 rule setting methane emissions limits for new oil and gas industry sources.

The delay is needed as the agency considers several petitions to reconsider parts of the regulation, EPA said. The agency in April stayed some other portions of the rule, including fugitive emissions requirements, but today's announcement covers other key parts of the regulation.

Two more parts of the rule EPA will now reconsider are standards for well site pneumatic pumps and requirements for closed vent systems to be certified by a professional engineer, according to a Federal Register notice signed by Administrator Scott Pruitt on Friday and running soon.

Those requirements will be placed on hold for 90 days while EPA reviews them, and the agency "intends to look broadly at the entire 2016 Rule," not just the specific portions already identified, according to the notice.

EPA will have to take public comment on any proposed changes to the rule before finalizing them, and could subsequently face litigation.

WHAT'S NEXT: EPA will issue proposed changes to the rule's requirements and take public comment.

To view online click here.

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Yes, very	Somewhat	Neutral	Not really	Not at all

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This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Hupp, Sydney[hupp.sydney@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Konkus, John[konkus.john@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/18/2017 2:31:36 AM
EPA Performance Metrics.docx

With travel this week, we won't hold 8am meetings. We all have our marching orders.

I would really like to develop at least a draft report card for the Administrator by week's end. The economic and jobs data from EPA's new actions featured in the accomplishments report or report card will go toward the Administrator's plans of a jobs ticker and simply otherwise demonstrate the importance of EPA's new actions.

Finally, I would like to start OP with gathering information from any previous reporting and information from the attached metrics largely gathered from information OCFO collects for GPRA report to develop our dashboard and periodic metrics reports. I think there are a number of categories we can use to mix up the dashboard and periodic reporting so that the categories change from time to time.

Thanks.

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Wed 3/15/2017 7:33:12 PM
Subject: Fwd: Resignation

Did you know this was coming?

I guess I don't need to talk to Sarah and robin friday. Well I mean I would love talking to them just not about what we were thinking.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "Schnare, David" <schnare.david@epa.gov>
Date: March 15, 2017 at 2:41:18 PM EDT
To: 2017CareerTransitionLeaders <2017CareerTransitionLeaders@epa.gov>, 2017HQfirstassistants <2017HQfirstassistants@epa.gov>, 2017Regionfirstassistants <2017Regionfirstassistants@epa.gov>
Cc: "Willis, Sharnett" <Willis.Sharnett@epa.gov>, "Brazauskas, Joseph" <Joseph.Brazauskas@mail.house.gov>, Ex. 6 - John Mashburn, EOP <Ex. 6 - John Mashburn, EOP "Catanzaro, Michael J. EOP/WHO" Ex. 6 - Personal Privacy "Bremberg, Andrew P. EOP/WHO" <Ex. 6 - Personal Privacy "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Resignation

Dear colleagues:

Transitions begin and they end. I have been honored to have had the opportunity to serve the Trump Administration, but I have completed as much as I am able. Thus it is time for me to move on.

I will resign effective COB Friday and will be on leave until then.

My contact information for any who wish to remain in touch: Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

I wish each of you the best.

David W. Schnare

Assistant Deputy Administrator

US. EPA

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Thur 5/4/2017 3:32:01 AM
Subject: Re:

I will be here Friday.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On May 3, 2017, at 9:04 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

> Yes of course. Will you not be here Friday ?
>
> Sent from my iPhone
>
> On May 3, 2017, at 7:55 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> Will you hold 9am to meet Friday morning around the Administrator's table for an organizational meeting?
>>
>> Ryan Jackson
>>
>> Chief of Staff
>>
>> U.S. Environmental Protection Agency
>>
>> (202) 564-6999

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 5/2/2017 2:44:51 AM
Subject: RE: Nancy Beck

She started today, and I actually can't find a cell for her. Her email is Ex. 6 - Personal Privacy if you're trying to track her down tomorrow, because I'm sure our crack team have not set her up with any phones or work emails and wont' for a while.

From: Dravis, Samantha
Sent: Monday, May 1, 2017 8:28 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Nancy Beck

May I have her contact info? Not sure her precise start date, but I want to update her on some things we are moving out of OSCPP as an fyi.

To: Jackson, Ryan[jackson.ryan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Kenny, Shannon[Kenny.Shannon@epa.gov]; Bowles, Jack[Bowles.Jack@epa.gov]; Osinski, Michael[Osinski.Michael@epa.gov]; Rees, Sarah[rees.sarah@epa.gov]; Kime, Robin[Kime.Robin@epa.gov]
From: Richardson, RobinH
Sent: Wed 5/17/2017 3:07:23 PM
Subject: OCIR's E.O. 13777 Submission
Regulatory Reform; Regional Recommendations -Final-5.16.17 (003).docx
EO13777OCIR.docx

Hi Ryan, Samantha, Byron & Brittany –

As directed by the Administrator's March 24 memorandum on enforcing the regulatory reform agenda, please find attached a summary of OCIR activities and corresponding discussion and comments received from state and local elected officials and the recommendations provided by the regions regarding rules that should be considered for repeal, replacement, or modification.

As of close of business on May 15, OCIR received recommendations from Regions 1,3, and 8, and coordinated recommendations from all ten regions through the Lead Region Coordinator for air programs. Recommendations from the regional water programs were submitted through the Lead Region Coordinator directly to the Office of Water. The regional recommendations for programs under the Offices of Land and Emergency Management and Chemical Safety and Pollution Prevention were provided by the individual regions.

If you have any questions or would like to discuss further please let us know.

Thank you, Robin

Robin H Richardson

Principal Deputy Associate Administrator

Office of Congressional and Intergovernmental Relations

U.S. Environmental Protection Agency

202-564-3358 (desk)

703-581-5814 (cell)

richardson.robinh@epa.gov

Executive Order 13777
Enforcing the Regulatory Reform Agenda

The Office of Congressional and Intergovernmental Relations' Activities in Support of EPA's Regulatory Reform Task Force

Intergovernmental Association Outreach Meeting on E.O. 13777

On **April 26, 2017**, the Office of Intergovernmental Relations hosted its Quarterly Intergovernmental Association Outreach Meeting for the singular purpose of discussing the Agency's plans for implementing Executive Order 13777, entitled "Enforcing the Regulatory Reform Agenda." Dr. Sarah Rees, Director of EPA's Office of Regulatory Policy and Management, provided the group with background information on the Order, particularly emphasizing its directives relative to the solicitation of input and assistance from State and local governments – among other stakeholders – to identify existing regulations that may be candidates for repeal, replacement or modification, with special emphasis on rules that may have the effect of eliminating jobs or inhibiting job creation, may be outdated or ineffective, may have implementation or compliance costs that exceed environmental health benefits, or may impede the E.O. 13777 review process. The group was further advised of the establishment of EPA's Regulatory Reform Task Force, and how this senior policy group will rely heavily on substantive input from EPA's intergovernmental partners to inform its path forward.

Meeting Participants

In terms of key EPA participants, the session was chaired by OCIR Associate Administrator Troy Lyons and attended by OCIR Deputy Associate Administrators Layne Bangerter, Robin Richardson and Tate Bennett. State/Regional Partnerships Director Ken Wagner and State/Local Relations Director Jack Bowles also were present. Representing the major regulatory programs were: Peter Smith (OCSPP); Sandy Evalenko (OW); Richard Mattick (OLEM); Carissa Cyran and Josh Lewis (OAR). Dr. Sarah Rees, as noted, and Bridgid Curry represented the Office of Policy.

With regard to external participants, representatives of thirty intergovernmental associations were invited to the meeting, as well all governors' staffs and members of EPA's Local Government Advisory Committee. The following organizations/persons participated.

In person:

American Legislative Exchange Council – Michael Bowman
American Water Works Association – Steve Via
Association of Clean Water Administrators – Julian Gonzales
Association of State Drinking Water Administrators – Darrell Osterhoudt

Clark v EPA, No. 1:18-cv-00075 (D.D.C.); EPA-HQ-2017-008007 ED_001710B_00015631-00001

National Association of City/County Health Officials – Eli Briggs
National Association of Clean Water Agencies – Chris Hornback
National Association of Counties – Julie Ufner
National Association of Clean Air Agencies – Bill Becker
National Association of State Departments of Agriculture – Dudley Hoskins
National Conference of State Legislatures – Ben Husch, Kristen Hildreth
National Governors Association – Alex Schaefer
National League of Cities – Carolyn Berndt
National Rural Water Association – Mike Keegan
U.S. Conference of Mayors – Judy Sheahan

By teleconference:

National Governors Association – Andrew Kambour
Office of Gov. Kent Brown (OR) – Drew Johnston
Office of Gov. Eric Holcomb (IN) – Rebecca Holwerda
Office of Gov. Asa Hutchinson (AR) – Katie Beck
Office of Gov. Jay Inslee (WA) – Sam Ricketts
Office of Gov. Dannel Malloy (CT) – Dan DeSimone
Office of Gov. Matt Mead (WY) – Colin McKee
Office of Gov. Bruce Rauner (IL) – Kathy Lydon
Office of Gov. Scott Walker (WI) – Kyle Roskam
Association of Air Pollution Control Administrators – Clint Woods
Connecticut Dept of Energy and Environment – Robert Kalszewski
Interstate Oil and Gas Compact Commission – Gerry Baker
Vermont Department of Natural Resources - Julie Moore
Office of Wyoming Attorney General – Elizabeth Morriseau
Commissioner Kitty Barnes – Catawba County, NC, LGAC member
Scott Bouchie, Director of Environmental Mgt, Mesa, AZ, LGAC member
Mayor Bob Dixon – Greensburg, KS, LGAC member
Dr. Hector Gonzalez, Director, City of Laredo, TX Health Dept, LGAC member
Susan Hann, Director of Planning, Brevard County Schools, Malabar, FL, LGAC member
Commissioner Merceria Ludgood - Mobile County, AL, LGAC member
Mayor Sal Panto – Easton, PA, LGAC member
Commissioner Victoria Reinhardt – Ramsey County, MN, LGAC member
Representative Tom Sloan – Kansas Legislature, LGAC member
Nils Tilstrom – City of Portland, OR
Mayor Steve Williams - Huntington, WV, LGAC
Chairman Shawn Yanity – Stillaguamish Tribe (WA) LGAC member

Discussion

(E.O. 13777 process)

Dr. Rees fielded a number of questions/comments relating to Agency plans for implementing E.O. 13777, including:

1 – How much detail does the Reg Reform Task Force want to see about regulatory concerns? Should we assume that more detail is better? (in short, yes)

2 – What does EPA plan to do with the comments?

3 – To what extent will EPA be considering health impacts of revising or repealing regulations? While it is true that some standards are costly and burdensome, please consider the "human costs" – such as premature mortality or morbidity – of repealing or revising regulations.

4 – We would strongly advise that this be an iterative process, circling back with intergovernmentals sometime after the May 26 progress report to the Administrator is complete.

5 – Please ensure that "per capita affordability" is considered, especially for infrastructure investment. Rural areas are economically disadvantaged to begin with, and "human economics and costs of living" must be factored in.

6 – EPA's various "guidance" documents/policies should be fair game for repeal or revision.

7 – Many State/local groups' issues do not neatly match up with regulations that can be repealed or revised. (Integrated Planning for water, etc) Some of our comments will not align with specific CFR cites, and may cross programmatic and statutory authorities.

8 – Will regulatory repeals and revisions go through the formal notice and comment process? (yes)

9 – Regulatory changes based on costs must consider that some companies, businesses and jurisdictions have invested in compliance, while others have not. Entities that have delayed investing in compliance should not be rewarded for doing so.

10 – We would like to offer recommendations on EPA's organizational practices and policies (e.g. OECA as a stand-alone office or integrated back into programs; reboot relationship between EPA Regions and states; the fact that some Regions are much heavier handed than others; Regions not honoring HQ memoranda, etc)

11 – Even though the budget was taken off the agenda for today, we would like to ask why EPA believes that its stated plan to work more closely with states and localities is consistent with the Administration requesting a 31% cut in categorical grants to states. We were not surprised that the proposed budget includes a staff cut of roughly 1/3, but the grant cuts are inexplicable. It's fine to *not* increase states' funding, but please do not cut it. Can the funding levels cited in the "Bloom memo" be changed?

12 – EPA needs to understand that it's difficult for national associations to formally weigh in. Some states would like to see certain rules revised or repealed, others would not. Our group must have 75% of states agree before clearing a policy resolution; that's a high bar.

13 – Please consult more with tribes, especially on treaty trust responsibilities.
14 – Please keep us apprised of how the "2 for 1" policy will work against the backdrop of E.O. 13777's goals.

Regulation/Program-Specific Comments

15 – EPA's SSO, CSO, blending and by-pass policies, and WOTUS should be repealed. Also, a revised lead and copper rule could potentially cost America's cities billions of dollars. Please let cities set their own priorities.

16 – Counties and cities needed more time to come into compliance with the 75 ppm ozone standard before having the 70 ppm standard finalized. Please repeal the 75 ppm standard.

17 – If costs for EPA's Response Management Plan were properly estimated, it would have triggered formal E.O. 13132 (Federalism) consultation and we would have had ample opportunity to weigh in early in the process. Please repeal this rule, which will cost local governments considerably more than EPA estimated.

18 – TMDLs should be reviewed and revised, especially for the Chesapeake Bay. Counties in the six bay-area states are already overburdened, and forthcoming Watershed Implementation Plans are likely to make the situation worse.

19 – The Pesticides General Permit should be a candidate for revision. Federal standards that existed prior to the PGP were more than adequate.

20 – Be advised that the U.S. Conference of Mayors and the National League of Cities support the Clean Power Plan and related efforts to reduce GHGs.

21 – Please reconsider PM fine standards.

National Governors' Association Meeting on E.O. 13777

On **May 10, 2017**, the National Governors' Association hosted EPA's Office of Intergovernmental Relations and Office of Policy at NGA headquarters for the purpose of discussing the Agency's plans for implementing EO 13777. Tate Bennett, OCIR Deputy Associate Administrator, and Dr. Sarah Rees, Director of EPA's Office of Regulatory Policy and Management, provided the group with background information on the Order, particularly emphasizing its directives relative to the solicitation of input and assistance from state and local governments to identify existing regulations that may be candidates for repeal, replacement or modification.

Meeting Participants

In addition to Tate Bennett and Sarah Rees, EPA participants included OCIR staff Latonia Cheatham-Strickland, Kaitlyn Shimmin, and Becky Cook-Shyovitz.

With regard to external participants, representatives of the governors were invited to the meeting. The following states/persons participated.

In person:

National Governors Association – Alex Schaefer, Anna Davis, Aliza Wasserman, Neil Ohlhausen
Office of Gov. Edmund Brown (CA) – Katie Wheeler Mathews
Office of Gov. Dan Malloy (CT) – Dan DeSimone
Office of Gov. Terry McAuliffe (VA) - Liz Natonski
Office of Gov. Brian Sandoval (NV) – Ryan McGinness
Office of Gov. John Carney (DE) – Danielle (staff intern)
Office of Gov. Bruce Rauner (IL) – Kathy Lydon
Office of Gov. Chris Christie (NJ) – Dona DeLeon
Office of Gov. Andrew Cuomo (NY) – (staff intern)
Office of Gov. Scott Walker (WI) – Kyle Roskam, Sally Fox
Office of Gov. Terry Branstad (IA) – Stephanie Groen
Coalition of Northeastern Governors – Jay Lucey

By phone:

Office of Gov. Charlie Baker (MA) – Tom Daley
Office of Gov. Bill Walker (AK) – Amy Dobson
Office of Gov. Eric Holcomb – Rebecca (staff intern)
Office of Gov. John Hickenlooper (CO) – Laurie Williams

Discussion

EO 13777 (Process)

Dr. Rees and Tate Bennett fielded a number of questions/comments relating to Agency plans for implementing EO 13777, including:

1-What is the process/timeline going forward?

2 - What happens once the Agency identifies a regulation that would benefit from repeal, replacement, or modification? (everything will go through the formal, public APA process)

3 - In the past, some parts of the regulatory process have felt like a "box-checking exercise" with EPA. For example, the Agency would go to ECOS or NGA to seek their opinions, then "check the box" saying they've consulted with states. That doesn't always get back to the states – we need more actual engagement between the Agency and states directly during the regulatory process. (this concern is why NGA & EPA hosted this meeting)

4 - Is there a separate effort for revising the Clean Power Plan, or is that included in this EO? (yes – separate EO and process)

General Comments

5 - EPA is a critically important federal agency for our states. Messages we've gotten from the Administrator seem to point to a "pull back" in EPA's role, which is a concern for us. States view EPA as a public health agency.

6 - States want the ability to regulate above and beyond any retreat of the EPA.

Regulation/Program-Specific Comments

7 - Our state's Clean Water Act is older than the federal act. WOTUS didn't affect us – we were already far beyond that as a state.

8 - Reducing carbon emissions/RGGI – we've made great progress.

9 - Vehicle emissions – concerned about rollbacks. If we're preempted and it causes us to fall back below the federal standard, that's contrary to where our state wants to be.

10 - Importance of TMDLs – need more funding (Chesapeake Bay and Great Lakes)

11 - Ozone transport – states need EPA to level the playing field. There are some areas where we could shut down every emissions source, and the area would still be out of attainment from both interstate and international transport.

EPA's Local Government Advisory Committee: Workgroup Meetings on E.O. 13777

EPA's Local Government Advisory Committee (LGAC) is a chartered federal advisory committee comprised of 35 representative members of elected and appointed state, local and tribal government members. **The LGAC convened seven (7) Workgroup meetings between April 26, 2017 and May 12, 2017,** with the specific purpose discussing and making recommendations for EPA's implementation of E.O. 13777, entitled "Enforcing the Regulatory Reform Agenda." This summary of the LGAC workgroup meetings reflects the views of individual workgroup members.

The LGAC workgroup members were provided with background information on E.O. 13777, particularly emphasizing its directives relative to the solicitation of input and assistance from State and local governments – among other stakeholders – to identify existing regulations that may be candidates for repeal, replacement or modification, with special emphasis on rules that may have the effect of eliminating jobs or inhibiting job creation, may be outdated or ineffective, may have implementation or compliance costs that exceed environmental health benefits, or may impede the E.O. 13777 review process. LGAC workgroup members were further advised of the establishment of EPA's Regulatory Reform Task Force and how this senior policy group will rely heavily on substantive input from EPA's intergovernmental partners to inform its path forward. They also were made aware of and were provided a docket link through which to submit comments of their respective cities, counties, state or tribal governments.

Meeting Participants

Key EPA participants attending these workgroup meetings from OCIR included: Associate Administrator Troy Lyons; Deputy Associate Administrators Layne Bangerter, Robin Richardson, Tate Bennett; State/Regional Partnerships Director Ken Wagner; State/Local Relations Director Jack Bowles; Fran Eargle, DFO for the LGAC; Demond Matthews, DFO for the Small Community Advisory Subcommittee; and, Becky Cook-Shyovitz. Also participating during water-related discussions were John Goodin, Acting Director, Office of Wetlands, Oceans and Watersheds; and Mindy Eisenberg, Acting Director, Wetlands Division. Other participants also included Cindy Barger, representing the Assistant Secretary, Department of the Army, Civil Works.

Local Government Advisory Committee Members (participating in the seven (7) Workgroup Meetings (via Teleconference)

Mayor Bob Dixon – Greensburg, KS, LGAC Chair
Councilor Jill Duson, Portland, Maine, LGAC Vice-Chair
Dr. Hector Gonzalez, Director, City of Laredo, Department of Public Health
Susan Hann, Director of Planning, Brevard County Schools, Malabar, FL
Mayor Sal Panto, Easton, PA
Commissioner Victoria Reinhardt, Ramsey County, MN
Representative Tom Sloan, Kansas Legislature

Mayor Steve Williams, Huntington, WV
Commissioner Dr. Robert Cope, Board Member, City of Salmon Planning Committee, Small Community Advisory Subcommittee Chair
Ms. Terri Goodmann, Assistant City Manager, Dubuque, IA
Mayor Mark Stodola, Little Rock, AR
Mr. Rodney Bartlett, Town Administrator, Peterborough, NH
Legislator Manna Jo Greene, Ulster County, NY
Samara Swanston, Esq., Counsel to NYC Council, Environmental Protection Committee, New York, NY
Mayor Hardie Davis, Augusta, GA
Commissioner Kitty Barnes, Catawba County, NC
State Representative Stephanie Chang, House District 6, State of Michigan
Mayor Elizabeth Kautz, Burnsville, MN
Mr. Kevin Shafer, Executive Director, Milwaukee Metropolitan Sewerage, Milwaukee, WI
Jeff Witte, Secretary of Agriculture, State of New Mexico, Las Cruces, NM
Mayor Karen Freeman-Wilson, Gary, IN
Mayor Norm Archibald, Abilene, TX
Council Member David Bobzien, Reno, NV
Councilor Andy Beerman, Park City, UT
Council Member Brad Pierce, Aurora, CO
Supervisor Ryan Sundberg, Humboldt County, CA

Others
Lindsey Rogers, Water Alliance Now, (On behalf of Commissioner Cynthia Koehler, Marin County, CA)

Discussion

(E.O. 13777 Process)

1 - Chairman Mayor Dixson - Federalism principles are very much needed in rural America. States work very differently but they also work together. Collaboration and communication is needed in going forward. Excited to have the opportunity to give LGAC input on Regulatory Reform.

2 - Chairman Cope - Many regulations or problems that are identified tend to affect small communities and have a more powerful effect on a per capita basis.

3 - Rodney Bartlett - Explaining regulatory impacts to elected officials, citizens and taxpayers has become more difficult than it's ever been in the past. Effective communication is critical.

4 - Rodney Bartlett - In clean-up activities in the City of Peterborough, NH, the lending institution funding a historic town building sought clarification on regulations which were not even applicable. Regulations sometimes are used by other agencies or lending institutions which may misuse the information or not understand the regulations and rules.

5 - Representative Tom Sloan - Regulations should be reviewed to make certain the nation has the flexibility to adapt to potentially changing economics of various energy sources and not eliminate the possible utilization of any economically efficient fuel sources that may arise in the future.

6 - Legislator Manna Jo Green - Unless environmental protection goals have been reached, there should not be a requirement to rescind regulations based on a "2 for 1" policy.

7 - Terri Goodmann - Regulatory reform has important concerns for our agricultural community. We are committed to green infrastructure approaches and to deal with flood disasters and must consider how these issues are impacted.

8 - Mayor Bob Dixson - Regulations should be subject to ongoing review and analysis, identifying those that are outdated, in need of revision, replacement or modification. When a regulation is changed it should be written so that it is clear that it supersedes, replaces or modifies a current regulation.

Environmental Justice

9 - Dr. Gonzalez - Interested in how the EJ 2020 plan is being implemented and weighing the impacts of regulations on small and disadvantaged communities.

10 - Mayor Steve Williams - From my city (mining town), regulatory reform is important to balance pollution minimization with EJ concerns and economic justice. Account for the effect of regulations and how they impact economic justice and communities' ability to "*put people to work.*"

11 - Samara Swanston - New York City is fairly aggressive at protecting public health and the environment, especially in EJ communities. Many of these minority communities need to be protected and regulations often are the only protective measures. In NYC regulations actually create more jobs than they eliminate.

12 - Legislator Manna Jo Green - The public engagement process, especially in EJ communities, can lead to better regulations and implementation. In Kansas City, MO, a storm water consent decree yielded better results by engaging the EJ community on environmental problems and solutions. These decisions allowed the community to opt for green infrastructure which had enormous economic gains for the city.

Regulation/Program-Specific Comments

<u>Waters of the U.S. (WOTUS)</u>

13 - Mayor Elizabeth Kautz - Would like to see the LGAC's work, specifically two reports, considered within the process of Regulatory Reform: *Clean and Safe Drinking Water, LGAC's*

Findings and Recommendations [1]and *Report and Initial Findings Pertaining to EPA's Clean Water Act Waters of the U.S. Proposed Rule.* [2] These reports represent the views of elected and appointed officials across the U.S.

14 - Mayor Norm Archibald – Permitting issues are important to the city of Abilene, Texas. The city is in the process of building a major reservoir currently that will involve a Clean Water Act Section 404 permit and we do not want the permitting process to hinder its development. The reservoir is too important to our community for drinking water.

15 - Commissioner Victoria Reinhardt – "Waters of the U.S." needs clear definitions. This is very important and there may need to be regional determinations.

16 - Council Member Dave Bobzien - Nevada is one of the driest states in the nation. The mining industry, agricultural interests and municipalities have a reliance on water from the Colorado River. Not only is quantity an issue but water quality is very important. It is our drinking water supply and we are dependent on it economically because we are a recreation town. Our boaters, anglers and other folks certainly are following this issue.

17 - Mayor Elizabeth Kautz - On WOTUS, the LGAC pulled together views from across the country to help everyone understand its impact on our waters as well as the economic balance. In Minnesota, the Mississippi River is important to us, as are wetlands and continuous surface connections to those main water bodies. Wetlands also filter our water and have an impact on our aquifers.

18 - Susan Hann - With respect to withdrawal of the WOTUS rule, it provides another opportunity in the context of permit reform. It will be much more successful because the permitting process is really what needs to be fixed in order to make it more predictable and more timely.

Clean Water Act Section 402 -NPDES

19 - Rodney Bartlett - Effluent discharges under new NPDES permits must meet a lead standard that is more restrictive than the drinking water lead standard. The fact that effluent needs to be cleaner than drinking water or background river levels produces concerns results in a lot of local pushback for elected officials by rate payers.

20 - Council Member Andy Beerman - Park City, Utah, has challenges with water sources which come from mining tunnels. The City must provide treatment for a percentage that must be returned back into the stream for aquatic life, which has a higher standard than for consumption/culinary purposes. The City constructed a $220 million water treatment plant to meet the regulatory requirements for stream quality. This has resulted in expensive water bills for a small community of 800 people.

[1] https://www.epa.gov/sites/production/files/2016-10/documents/lgac_water_report_-final-draft_3.1.pdf

[2] https://www.epa.gov/sites/production/files/2015-10/documents/11.5.14_w.o.t.u.s._report.pdf

21 - Secretary Jeff Witte - On the NPDES Pesticides application rule, there often are conflicts with other statutes such as the Rodenticide Act and other state laws. States are often in the middle trying to interpret. There should be more state flexibility.

Safe Drinking Water Act

22 - Chairman Robert Cope - Standards should take into account natural background levels of potential contaminants. In Idaho there are challenges in meeting compliance levels for arsenic in the drinking water. However, natural source water has high levels of background arsenic. Regulations should take into account natural background levels.

23 - Dr. Hector Gonzalez - Of particular concern are emerging contaminants. We need to make sure that we have the appropriate regulations to protect against current contaminants, but also look toward the future at what other contaminants need to be addressed, and potential impacts of those regulations.

Clean Air Act

24 - Commissioner Robert Cope - EPA should delay the tightened ozone standard (75 ppb) until the current standard has been fully implemented. The ozone standard should roll back to 70 ppb.

25 - Commissioner Kitty Barnes- Counties are both regulator for and regulated entity under the Clean Air Act. States' duties with counties are very different. For example, 45% of counties own and maintain American roads. In a nonattainment area, we're required to do transportation conformity, which is expensive and time consuming. States have to cut back on the number of monitors they have. Counties who have them are at a higher risk of being designated nonattainment. Many counties don't have the staff or technical expertise to implement some of these rules and it leaves counties open to lawsuits.

26 - Commissioner Kitty Barnes – EPA must consider the cost of the regulation beyond just the cost of environmental compliance. (public safety, education, housing) Counties are faced with a wide array of unfunded mandates, and the environmental realm is just one area of those. A county designated as nonattainment for ozone lost 25,000 jobs within 4 years. Many of those 25,000 employees lost their health coverage, leading to higher healthcare costs for the county.

27 - Representative Tom Sloan - In Kansas, spring burning for agricultural production in state pastures puts us out of ozone compliance. (also helps control wildfires) Changing the standard would help a lot of the agricultural states economically.

28 - Commissioner Robert Cope - The Clean Power Plan rule requiring retrofits to existing plants is very problematic. It's not always cost-efficient for plants to change over from coal-fired to natural gas.

29 - Commissioner Kitty Barnes - Mobile sources are a major contributor to PM nonattainment.

However, counties have no control over what's passing through our counties and therefore should not be penalized.

30 - Commissioner Robert Cope - In areas not meeting attainment, there should be a way to determine the source of the problem to actually determine whether it is within that nonattainment area or outside of it. If the source is outside the jurisdiction, the jurisdiction should not be penalized.

31 - Commissioner Kitty Barnes - On Clean Air Interstate Rule, we have not seen the changes expected from that rule.

Worker Protection Standard

32 - Secretary Jeff Witte - Exclusion zones in the Worker Protection Standard pose challenges for pesticide applications. For example, the 100 feet exclusion poses problems near highways. There needs to be more flexibility while keeping provisions to protect workers.

33 - Dr. Hector Gonzalez - Training for the Worker Protection Act should be expanded and presented in multilingual formats and communicated in ways that it is understood.

Brownfields Clean ups

34 - Chairwoman Duson - The Brownfields Program has earned a lot of positive feedback on local job creation for the green economy and local economic growth. The Agency should consider the LGAC letters on Brownfields clean up and job training programs.[3]

[3]https://www.epa.gov/sites/production/files/2016-02/documents/lgacbrownfields-dec9-2015.pdf

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 3:31:10 PM
Subject: Re: Proposed FR Notice Announcing Review of ORD Draft Integrated Science Assessment

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 9:24 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Are you okay with moving forward on this?

From: Connors, Sandra
Sent: Tuesday, March 7, 2017 10:00 AM
To: Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Schnare, David <schnare.david@epa.gov>; Flynn, Mike <Flynn.Mike@epa.gov>; Kenny, Shannon <Kenny.Shannon@epa.gov>
Subject: Proposed FR Notice Announcing Review of ORD Draft Integrated Science Assessment

Samantha – Good morning and welcome to EPA!

As you are working through the backlog of FR notices, David Schnare asked that I share with you this ORD submission to publish for external review and comment a draft Integrated Science Assessment (ISA) for Oxides of Nitrogen Oxides of Sulfur and Particulate Matter – Ecological Criteria. This report updates previously published 2008/2009 ISAs. The request to move forward with publication in the FR was originally vetted with Don Benton several weeks ago, and then subsequently reviewed with David over the last week. While David has not reviewed the entire document, he has indicated he is comfortable with proceeding to take comment on this extensive report.

The public comment will feed into a public meeting of the Clean Air Scientific Advisory Committee (CASAC) on May 24-25. ORD is eager to get this published given the length of the document and the need to provide the comments in advance to the CASAC members. Sarah Rees has been extremely helpful in navigating the FR process and is aware of this submission.

Sandra

Sandra L. Connors
Senior Advisor

Office of the Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, Room 3411
Washington, DC 20460
(202)564-4231

connors.sandra@epa.gov

To: Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Wed 3/15/2017 11:59:40 PM
Subject: Fwd: Dental amalgam and the 2:1 EO

I'd like OGC to weigh in on this. We need to get this out.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "Dravis, Samantha" <dravis.samantha@epa.gov>
Date: March 15, 2017 at 6:43:21 PM CDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Brown, Byron" <brown.byron@epa.gov>
Subject: Re: Dental amalgam and the 2:1 EO

Ex. 5 - Deliberative Process

Sent from my iPhone

On Mar 15, 2017, at 7:23 PM, Rees, Sarah <rees.sarah@epa.gov> wrote:

$100 million is just one factor - there's also significant national policy, etc. This was an OMB significant rule and went thru interagency review.

On Mar 15, 2017, at 7:05 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Isn't significant rule defined as $100 million?

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 15, 2017, at 5:59 PM, Rees, Sarah <rees.sarah@epa.gov> wrote:

Hi folks. Sorry for the late hit on this, but after hearing this am that we are proceeding with dental amalgam, I started thinking through potential implications of the 2:1 memo.

We believe dental amalgam is caught by the 2:1 EO because 1) it is a significant rule, with costs estimated to be approximately $60 million on an annual basis, and 2) while it was signed by the previous Administrator, it has to be signed by Administrator Pruitt in order to be published in the Federal Register, so would be a rule issued after 1/20/2017. OMB guidance further clarifies that actions proposed prior to 1/20/2017 are included.

Under the 2:1 EO, we have to identify 2 deregulatory actions for each new significant action that we do. We also have to offset the costs of the new action, and for fiscal year 2017 be net zero on regulatory costs. OMB's guidance on the 2:1 EO clarifies that we need to identify the 2 deregulatory actions and how we will offset the cost prior to issuing the new action. Their guidance further specifies that the most appropriate way to do that is to discuss in the preamble of the rule. So we would have to 1) identify the deregulatory actions, 2) find the cost offsets, and 3) describe this in the preamble before issuing the rule according to OMB's guidance. We also have to finalize the 2 deregulatory actions this fiscal year.

Dental amalgam is estimated to cost $60 million per year. So we'd have to identify a total of $60 million per year saving from other rules that would be finalized in fiscal year 2017. We are in the preliminary stages of assessing where we are in terms of required cost offsets - $60 million per year is significant and unless some larger rules are rolled back – and rolled back in a way that we can be net-zero in fiscal year 2017 – it will be tough for us to meet. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Let me know if you have any questions or need anything else.

Cheers,

Sarah

Sarah L. Rees, Ph.D.

Director, Office of Regulatory Policy & Management

US EPA – Office of Policy

(202) 564-1986 (o) | (202) 407-5074 (m)

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Torma, Tim[Torma.Tim@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Cozad, David[Cozad.David@epa.gov]
From: Starfield, Lawrence
Sent: Thur 4/6/2017 4:16:08 PM
Subject: Daily Enforcement Report
OECA Daily Report carry-over items 4 6 17.docx

Ryan,

I wanted to give you a heads up on one new Item:

VW: In accordance with the settlement entered by the U.S. District Court on October 25, 2017, Volkswagen has submitted its zero emission vehicle investment plan. The Settlement requires that the initial Investment Plan describe how Volkswagen intends to spend at least $300 million on zero emission vehicle infrastructure and public awareness activities over the initial 24-month period of a ten-year investment obligation. While the Settlement establishes certain requirements for the investments (e.g. charging infrastructure must accommodate the two currently existing non-proprietary connectors) the settlement explicitly provides that VW is "solely responsible for every aspect of selecting" the type, timing and location of charging infrastructure to be installed. EPA's role in review of this plan is limited to verifying that the plan complies with the requirements of the settlement. After comparison of the proposed investment plan to the requirements of the settlement, the Air Enforcement Division (AED), in consultation with the Office of Transportation Air Quality (OTAQ) have determined that the proposed plan meets the requirements of the Settlement. As is the normal course of business on settlement deliverable approvals, AED is preparing to issue the formal EPA approval of the Investment Plan during the week of as soon April 10, 2017.

Also, a reminder that our comments are due today on a NEPA item from the April 4 daily report:

Atlantic Coast Pipeline Project: EPA comments on a draft Environmental Impact Statement prepared by FERC for the Atlantic Coast Pipeline and Supply Header Project are due today, April 6. This natural gas pipeline project includes 640 miles of pipeline in WV, PA, VA, and NC as well as a number of new compressor stations, and is one of the largest natural gas pipeline projects in the region. Potential environmental impacts include aquatic resource impact and potential impact to groundwater and drinking water if failure occurs associated with karst topography and rugged landscape. The project is a Fast 41 project. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process OECA and Regions 3 and 4 briefed Byron Brown on this matter on 4/3.

Also attached is a list of all items awaiting clearance. Please let us know if you have questions or need further information.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

(202) 564-2440 (office)
(202) 564-8179 (direct)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

OECA Daily Reports - Carry-over items awaiting clearance

From 4/5 – No new items, no report.

From 4/4 –

Atlantic Coast Pipeline Project: EPA comments on a draft Environmental Impact Statement prepared by FERC for the Atlantic Coast Pipeline and Supply Header Project are due April 6. This natural gas pipeline project includes 640 miles of pipeline in WV, PA, VA, and NC as well as a number of new compressor stations, and is one of the largest natural gas pipeline projects in the region. Environmental concerns include aquatic resource impact and potential impact to groundwater and drinking water if failure occurs associated with karst topography and rugged landscape. The project is a Fast 41 project. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process OECA is working with Regions 3 and 4 on our comment letter, and we are briefing Byron Brown on the matter this afternoon.

From 4/3 - No new items needing clearance

From 3/31 – No new items needing clearance. Sunoco cleared.

From 3/30 – No new items needing clearance

3/29/17 – no report. Shifting to morning reports.

From 3/28/17

No new items.

From 3/27/17

From 3/24/17

No new items.

From 3/23/17

Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process

From 3/22/17

No new items.

From 3/21/17 daily report

Ex. 5 - Deliberative Process

From 3/20/17 daily report - resolved

From 3/17/17 daily report

The Toa Alta Municipal Solid Waste Landfill in Puerto Rico is posing significant risks to public health and the environment. The liner and leachate controls have been abandoned and damaged, and large volumes of uncontrolled contaminated leachate and storm water are being released. The landfill, which is already filled to capacity, is located over an important drinking water aquifer and is in close proximity to residences. During the week of March 20, Region 2 plans to issue a unilateral administrative order under RCRA §7003 (an "imminent and substantial endangerment" provision) to the municipality and several companies that presently or formerly operated the landfill, requiring: certain urgent improvements to operations at the landfill; the prompt evaluation and repair, if possible, of the leachate control system; the permanent cessation of waste receipt at the landfill by a specified date, followed by the application of an intermediate cover; and steps to minimize the landfill serving as a breeding ground for mosquitoes carrying the Zika virus (a significant health threat on the island). No penalty is being sought.

Region 2 has previously taken enforcement actions to abate threats at twelve other landfills in Puerto Rico. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process OECA and Region 2 briefed Justin Schwab on this matter on February 15, 2017. This is a time-sensitive matter, given the

overflows from the landfill. If possible, we'd request a response as soon as possible.

From 3/16/17 daily report:

Westward Seafoods - Westward Seafoods operates a seafood processing facility in Dutch Harbor, Alaska that violated the Clean Air Act by operating for two years without using required air pollution controls, resulting in illegal emissions of 105 tons of NOx. The company has a history of serious noncompliance and was the subject of a prior EPA enforcement action. EPA and the State of Alaska, as co-plaintiffs, have negotiated a compliance agreement to resolve the current violations. The agreement requires Westward to correct the violations, install a new monitoring system, and retain an independent third party to verify its compliance. Westward will also implement two energy efficiency environmental mitigation projects at its facility, to offset the illegal NOx emissions, and pay a $1.3M penalty. DOJ was hoping to lodge the agreement in federal district court during the week of March 20, and is waiting to hear from us. We briefed Justin on this case in February.

From 3/15/17 daily report:

US v. Luminant – cleared 4/4.

From 3/14/17 daily report:

Clean Air Act Section 114 information requests – Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

From 3/13/17 daily report:

U.S. v. Harley Davidson – Harley Davidson sold over 340,000 devises that illegally increased emissions from motor cycles and 12,000 motor cycles that were not properly certified under the Clean Air Act, resulting in significant emissions of hydrocarbons and NOx. This week, DOJ would like to file a Motion to Enter the compliance agreement in which Harley agreed to pay a penalty of $12M for these violations. Harley also agreed to mitigate the effects of its violations through funding the replacement of wood stoves with cleaner appliances, valued at $3M. Cong. Jason Chaffetz raised a question about the wood stoves project, Ex. 5 - Deliberative Process Ex. 5 - Deliberative Process Enforcement of the mobile source provisions of the Clean Air Act is not delegated to the states. [Update: DOJ is contacting GAO, and we will discuss next steps thereafter.]

US v. Nevada Cement - Nevada Cement violated the CAA when it made major modifications to its plant, resulting in significant increased emissions of NOx, without first obtaining a required permit and without

installing necessary pollution control equipment. DOJ intends to move to enter a compliance agreement in which Nevada Cement has agreed to install new air pollution control equipment that will reduce NOx emissions by approximately 1,140 tons per year, costing approximately $2.5 million, and pay a penalty of $550,000. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process DOJ has been prepared to file this settlement with the court since March 15, and is waiting to hear from us.

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Torma, Tim[Torma.Tim@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Strauss, Alexis[Strauss.Alexis@epa.gov]; Pirzadeh, Michelle[Pirzadeh.Michelle@epa.gov]
From: Starfield, Lawrence
Sent: Wed 4/19/2017 9:58:25 PM
Subject: Daily enforcement report
OECA Daily Report carry-over items 4 19 17.docx

Ryan,

Here is today's daily report from OECA (sorry it's late in the day). We wanted to give you a "heads up" on two items:

Criminal Sentencing on April 20 in RINs Fraud case - On April 20, 2017, former Gen-X CEO Scott Johnson will be sentenced in federal district court in the State of Washington for Conspiracy to Commit Wire Fraud and Conspiracy to Defraud the Government, for fraudulently generating/selling counterfeit biofuel credits. Gen-X Energy Group, Inc. was a renewable energy company formerly located in Pasco and Moses Lake, Washington. Between March 2013 and May 2014, co-conspirators laundered the proceeds of schemes to falsely claim the production of marketable renewable energy credits, and filed false claims for refunds of excise credits with the IRS. Throughout this period, much of the renewable fuel claimed to be produced at the Gen-X facilities was either not produced or re-processed multiple times. In total, over $39 million in proceeds of the scheme were laundered and at least 60 million renewable identification numbers (RINs) were created that were based on fuel that was either never produced or was merely re-processed. Johnson pled guilty to these crimes on November 24, 2015. The sentence is likely to include restitution of illegal profits and a number of years of incarceration.

Freeport Uranium Mine Superfund Settlement, Navajo Nation – Sometime in the next week, the United States and the Navajo Nation will be filing a motion to enter a compliance agreement (/consent decree) in the next few days with two affiliated subsidiaries of Freeport-McMoRan, Inc. (Freeport), the Department of Energy, and the Department of Interior (DOE/DOI), for the cleanup of ninety-four (94) abandoned uranium mines on the Navajo Nation. Under the settlement, which covers cleanup work valued at over $600 million, Freeport will perform the work and DOE/DOI will contribute approximately half of the costs to the cleanup. DOE/DOI funding will come from the Judgement Fund, which are funds set aside to meet United States

obligations when no existing Agency appropriations are authorized for such purpose. The settling parties also agreed to pay EPA's past costs ($3.1 million), and Freeport will pay EPA's and the Navajo Nation's future oversight costs. Public comments on the proposed agreement were not averse to the settlement.

Also attached is the list of the items awaiting clearance. Please let us know if you have questions or need further information.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

(202) 564-2440 (office)
(202) 564-8179 (direct)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

OECA Daily Reports - Carry-over items awaiting clearance

From 4/18 – No new items

From 4/17 – No new items, XTO Energy cleared

From 4/14 - No new items, reminder of deadline on XTO Energy

From 4/13 - No new items, no report

From 4/12 – No new items, no report

From 4/11 – Report on deadline for XTO Energy

From 4/10 – Heads up on appellate brief in U.S. v. Citgo

From 4/7 – no new items, no report

From 4/6 - Heads up on deliverables under the VW settlement. No new items needing Clearance.

From 4/5 – No new items, no report.

From 4/4 – Report on deadline for NEPA comments on Atlantic Coast Pipeline – cleared.

From 4/3 - No new items needing clearance

From 3/31 – No new items needing clearance.

From 3/30 – No new items needing clearance

From 3/29/17 – no report. Shifting to morning reports.

From 3/28/17 No new items.

From 3/27/17

From 3/24/17 No new items.

From 3/23/17 - Report on Manke Lumber -- cleared, 4/4/17. Report on Ex. 7(a) - cleared, 3/31/17.

From 3/22/17 No new items.

From 3/21/17 daily report – deadline on S.H. Bell - -cleared 3/23/17.

Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

From 3/20/17 daily report – Deadline on VW case – cleared 3/23/17. Deadline on Maxus SF case – cleared 3/22/17.

From 3/17/17 daily report – Report on Toa Alta -- cleared, 4/10/17.

From 3/16/17 daily report – Report on Westward Seafoods -- cleared, 4/10/17.

From 3/15/17 daily report: Report on US v. Luminant – cleared 4/4.

From 3/14/17 daily report:

Clean Air Act Section 114 information requests – Ex. 5 - Deliberative Process, Ex 7a

Ex. 5 - Deliberative Process, Ex 7a

From 3/13/17 daily report:

U.S. v. Harley Davidson – Harley Davidson sold over 340,000 devises that illegally increased emissions from motor cycles and 12,000 motor cycles that were not properly certified under the Clean Air Act, resulting in significant emissions of hydrocarbons and NOx. This week, DOJ would like to file a Motion to Enter the compliance agreement in which Harley agreed to pay a penalty of $12M for these violations. Harley also agreed to mitigate the effects of its violations through funding the replacement of wood stoves with cleaner appliances, valued at $3M. Cong. Jason Chaffetz raised a question about the wood stoves project, Ex. 5 - Deliberative Process Ex. 5 - Deliberative Process Enforcement of the mobile source provisions of the Clean Air Act is not delegated to the states. [Update: DOJ is contacting GAO, and we will discuss next steps thereafter.]

US v. Nevada Cement - Nevada Cement violated the CAA when it made major modifications to its plant,

resulting in significant increased emissions of NOx, without first obtaining a required permit and without installing necessary pollution control equipment. DOJ intends to move to enter a compliance agreement in which Nevada Cement has agreed to install new air pollution control equipment that will reduce NOx emissions by approximately 1,140 tons per year, costing approximately $2.5 million, and pay a penalty of $550,000. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process DOJ has been prepared to file this settlement with the court since March 15, and is waiting to hear from us.

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/13/2017 6:55:48 PM
Subject: Re: Time Sensitive - OMB Midnight Rules - Confirm Action Plan

Yes thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 13, 2017, at 2:27 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ryan,

I spoke with Byron and I wanted to confirm my understanding of the decisions that you and he reached late Friday afternoon regarding the midnight rules that are set to go effective March 21st unless we act.

Ex. 5 - Deliberative Process

Thanks and let me know if we need to chat further.

Samantha

EPA	Regulatory Action	Hazard Ranking System	• Addition of a Subsurface Intrusion Component to the Hazard Ranking System Final Rulemaking (1/19/17). This rule allows Subsurface Intrusion to be included as a factor in scoring a contaminated site under the Hazard Ranking System for inclusion on the Superfund National Priorities List.	Extended effective date until 3/21
EPA	Regulatory Action	Pesticides	• Certified Applicators of Restricted Use Pesticides Final Rule (1/4/17). Only certified applicators can spray restricted use pesticides. The final rule published on January 4, 2017 updates competency standards and raises the minimum age of certified applicators. Under the rule, states submit plans for EPA's approval that explain how state certification programs comply with the updated standards.	Extended effective date until 3/21
EPA	Regulatory Action	Emission Standards	Formaldehyde Emission Standards for Composite Wood Products: Delayed until 3/21/2017. FR Document Numbers 2016-27987 (2017-01822)	Extended effective date until 3/21
EPA	Regulatory Action	Biomass Fuel Standards	Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018: Delayed until 3/21/2017. FR Document Numbers 2016-28879 (2017-01822)	Extended effective date until 3/21
EPA	Regulatory Action	Emission Standards	Revisions to National Emission Standards for Radon Emissions from Operating Mill Tailings: Delayed until 3/21/2017. FR Document Numbers 2016-31425 (2017-01822)	Extended effective date until 3/21

EPA	Regulatory Action	CAA Risk Management	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act: Delayed until 3/21/2017. FR Document Numbers 2016-31426 (2017-01822)	Extended effective date until 3/21
EPA	Regulatory Action	Civil Penalties	Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits: Procedures for Decisionmaking: Delayed until 3/21/2017. FR Document Numbers 2016-31638 (2017-01822)	Extended effective date until 3/21
EPA	Regulatory Action	State Implementation Plans	Partial Approval and Partial Disapproval of Attainment Plan for the Idaho Portion of the Logan, Utah/Idaho PM2.5 Nonattainment Area: Delayed until 3/21/2017. FR Document Numbers 2016-31643 (2017-01822)	Extended effective date until 3/21
EPA	Regulatory Action	Air Quality	Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter: Delayed until 3/21/2017. FR Document Numbers 2016-31747 (2017-01822)	Extended effective date until 3/21

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 2:36:09 PM
Subject: Re: regulatory policy officer - need to designate for EPA

Yes. So I emailed a memo yesterday to get us on track with how we are helping to implement or coordinate the EO's thus far. There's three which deal with us and 1 dealing directing on wotus which we've already begun acting upon.

However there the RRO one which I agree needs to be you. Initiate the paperwork on that should Pruitt need to sign.

The other two are how EPA is working to expedite reviews when critical infrastructure is designed and we need a point person on that. And how EPA is coordinating with Commerce on reducing barriers to domestic manufacturing. And we need a point person on that.

I will get on the later two while you're away. But let's get on the RRO one this week. Entirely agree.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 7:04 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

RJ: One of the EO's requires that all the agencies designate a "regulatory policy officer" in the agency.

Previous EO's have had this requirement as well, and the Office of Policy director has always been designated as this person, is my understanding. It is just designating a person who interfaces w OMB, as my job already does.

I've talked to a couple people who have indicated it would be good to designate me as the regulatory policy officer somewhat soon.

Can we move forward on this, or did you have something else in mind? Not sure if this was even on your radar.

Thanks!!

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/13/2017 6:56:17 PM
Subject: Re: Federal Register Notice requesting comments on candidates for peer review of lead modeling approaches

Please do.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 13, 2017, at 2:19 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process This was raised in the senior staff meeting, it needs to go today to be submitted to OFR in time.

From: Shapiro, Mike
Sent: Tuesday, March 7, 2017 5:42 PM
To: Schnare, David <schnare.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Flynn, Mike <Flynn.Mike@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: Federal Register Notice requesting comments on candidates for peer review of lead modeling approaches

Following up on our previous communications, and as noted in our report last week, I anticipate sending to the Office of Policy tomorrow, for publication in the Federal Register by March 17, the Federal Register Notice requesting comments on the interim list of candidates being considered as expert peer reviewers for the draft model report entitled, "Proposed Modeling Approaches for a Health-Based Benchmark for Lead in Drinking Water" (lead modeling report). This follows on EPA's published request for nominations of peer reviewers in the Federal Register

on January 19, 2017. We are seeking comment and information about the expertise and qualifications of the candidates for 30 days. We received 26 nominees for consideration. In accordance with Agency guidance and contracting guidelines, a neutral third party contractor selected the 13 most qualified candidates from those nominated using the published criteria from the first FRN. I've listed the criteria below for ease of review.

I'm hoping to facilitate the timely review of the FRN. As indicated previously, this peer review is foundational work to support the revisions to the National Primary Drinking Water Regulation for Lead and Copper to improve public health protection by making changes to rule requirements under the Safe Drinking Water Act. Our current schedule anticipates proposing Lead and Copper Rule revisions in December 2017. In order to have the best available peer reviewed science to inform decision making, we will need to publish this FRN by March 17, 2017 seeking comment on peer review candidates.

I have attached both the FR Notice and the biosketches for the 13 candidates.

Thank you,

Mike

Criteria:

(1) Demonstrated expertise through relevant peer reviewed publications;

(2) professional accomplishments and recognition by professional societies;

(3) demonstrated ability to work constructively and effectively in a committee setting;

(4) absence of financial conflicts of interest;

(5) no actual conflicts of interest or appearance of lack of impartiality;

(6) willingness to commit adequate time for the thorough review of the draft report; and

(7) availability to participate in-person in a one-day or two-day peer review meeting in the Washington, DC metro area, projected to occur in the summer of 2017

Michael Shapiro

Acting Assistant Administrator, Office of Water

US EPA, 4101M

1200 Pennsylvania Ave., NW

Washington, DC 20460

202-564-5700

<FRN2-Lead-Modeling-Comments on peer reviewers-to-EPA_3_2.docx>

<Candidate Bios_Final_LCR_030717.docx>

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 2:31:06 PM
Subject: Re: CERA

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

> On Mar 7, 2017, at 6:54 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
>
> I told Yergin that he would give about ten minutes of remarks, followed by 10-15 minutes of moderated questioning by Yergin - no audience questions.
>

Ex. 5 - Deliberative Process

>
>
>
> -----Original Message-----
> From: Jackson, Ryan
> Sent: Tuesday, March 7, 2017 7:56 AM
> To: Dravis, Samantha <dravis.samantha@epa.gov>; Konkus, John <konkus.john@epa.gov>; Brown, Byron <brown.byron@epa.gov>
> Cc: Hale, Michelle <hale.michelle@epa.gov>
> Subject: CERA
>
> Samantha can you confirm the format for CERA? The schedule shows him at 12:45 to 2 with a moderator. I'm sure it includes q&a but is it the whole time?
>

Ex. 5 - Deliberative Process

>
> Finally, I know we have a lot of requests for meetings that day. Do we have a line up schedule for Thursday yet?
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> (202) 564-6999

To: Flynn, Mike[Flynn.Mike@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Schnare, David[schnare.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Jackson, Ryan
Sent: Mon 3/13/2017 3:07:57 PM
Subject: 3pm meetings

Moving forward, Samantha will lead the 3pm meetings (or whenever they may be held) to prep issues for the Administrator for his dailies. Byron will help coordinate for legal (OGC and OECA) matters to raise for the Administrator's dailies.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

To: Schnare, David[schnare.david@epa.gov]
Cc: Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 1:37:45 PM
Subject: Re: RFS hardship denial recommendation

I can't guarantee today and this is a big deal to deny these petitions.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Mar 7, 2017, at 6:17 AM, Schnare, David <schnare.david@epa.gov> wrote:

Please provide me your recommendation per the attached. It would be very helpful to deal with this today.

Samantha and I agree with the OAR recommendation denying the exemptions.

dschnare

<RFS Small Refinery Hardship Denials.docx>

To: Jackson, Ryan[jackson.ryan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Samantha Dravis
Sent: Tue 4/18/2017 9:24:50 PM
Subject: Fwd: Following Up
Ex. 6 - Personal Privacy Resume.pdf

---------- Forwarded message ----------
From: **Ex. 6 - Personal Privacy**
Date: Mon, Apr 3, 2017 at 9:51 AM
Subject: Following Up
To: **Ex. 6 - S. Dravis Personal Email**

Hello Sam!
It was so great to see you this weekend. I wanted to pass you a copy of my resume, and see if you may be available this week to meet for a coffee? I'd love to continue the conversation we started over the weekend.

Thanks!
Ex. 6 - Personal Privacy

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 9:09:07 PM
Subject: FW: Requested Transmittal to OMB of the FY16 GLRI Report to Congress
FY2016 Great Lakes Restoration Initiative Progress Report to Congress an....pdf
FY16 Great Lakes Restoration Initiative Progress.pdf

We need to get this report to Congress. I'm going to take a look at this to get this out the door. Whew.

From: Benton, Donald
Sent: Tuesday, March 7, 2017 12:31 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>
Subject: FW: Requested Transmittal to OMB of the FY16 GLRI Report to Congress

RJ,

I have read the entire report and the cover letter from Bob Kaplan. It appears to be a terrific compilation of good news stories. The first page is a note from the Chairman (Scott) and it reads very well. I do not know who wrote it but suggest John review for any edits. One of the highlights is the 240 million dollars in private investment that was leveraged. After John looks over the Chairman's comments I recommend approval for Kaplan to release to Congress.

I suggest a visit to the Great Lakes by the Administrator, coordinated with the Flint Grant of 100 million, to coincide with the report being delivered to Congress. This could be a two-fer for the boss. Nothing but good news here and we should try to amplify it with some press and a visit if it fits in his schedule. I can advance it if you like as I did Chesapeake Bay.

.

Don

Senator Don Benton

Senior White House Advisor

Office of the Administrator

202.564.4711

From: Martinez, Isidra **On Behalf Of** Kaplan, Robert
Sent: Monday, March 6, 2017 6:22 PM
To: Ex. 6 - Administrator Pruitt
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Schnare, David <schnare.david@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Flynn, Mike <Flynn.Mike@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Benton, Donald <benton.donald@epa.gov>
Subject: Requested Transmittal to OMB of the FY16 GLRI Report to Congress

Administrator Pruitt,

The purpose of this email is to request the transmittal to OMB of the FY 2016 Great Lakes Restoration Initiative Progress Report to Congress and the President. We have incorporated previous edits by EPA Headquarters.

EPA is required by the 2010 Appropriations Conference Report, 111-316, to submit a report pertaining to the Great Lakes Restoration Initiative to Congress and the President on behalf of the Great Lakes Interagency Task Force. The Conference Report directs EPA to provide detailed yearly GLRI program accomplishments and compare specific funding levels allocated for participating federal agencies from fiscal year to fiscal year. A brief memo from me as Acting Great Lakes National Program Manager is also attached which provides an overview of the Great Lakes Restoration Initiative (GLRI) progress and accomplishments through Fiscal Year 2016.

- Bob Kaplan

Robert Kaplan

Acting Regional Administrator

EPA Region 5 – Chicago

Cell: 312-515-9827

Direct: 312-886-1499

Main: 312- 886-3000

To: Schnare, David[schnare.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Brown, Byron[brown.byron@epa.gov]
From: Jackson, Ryan
Sent: Tue 3/7/2017 1:28:26 PM
170301 - EO Energy Independence (1200).docx
ATT00001.txt

What are are looking at now.

Executive Order—Establishing National Policy in Favor of Energy Independence, Economic Growth, and the Rule of Law

EXECUTIVE ORDER

- - - - - -

ESTABLISHING NATIONAL POLICY IN FAVOR OF ENERGY INDEPENDENCE, ECONOMIC GROWTH, AND THE RULE OF LAW

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.*

It is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Moreover, the prudent development of these natural resources is essential to ensuring the Nation's geopolitical security.

It is further in the national interest to ensure that the Nation's electricity is affordable, reliable, safe, secure, and clean, and is available to be produced from coal, natural gas, nuclear power, hydropower, renewables, and other domestic sources.

Accordingly, it is the policy of the United States that executive departments and agencies (Agencies) should take immediate action to review existing regulations affecting the development of domestic energy resources, and appropriately reform, repeal, or replace regulations that unduly burden United States energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.

It further is the policy of the United States that all Agencies shall take appropriate actions, to the extent permitted by law, to promote clean air and clean water for the American people, while also respecting the proper roles of the Congress and the States concerning these matters in our constitutional republic.

Agencies shall promulgate environmental regulations that comply with the law, are of greater benefit than cost when permissible, achieve environmental improvements for the American people, and are developed by transparent processes employing the best peer-reviewed science and economics.

Sec. 2. *Immediate Review of All Agency Actions Burdening the Safe, Efficient Development of United States Energy Resources.*

(a) The heads of Agencies shall review all existing regulations, orders, guidance documents, policies, and other Agency actions burdening the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and certain nuclear energy resources (collectively, "Agency Actions"); and identify Agency Actions that are not (1) mandated by law, (2) necessary for the public interest, and (3) consistent with the policy set forth in section 1 of this order.

(b) Within 45 days of the date of this order, each Agency with existing regulations, orders, guidance documents, policies, and other Agency actions that affect the development or utilization of domestically produced energy resources shall develop and submit to the Director of the Office of Management and Budget, a preliminary plan to carry out the review required by subsection (a) of this section. The preliminary plans shall also be sent to the Office of the Vice President, the Director of the National Economic Council, and the Council on Environmental Quality.

(c) Within 120 days of the date of this order, the head of each Agency shall submit a draft final report that includes specific recommendations, outlining actions that, to the extent permitted by law, can alleviate or remove policies that burden domestic energy production. This report shall be finalized no later than 180 days of the date of this order, unless an extension is agreed to by all relevant offices.

The reports shall be sent to the Office of the Vice President, the Director of the Office of Management and Budget, the Director of the National Economic Council, and the Council on Environmental Quality detailing the results of the review required by subsection (a) of this section.

The Director of the Office of Management Budget shall be responsible for leading and coordinating the policy activities related to the various agency reports within the Executive Office of the President.

(d) With respect to any such Agency Action that is not mandated by law, necessary for the public interest, and consistent with the policy set forth in section 1 of this order, the head of the relevant Agency shall take appropriate and lawful action to repeal, reform, or replace the Agency Action as soon as practicable. Agencies shall endeavor to coordinate such regulatory reforms with their activities undertaken in compliance with EO 13771.

(e) This section will not apply to an agency if an agency submits a statement to the Director of the Office of Management and Budget explaining why its Agency Actions do not burden the development of domestic energy resources. The Director of the Office of Management and Budget shall, at his discretion, issue an exemption for the relevant agency.

Sec. 3. *Rescission of Certain Energy and Climate-Related Presidential and Regulatory Actions.*

(a) The following Presidential actions are hereby revoked:

(i) Executive Order 13653 of November 6, 2013 (Preparing the United States for the Impacts of Climate Change);

(ii) The Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards)

(iii) The Presidential Memorandum of November 3, 2015 (Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment); and

(iv) The Council on Environmental Quality, Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate

Change in National Environmental Policy Act Reviews, effective August 5, 2016

(b) The following reports shall be rescinded:

(i) The Report of the Executive Office of the President of June 2013 (The President's Climate Action Plan); and

(ii) The Report of the Executive Office of the President of March 2014 (Climate Action Plan Strategy to Reduce Methane Emissions).

(c) The heads of all Agencies shall identify existing regulations, orders, guidance documents, policies, and other Agency actions related to or arising from the Presidential actions listed in subsection (a) of this section or the Plan or Strategy listed in subsection (b) of this section. To the extent permitted by law, any such regulations, orders, guidance documents, policies, and other Agency actions shall, in a lawful and appropriate manner, be repealed, reformed, or replaced consistent with the policies set forth in section 1 of this order.

Sec. 4. *Reconsideration of the EPA's "Clean Power Plan" and Related Rules and Agency Actions.*

(a) The Administrator of the EPA shall immediately take all steps necessary to review all proposed and final rules set forth in subsection (b)(i) and (b)(ii) for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable and consistent with Federal law, initiate proceedings to suspend, reconsider, revise, or rescind these rules. In addition, the Administration shall immediately take all steps necessary to review the proposed rule set forth in subsection (b)(iii) for consistency with the policy set forth in section 1 of this order and shall, as soon as practicable and consistent with Federal law, withdraw the proposed rule.

(b) This section applies to the following final or proposed rules:

(i) The final rule entitled, "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64661 (Oct. 23, 2015) (also known as the "Clean Power Plan");

(ii) The final rule entitled, "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64509 (Oct. 23, 2015);

(iii) The proposed rule entitled, "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations; Proposed Rule," 80 Fed. Reg. 64966 (Oct. 23, 2015).

(c) The Administrator of the EPA shall review and, if appropriate, as soon as practicable and consistent with Federal law, reconsider, revise, or rescind EPA's "Legal Memorandum Accompanying Clean Power Plan for Certain Issues," which was published in conjunction with the issuance of Clean Power Plan.

(d) The Administrator of the EPA shall promptly notify the Attorney General of this order and any subsequent actions taken by the Administrator related to the rules set forth in the subsection (b) of this section so that the Attorney General may, as appropriate, provide notice of this order and any such action to any court with jurisdiction over pending litigation related to such rules, and may, in his discretion, request that the court or courts stay the litigation or otherwise delay further litigation pending the completion of the administrative actions described in subsection (a) of this section.

(e) To the fullest extent permitted by law, and to conserve agency resources, the Administrator should cease, curtail or deprioritize, as appropriate, the implementation of the final rules set forth in subsections (b)(i) and (b)(ii) of this section, including any related guidance or policy documents, pending the Administrator's review of the rules.

Section 5. *Review of Estimates of the Social Cost of Carbon, Nitrous Oxide and Methane for Regulatory Impact Analysis*

a) In order to ensure sound regulatory decision-making, it is essential that Federal agencies use estimates of costs and benefits based on the best available science and economics in their regulatory analyses. OMB Circular A-4, issued following peer review and public comment, has been widely accepted for over a decade as embodying the best practices for conducting regulatory cost-benefit analysis. Consequently, effective immediately, when monetizing the value of changes in greenhouse gas emissions resulting from Federal regulations, agencies shall ensure that any estimates are consistent with the guidance contained in Circular A-4, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates. To the extent that the guidance documents listed in (i) through (vi) below are not consistent with A-4, agencies should give substantial weight to the guidance in A-4.

(i) Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (February 2010),

(ii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (May 2013), the

(iii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (November 2013),

(iv) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (July 2015),

(v) Addendum to the Technical Support Document for Social Cost of Carbon: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide (August 2016), and

(vi) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (August 2016).

Sec. 6. *Federal Land Coal Leasing Moratorium.*

The Secretary of the Interior shall take all steps necessary and appropriate to amend or withdraw Secretarial Order 3338 dated January 15, 2016 ("Discretionary Programmatic Environmental Impact Statement (PEIS) to Modernize the Federal Coal Program"), and lift any and all moratoria on federal land coal leasing activities related to Order 3338. The Secretary shall commence federal coal leasing activities consistent with all applicable laws and regulations.

Sec. 7. *Reconsideration of Regulations Related to United States Oil and Gas Development.*

(a) The Administrator of the EPA shall review the final rule entitled, "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources," 81 Fed. Reg. 35824 (June 3, 2016), and all other rules and guidance issued pursuant thereto, for consistency with the policy set forth in section 1 of this order and shall, if appropriate, initiate proceedings to reconsider, revise or rescind this rule, as soon as practicable and in a manner consistent with the law.

(b) The Director of the Bureau of Land Management shall review the final rule entitled, "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 Fed. Reg. 16128 (Mar. 26, 2015), and all other rules and guidance issued pursuant thereto, for consistency with the policy set forth in section 1 of this order and shall, if appropriate, initiate proceedings to reconsider, revise or rescind this rule, as soon as practicable and in a manner consistent with the law.

(c) The Director of the National Park Service shall review the final rule entitled, "General Provisions and Non-Federal Oil and Gas Rights," 81 Fed. Reg. 77972 (Nov. 4, 2016), and all other rules and guidance issued pursuant thereto, for consistency with the policy set forth in section 1 of this order and shall, if appropriate, initiate proceedings to reconsider, revise or rescind this rule, as soon as practicable and in a manner consistent with the law.

(d) The Director of the Fish and Wildlife Service shall review the final rule entitled, "Management of Non-Federal Oil and Gas Rights," 81 Fed. Reg. 79948 (Nov. 14, 2016), and all other rules and guidance issued pursuant thereto, for consistency with the policy set forth in section 1 of this order and shall, if appropriate, initiate proceedings to reconsider, revise or rescind this rule, as soon as practicable and in a manner consistent with the law.

(e) With respect to any litigation before the Federal courts related to the rules set forth in subsections (a) through (d) of this section, the head of each Agency, as applicable, shall promptly notify the Attorney General of this order and any subsequent actions taken by the Agency head related to such rules so that the Attorney General may, as appropriate, provide notice of this order and any such action to the courts and may, in his discretion, request that the courts stay the litigation or otherwise delay further litigation until the completion of the administrative actions described in subsection (a) of this section.

(f) To the fullest extent of the law, and to conserve Federal resources, the head of each Agency, as applicable, should cease, curtail, or deprioritize, as appropriate, the implementation of the final rules set forth in subsection (a) through (d) of this section, pending each Agency's review of the rule relevant rule.

Sec. 8. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 8:28:29 PM
Subject: RE: Request for Meeting

That's fine. Mandy has worked on that quite a bit in her congressional jobs so there's some institutional and issue experience there. Let's just work out the details on who does what and we'll get that worked out too.

From: Dravis, Samantha
Sent: Sunday, March 26, 2017 4:27 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Request for Meeting

Yes! Would love to. And RFS is something I wanted to dig into with Brittany. Point of obligation. I know it is not on the table but I am interested in reading the record

Sent from my iPhone

On Mar 26, 2017, at 4:23 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Can we give CAFÉ to your team to do?

From: Tom Lynch [mailto:tom.lynch@icemillerstrategies.com]
Sent: Wednesday, March 15, 2017 3:49 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Graham Hill <graham.hill@icemillerstrategies.com>; Clayton Heil <clayton.heil@icemillerstrategies.com>; Andy Mueller <andy.mueller@icemillerstrategies.com>
Subject: Request for Meeting

Ryan – Congratulations on the new job. I'm sure it's a huge transition, but you're a great choice to lead it and assemble a team.

If you or a designee is available, I would greatly appreciate the opportunity to visit for 15 minutes and discuss problems arising from a 2016 Obama rulemaking entitled, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium-and Heavy-Duty Engines and Vehicles – Phase 2* (GHGP2). The specific problem is

the inappropriate inclusion of truck trailers in the rule. EPA overreached in interpreting its Clean Air Act grant of authority. In summary, a trailer is not a new motor vehicle (meaning it is inappropriate to regulate it in a heavy duty truck rulemaking).

You may already know this issue through the outreach to EPW over the last two years. Please see the attached letter, which EPW staff forwarded to EPA earlier this year. Similarly, Senator Inhofe was quoted in an Oklahoma Energy Today June 22, 2015 article, saying about the then-proposed rule, "The Obama Administration's proposed standard for medium and heavy-duty vehicles is more of the same…President Obama's EPA has continually acted outside of its bounds by pursuing programs and regulations that have never been authorized by Congress."

Under the Clean Air Act (42 USC 7521(a)), Congress required EPA to regulate "any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which … may reasonably be anticipated to endanger public health or welfare." In addition, under 42 USC 7550(b), motor vehicle "means any self-propelled vehicle designed for transporting persons or property on a street or highway." Trailers are inert and cannot move under their own power. And, unlike engines, trailers do not produce emissions. Under the four corners of the statute, Congress didn't mean to regulate trailers despite the Obama EPA's dubious claims otherwise.

Further, the regulation will add costs without adding proportionate benefits, while requiring more tractor-trailers to be placed in service. Adding more tractor-trailers in order to meet the current freight transportation levels will not only increase Greenhouse Gas emissions, but will also lead to more three more traffic fatalities annually according to the National Highway Traffic Safety Administration.

Members of Congress are aware of the issue and have weighed in. In the pending FY 17 House Interior and Environment Appropriations bill, Rep. Barry Loudermilk (R-GA) inserted a provision prohibiting spending to "*be used to finalize, implement, administer, or enforce*" the rule with regards to trailers. Further, over the last two years, a number of congressional members have written EPA and OMB to express concerns. Most recently, nine House members submitted a Feb 24th letter to Administrator Pruitt on this issue.

Is there a time we can briefly meet to discuss this matter?

Regards, Tom

Tom Lynch

Ice Miller Strategies LLC

20 F St. NW, Ste. 850

Washington, DC 20001

202 824-8662 direct

202-568-0147 mobile

202-824-8666 main

202-824-8667 fax

www.icemillerstrategies.com

<Admin Pruitt Letter to EPW staff.docx>

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 8:23:49 PM
Subject: FW: Request for Meeting
Admin Pruitt Letter to EPW staff.docx

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From: Tom Lynch [mailto:tom.lynch@icemillerstrategies.com]
Sent: Wednesday, March 15, 2017 3:49 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
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TTMA TRUCK TRAILER Manufacturers Association
TTMAnet.org Since 1941

Jeffrey M. Sims ● President
7001 Heritage Village Plaza ● Suite 220 ● Gainesville, VA 20155 ● 703-549-3010

Dear Alex: January 18, 2016

I am writing on behalf of the truck trailer manufacturing industry, including Senator Inhofe's constituent, Barrett Trailers of Purcell, OK with whom you have graciously met in the past. Thank you, once again, for taking the time to discuss the joint Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) Final Rule entitled, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2*, published on October 25, 2016. The EPA-led final rule imposes a costly and inappropriate compliance burden on the manufacturers of truck trailers on the unsupportable claim that they are manufacturers of "motor vehicles". Further, EPA mistakenly asserts that the effort will reduce carbon emissions. In fact, it will cause nearly three more highway deaths *annually* according to NHTSA, while increasing emissions.

As you can understand, we would very much like the opportunity to convey this point directly to the office of incoming Administrator Pruitt in the hopes of correcting this problem, and we appreciate any help you can provide.

EPA and the Clean Air Act. Under the Clean Air Act (42 USC 7521(a)), Congress required EPA to regulate "any air pollutant from any class or classes of ***new motor vehicles or new motor vehicle engines***, which … may reasonably be anticipated to endanger public health or welfare." In addition, under 42 USC 7550(b) **motor vehicle "means any *self-propelled* vehicle** designed for transporting persons or property on a street or highway." The specific identification of motor vehicles (which are self-propelled) and motor vehicle engines (which are not full motor vehicles but which clearly do emit) implicitly excludes non-self-propelled equipment and non-emitting equipment.

Trailers are inert pieces of equipment. They cannot move under their own power. Unlike engines, trailers do not produce emissions. EPA's arrogant response to this claim is that its authority does extend to the trailer because the trailer will eventually be joined to the tractor for the purpose of transporting freight. EPA notes that the tractor is clearly a motor vehicle and is capable of self-propulsion, but the agency asserts further that a tractor not connected to a trailer does not really serve a freight transportation purpose. Therefore, by EPA's twisted logic, the only conclusion is that an inert, motor-less, non-emitting trailer also satisfies the test of being a "motor vehicle" because of its eventual function. That is nonsensical and circular reasoning. Nobody thinks appurtenances such as camera lenses are actual cameras themselves although a camera without a lens cannot fully perform its ultimate function of photography. In accordance with market practice, trailer manufacturers are not even the ones who join trailers to tractors; the items are manufactured and sold separately to truck operators who eventually hitch trailers to tractors. All of this makes EPA's Clean Air Act jurisdictional claim over trailer manufacturers too expansive.

EPA and SmartWay. Even if EPA did possess Clean Air Act jurisdiction, it should exercise its discretion and not regulate the trailer manufacturing industry in this way because the results will be

counterproductive. Many truck operators participate in EPA's voluntary SmartWay program, which provides engineering standards for aerodynamics and reduced weight to enable truck operators to improve fuel economy in a heavy duty tractor-trailer combination traveling at highway speed. However, data submitted to EPA from a range of commenters demonstrates that the same benefits are not achieved when traveling at less-than-highway speeds. Notably, at least half of all tractor-trailer usage occurs not on highways but at lesser speeds around towns and cities according to the American Trucking Associations. Trucking operators capable of benefitting under SmartWay already have economic incentive and competitive reasons to do so. Those that cannot achieve improved efficiencies because they too frequently travel at lesser speeds have no reason to specify costly add-ons to trailers. In addition, increasing the number of trucks on the road in order to simply maintain current freight levels clearly will have the net effect of increasing GHG, not reducing it.

NHTSA's Acceptance of More Traffic Fatalities. Adding weight to trailers will displace cargo in order for the truck operator to remain in compliance with Gross Vehicle Weight laws on the roads. This will paradoxically require more tractor-trailers on the road just to meet current freight transportation levels. In its portion of the joint rulemaking, NHTSA estimates an additional 184 million truck miles will be required. Further, when confronted with the charge that the EPA's efforts will displace existing freight and require more tractor-trailers on the road to continue to meet existing freight transportation levels, NHTSA responds on pages 356 and 357 of the rulemaking:

> "According to FMCSA's 2014 annual report for 'Large Truck and Bus Crash Facts' indicates there are less than 1.67 fatalities per 100 million vehicle miles traveled (VMT) by combination trucks in the U.S. for 2014. When multiplied by an estimated 184 million additional truck miles due to weighed-out trucks, **the result is an increase of about 3 fatalities, or 2.7 fatal crashes."** (emphasis added)

Incredibly, NHTSA – the federal agency charged with Highway and Traffic Safety – has apparently taken a truly cavalier position with regard to highway fatalities in order to willingly go along with an ill-advised EPA-led rulemaking. This position undercuts the reason for NHTSA's very existence.

Conclusion. Legally, EPA doesn't possess the Clean Air Act authority it claims. Trailers do not generate emissions, and trailer manufacturers do not construct motor vehicles. Meanwhile, nearly three more people will unnecessarily die each year as a result of this ill-considered rule. Finally, on a practical level, imposing requirements on the trailer manufacturers that will increase cost without proportionately increasing benefit is wasteful and, ultimately, counterproductive; GHG will increase rather than decreasing. This wasteful cost will get passed on to everybody down the line, eventually making consumers pay more for the goods we rely on that move by truck. The market is moving faster than EPA can at maximizing fuel efficiency.

Recognizing the problems the rulemaking has unnecessarily created, the House FY 2017 Interior, Environment and Related Agencies appropriations bill includes an EPA prohibition on spending to implement, enforce, et al. the rulemaking against trailer manufacturers. We have also taken legal action. Further, we are exploring use of the Congressional Review Act. An opportunity to discuss the matter directly with incoming Administrator or his staff could enable resolution of this matter to the benefit of all parties, including EPA. I'm glad to discuss this matter further at your convenience, and I appreciate your help.

Sincerely,

Jeff Sims
Truck Trailer Manufacturers Assn.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Tate Bennett[Ex. 6 - Personal Privacy] Schwab, Justin[schwab.justin@epa.gov]
Cc: Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 7:02:17 PM
Subject: FW: SSM SIP call rule
removed.txt
TCEQ_s SSM SIP Call PFR.PDF

Justin, is there a SIP issue review table on which we are working to get a handle on petitions and SIP issues?

From: thomas.jackson@bakerbotts.com [mailto:thomas.jackson@bakerbotts.com]
Sent: Thursday, March 23, 2017 5:03 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: SSM SIP call rule

Ryan – I hope you are well. Congratulations on your new position. I was interested in chatting with you about the EPA SSM SIP Call rule and the petition for reconsideration submitted by TCEQ last week (copy attached). It would be great if you could give me a call or let me know when you are available to talk.

Tom Jackson

Baker Botts L.L.P.

Thomas.jackson@bakerbotts.com

T +1.202.639.7710

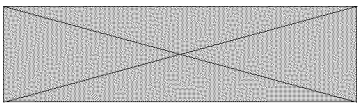
F +1.202.585.1009

M +1.202.285.2311

1299 Pennsylvania Ave., N.W.

Washington, DC 20004-2400

USA



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Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 15, 2017

VIA ELECTRONIC TRANSMISSION and HARD COPY
pruitt.scott@epa.gov
Certified Mail No: 7012 3050 0001 7708 9051

The Honorable Scott Pruitt, Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue
MC-1101A
Washington, D.C. 20460

Re: Response to Petition for Rulemaking: Restatement and Update of EPA's SSM Policy Applicable to SIPs, 80 *Federal Register* 33840, June 12, 2015. EPA Docket Number EPA-HQ-OAR-2012-0322

Dear Administrator Pruitt:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to submit the attached Petition for Reconsideration of the Final Rule and Request for Administrative Stay in the above referenced matter.

Please accept the attached document for filing and confirm receipt. If you have any questions, please contact me at (512) 239-5510 or Janis Hudson, Staff Attorney, at (512) 239-0466.

Sincerely,

Bryan W. Shaw

Bryan W. Shaw, Ph.D., P.E.
Chairman
Texas Commission on Environmental Quality

Enclosure

cc: Toby Baker, TCEQ Commissioner
Jon Niermann, TCEQ Commissioner
Richard A. Hyde, P.E., TCEQ Executive Director
Ramiro Garcia, Jr., TCEQ Deputy Director, Compliance & Enforcement
Steve Hagle, P.E., TCEQ Deputy Director, Office of Air
Caroline Sweeney, TCEQ Deputy Director, Legal Services
Janis Hudson, TCEQ Staff Attorney, Environmental Law Division
Priscilla Hubenak, Office of Attorney General, Environmental Protection Division
Kellie Billings-Ray, Office of Attorney General, Environmental Protection Division

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In Re: State Implementation Plan Revisions; Reconsideration; Petition for Reconsideration; Petition for Administrative Stay; Policy Application; Substantial Inadequacy; Substantial Inadequacy; Amendment; Provision; Application; Exceptional Circumstances; Startup, Shutdown, and Malfunction; Final Rule	§	Docket No. EPA-HQ-OAR-2012-0322

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY'S PETITION FOR RECONSIDERATION AND REQUEST FOR ADMINISTRATIVE STAY

Pursuant to 5 U.S.C. § 553(e)[1] and 42 U.S.C. § 7607(d)(7)(B) (Clean Air Act), the Texas Commission on Environmental Quality ("TCEQ") submits this Petition for Reconsideration, urging the Environmental Protection Agency ("EPA") to consider the Startup, Shutdown, and Malfunction ("SSM") Final Rule, capitalized terms defined below, and to stay the effective date of the Final Rule pending EPA's reconsideration.

BACKGROUND

The Clean Air Act ("CAA")[2] and its implementing regulations establish a federal program for the prevention and control of air pollution by requiring "persons responsible for the emission of any air pollutant" to comply with emission standards and other requirements.[3] The CAA requires each State to adopt and submit to EPA a plan for the implementation, maintenance, and enforcement of the national ambient air quality standards ("NAAQS") and to revise such plans as necessary to achieve

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[1] Administrative Procedure Act.
[2] Clean Air Act § 307(d)(42 U.S.C. § 7607(d)(7)(B).
[3] 42 U.S.C. §§ 7401-7671q.
[4] CAA § 101(a)(42 U.S.C. § 7401(a)(3).
[5] CAA § 107(a)(42 U.S.C. § 7407(a); *accord*, *Int'l Paper Co. v. Ouellette*, 479 U.S. 481, 487 (1987) ("Congress delegated to the CAA states the primary responsibility for achieving the CAA's goals.").
[6] CAA §§ 108-110(42 U.S.C. §§ 7408-7409.
[7] *Id.*

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p r o c e s e s q e u s i p o n f e t r e e n f r t e a d s p s e m s a l f u n a r t t e i h t e y p o e f s
v i o l a f t w i r h o i n a c s a f f i r d h e a f t e h n a s s e e n a u l n l d t e h C e A l A D . e s p i t e
d i l i e g f e f n S t r l P s - a p e p m r i o s v s e i d h e i n s t t s a b l i n i s l a e n s d l e r m n i a t p s e
e x c e e n d e d e l i r r c u m s t e a y n t o h e e s n b r f t c h l e o p o e f t r h a e t o s r o a u r c e
f a a c t k n o w b y E d P g A i d d s e f e o n f s h e e p p r o o f v l a T e C E C a ' f s f i r m a t i v e
d e f e r n u s l e e .

S i n E d P e A 1 ' 9 s 7 a 2 p p r o o T e x S a l s T P e , x a a n s E d P l A a v a e p p l a i e d d i s t i n c t
r e g u l r a e t g o t n d y h e e e s m e i s s i r o e n g s f - r o a e n o d n t e b l a e c k n o w l e t d h g a e t m e n t
i i t s o a t p p r o p b e e i n a f t e e m c i e s s i r o e i n v t e s r i y r e e x c e e n s i s s r i e c s f u s l o t m

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[8] C A A § 9 l (& a 1) 0 (7 4 4) 2 U) . S § . 7 C 4 0 l (& a 7 4 0 7 (a) .
[9] *I d* C A § A l l (4 2 U . S § . 7 C 4 . 1 0 .
w *T r a v i N n R D* 6 C 2 U 1 . 6 S 0 7 , 9 (1 9 5 5 a e *l . S o i E o l n e C t o v . E P C A* 2 U . 2 S 4 . 2 6 7
(1 9 (7 N 6 a) r s) h (a " l [S T , t] a h a e e i r t a u b a s l o p l y o u w t i e a r l l o e a n t i s t s g i r o n t a t i o n s
s d o a g h n e a t i s o t n a a n l d a a m e e d . t s . " .) . .
[11] C A A l § l O (a 4 2 U 2 .) S § (. 7 C 4) . 1 , 0 (a) (2) (A) .
[12] B r i o R e s p o E P A h 8 *L , u m i n G a e m t e r C a d L i L o n a N E P A* l p 1 . 0 - 6 0 U 9 u 3 1 4 y ,
1 2 2 , 0 1 1 .
[13] S e C A A l § l 0 ( ) 6 (4 2 U 2 . S § . 7 C 4 . 1 0 (C a)) . (2) (
[14] B r i o R e s p o E P A h 8 a n 2 d 2 *L , u m i n G a e m t e r C a d L i L o n a N E P A* l p 1 . 0 -
6 0 9 3 4 1 2 2 , 0 l l .

c e r tm a ai m t e s n ta a n r o te s u, h p u, t d a o c w t n i [15] T i h t r i s e g s u. l r a e t g o l n n a y e
e v o l s v i e n t d c 9 e 7 w 2 i , t e l a c l t e r l a r t i i n c a g t i i n g g h t o e f n e i q n u g i r C o m e n t s .
t i m e e x , e m p f i c e o x n c s e m s i s s w i e o n n a s r r a w w e l e e x c h a f n o g n r e d e
r e s t r a i f c f t i i r v h e e f h s [16] T e C s E a Q d o p t t h e e c f f i r c h e a f t e i t v l s e a t s t e h e
s u b j o e f t c h t e S S k l a l f S s l S P u 2 e 0 0 i 5 n.

T C E Q a 'f s f i r c h e a f t e i r n u s a l e s e a r r b a v i l y a o n r a d e l h e t r E e P s A p 'r s i p o o r l [18] i c y
s u c t h n a i t e s n t i c r o e n l s y i w s i t t e h C e A A l . i t s h l e o n g - s i t a n h e d r i p n g e t a t i o
u p h e l y t c h F e i f C t i h r c [19] s u t i a t i t , r e l d e m s e e m c t s h T a C E i Q s s k E P A g o
r e i n a s s t a i s n e t e r p f e p t r a o t p i e o f n o r c e t m h e C e A A T . h a e f f i r m a t i v e
d e f e a n s l e i s m b y t e h d e u m e r s o t u r s i , n g i e t a e o r p i e a r m a u t s p t r o b v e e f o r e
e s t a b l t h d e e h f i e n [20] d K s e a y m o n t g e i s s t e h r e e q u i r t e h m a e t d e e t f e n d a n t
p r o t v h e e m i s s " i d c n i n d s t a u o s r e o n t r t i a b r e a x t e e e d a f a h [e N e A Q S A]." [21]
T h T e C E Q ' r s e v S i l c S P i u o l n d b e a n p o p t r o i v f a r e d e v i "s w i c o u i n h d t e "w f i e t h e
t h N e A A Q t S h ; c i r s i t e e m r s i u t r m e T a s C E Q l u s l e e n s o i t n t e w r i f t e h r e
N A A Q S a 2 2 i a r n o p r e , r m a u t s p t r o a v r e o , n g h c e r r i t t e h r a i t t a h , e
e m i s s w i e o p r e r s o p r e e r p l o y (2 t e h e e m i s s c i o c u m l s d h t a b e e p r e v e n t e d
t h r o u g h a p n k d a e r s n i (i S t m h g f e a c i o l i i t a t s i p y r o l l c o i n d e m q u l i p v m e e m e t
o p e r a d r e s l i w s i t g e b n q t d r a c f i m c i e n s i m e i m i s s g (i 4 s o) h e s w p e s t e a k e n
t m i n i m h e e m e i s s i e m i s s , s m i p o 5 n) i s t s o y r s i h e g m l s e p v t e p r a i t f i o n
p o s s (i 6 t) h o e p e r a a t c o t r i 'o s n s t h e e v u e w n i e t n d g e p c u m e b n y t e d

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[15] S e 3 e 7 F e R e g 1 0 , 8 1 4 0 1 , , 8 9 (5 M - a 8 9 y 8 1 , 9 7 (2 a) p p r o v i R u g l l e 2 T e v 2 n a i a s c h l o w s
f o t r h e e x e m p t o f t i e n t m a a i m t e s n t a a n c a t e n u s p h , u t d e o m w i n s s i s e a e / s s) o ; , e . g . ,
M e m o r a n d u K m a t f h r M o B r e m n A e s t s t i , s A t l a n r f t o A r i N t o , i & R e a , d i a t t R i e o g n ',
A d m ' R r e s g , i l o - n ' X s P , o b i r E c x y c E r s m i s s s D i u o r n S s r t g a r S t h u u p t , d M o a v i n n , t e a n r a n c e , a n d
M a l f u n c (S i e 2 p 8 1 1 , 9 " 8 (2 t) h B e n M e m t d (") E a P g A r e l e a t i m t p h o e s c i f a i o n
p e n a f l o s r y d c a e n m d n a v o i m c a a l b f l u e n c c a t u i s o e g c d s i r c u m s e t n a t n i b c r e e y s l o y r h d e
c o n t o r f t o h t e w n a e m d b o p e r i a s t o a r p p r o p r i a t e . ") .
[16] S e e , 2 9 T e R e g 1 8 J a 2 n 2 0 0 (4 a) d o p f t i a n s g f i r m h e a f t e f r o e m i s s i o n
e v e n s t e s e) M e m o r a n f d u S m t e A e h e r m A a s s , i s A t l a n r f t o E r n f o r c & e m e n t
C o m p l i A a s s u e r a n R t c e b , P e t c i A s s e p s A t l a n r f t o A r i & R a d i a t t R i e o g n ', l
A d m ' r s , l R X e " g S i t d a n t s e l e m e R t a n t s P t o S R E g y a r E d x i o n E g r s m i s s i o n s
D u r M r a g f u n S t a i o a t n s S p h , u t d (S v e 1 p 9 1 , 9 9 9) " E r P e A c o g h h i a z r t e p s o s i t i o n
o f a p e n a f l o s r y d c a e n m d n a v o i m c a a l b f l u e n c c a t u i s o e g c d s i r c u m s e t n a t n i b c r e e y s l o y n d
t h c e o n t o r f t o h t e w n e e n o p e r m a a p o b t e a p p r o p r i T a n t p e s l i c l c a y r i f t i h e e s t h a t
s t a h t a e v s e n d e i s c r t e p t r i c o v r [i a d n f f i r n d a a f i e t n c a s c e t i f o p r e s n a b t i o e g h t
f o e r x c e r s m i s s s t i h o a n t s i d s u e r i c e g t m a i l r f u n s c t t a i r o t n u , p , a e n p l i s s o n d e t s l m V n
[17] S e 3 e 0 T e R e g 8 8 8 (4 D e 3 c 0 2 , 0 0 (5 c) o d i f y i n g a f d r i r m a e 8 r 0 T i e v A e d m d i e n f . e n s e
C o S e l 0 1 . 2 2 2) .
[18] M e m o r a n f d u K m a t h M e B e e m n A e s t s t i , s A t l a n r f t o A r i N t o , i & R e a , d t i i a t R e g ' l
A d m ' R r e s g , i l o - n ' X s P , o b i r E c x y c E r s m i s s s D i u o r n S s r t g a r S t h u u p t , d M o a v i n n , t e a n r a n c e ,
M a l f u n c (S i e 2 p 8 1 1 , 9 " 8 M e m o r a n f d u K m a t h M e B e e m n t e R e g A ' d m ' r s ,
R e g i l o - n ' X s P , o b i r E c x y c E r s m i s s s D i u o r n S s r t g a r S t h u u p t , d M o a v i n n , t e a n r a n c e ,
M a l f u n c (F e l 5 1 , 9 8 3 a) M e m o r a n f d u S m t e A e h e r m A a s s , i s A t l a n r t f o r
E n f o r c & e C m o e m p t l i A a s s u e r a n R t c e b , P e t c i A s s e p s A t l a n r f t o A r i & r
R a d i a t t R i e o g A ' d m ' R r e s g , i l o X i - ' S S t a n p e l e m e R t a (n S s l P r o s l) R i : e c g y a r d i n g
E x c E r s m i s s s D i u o r n M s r a g f u n S t a i o a t n s S p h , u t d (S v e 1 p 9 1 , 9 9 9) ,
[19] *L u m i n G a e m t e r C d L i L o O r E P A* 7 , 1 F 4 . 8 e 1 (1 5 C ' i h 2 0 . 1 3) .
[20] S e e , 3 9 0 T e A d m i C n o . S e l 0 1 . 2 2 - 2 1 (b)) ((9 l)) .
[21] S e i e S 1 0 1 . 2 2 2 a (n b d) c ( ) l (9)) .
[22] S e C e A S A 1 1 0 4 (2 U) . S S . 7 C 4 . 1 0 ((p 1 r) o . v t i h s e i t r a g n d a a r p d p r o S a r P e v i s i o n s) .

contemporaneous records documenting the relevant time period (e.g., the emissions did not occur as a result of a failure to comply or poor control).[23] If the emissions are not excessive[24] and minimized in duration as possible, and the operator acted appropriately to prevent and respond to the emissions, civil penalties will not be assessed. However, corrective and injunctive relief may be imposed.[25]

The fundamental purpose of the affirmative defense is to incentivize operators to take appropriate measures to prevent and minimize emissions.[26] The CEQ's affirmative defense encourages sources to manage their operations, self-report to regulators, take corrective action, and invest in equipment and controls.

The TCEQ's affirmative defense was approved by EPA as part of its review of the Texas SIP in 2010,[27] and that approval was upheld when challenged. EPA specifically acknowledged that "100% compliance ... cannot be achieved," and that the TCEQ rule is a way to balance between the difficulty of 100% compliance with emission limits and ensuring adequate compliance with the CAA requirement for continuous compliance.[28] This is accomplished by the enforcement flexibility of the affirmative defense and the penalties ... stringent criteria.

EPA's approval was upheld by the Fifth Circuit.[29] The Fifth Circuit deferred to EPA's interpretation of the CAA and its conclusion that the affirmative defense is consistent with the statute.[30] Until EPA became ... in NRDC,[31] ... the affirmative defense was appropriate ... EPA for hazardous air pollutant rules under the CAA.[32] EPA ... the TCEQ's rule ... modified ... [33]

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[23] See 30 Tex. Admin. Code § 101.222(b) & (h)(e).

[24] Importantly, the affirmative defense is not available for emission events determined to be "excessive" by the Executive Director. See 30 Tex. Admin. Code § 101.222(a)(b) & (e). This is a significant limitation, as the Executive Director ... the affirmative defense may be asserted, and in ... the Executive Director ... the affirmative defense ... which enforcement may be appropriate.

[25] 30 Tex. Admin. Code § 101.222(b)(e).

[26] See, e.g., Ben Mertz, ... demonstrate the existence of ... unavoidable ... circumstances ... encouraged ...

[27] 75 Fed. Reg. 68,989 (Nov. 10, 2010).

[28] Brief for Respondent EPA at 18, Luminant Generation Co. v. EPA, No. 10-60934, ... 2011.

[29] Luminant Generation Co. v. EPA, 714 F.3d 841 (5th Cir. 2013).

[30] Id. at 853 ("Additionally, the fifth ... to ... affirmative defense ... the CAA ... to ... penalties ... discovered, under ... circumstances, ... assessed.")

[31] NRDC v. EPA, 749 F.3d 1055 (D.C. Cir. 2014).

[32] CAA § 1..., 42 U.S.C. § 74...

[33] 78 Fed. Reg. 12,459, 12,486 (Feb. 22, 2013).

INTRODUCTION

A petition for rulemaking was submitted by the Sierra Club to the EPA Administrator on June 30, 2011, which included a request to eliminate the exemptions for excess emissions that result by sources during periods of startup, shutdown activities, malfunctions (SSM) in EPA's SIP approval process.[34] It did not include changing the long-standing interpretation of the CAA with regard to the availability of a narrowly-tailored affirmative defense for excess emissions[33] from unplanned SSM. EPA did not find a substantial inadequacy in the Texas SIP. In fact, as noted above, EPA proposed to retain the Texas rule allowing affirmative defenses for excess emissions as consistent with CAA requirements.[35] TCEQ submitted comments supporting EPA's original affirmative defense position.

Eighteen months after the close of the comment period, EPA issued a supplemental notice proposing to go significantly past the Sierra Club's original petition, which sought to remove affirmative defenses in SIPs from monetary penalties for excess emissions in judicial proceedings.[37] TCEQ submitted comments responding to the supplemental notice and discussed (1) the decades-long history of the SIP-approved affirmative defense provisions as forms of effective control measures in the history of the Texas SIP, (2) why EPA's proposal ignores the holding of the Fifth Circuit Court of Appeals, and (3) the SSM SIP Call illegally predetermines Texas SIP inadequacy.

After the Final Rule was published, Texas and TCEQ challenged the rule by filing a Petition for Review.[38] EPA's Final Rule and statements in its first brief filed October 28, 2016, contain that the basis for EPA's position was dependent on the availability of EPA recommendations by interested parties' request. When the Final Rule was promulgated, TCEQ and other parties discovered changes between that significantly and importantly affect the Texas SIP changes basis for EPA to reconsider the Final Rule and address EPA's mandate to comply with Regional Consistency Rules.[39] TCEQ supports reconsideration of the Final Rule.

Because of EPA's departure from its long-standing interpretation of the CAA with regard to the use of affirmative defenses as control strategies in SIPs, TCEQ respectfully requests EPA grant reconsideration based on the information provided below. Such reconsideration of the Final Rule is significant and the notice defects, therefore, EPA should convene a proceeding for reconsideration with the same procedure as should have been

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[34] 78 Fed. Reg. 12459 (Feb. 22, 2013).
[35] 80 Fed. Reg. 33839, 33881 (June 12, 2015). EPA's long-standing policy was based on the physical limitations of the most common emission control technologies, which work only at full operational capacity and not possible during startup and shutdown. See, e.g., *Mont. Sulphur & Chem. Co. v. EPA*, 666 F.3d 1174, 1192 (9th Cir. 2012).
[36] 78 Fed. Reg. 12459, 12479 n.25 (Feb. 22, 2013).
[37] 79 Fed. Reg. 55919 (Sept. 17, 2014).
[38] Petition for Review filed in the Fifth Circuit Court of Appeals July 10, 2015, moved to the D.C. Circuit Court of Appeals August 28, 2015, now part of the case styled *Walter Coke, Inc. v. EPA*, D.C. Cir. No. 15-1166.
[39] 81 Fed. Reg. 51102 (Aug. 3, 2016).

a f f o h r a d t e h d e n f o r r b a e t a i v c a n i a l t a b t e i e n t h e r e u w a e p s r o p o w s o e u d l , d v i o t l a n e t o e t r i e c c e u i r c e f n c e t h l h A e d m i n i s P t r r o a c t e A i d c w i t e A A E) 1 a ° n d t h C e A A 1 :

S T A N D A O R R E V I E W

A d e q u a t e a é a é f o r r t d e [s p e j a s r t a e i d e a s s o n p a p b o l r e t t u p r a i r t t y i c n i p a t e t h r e u l e m p a c k d i 2 e T s h s e o "t r i é c e u i r i e s " m d e e n s t i g t) r e e n d s t h e a t a g e n e g u l a t t i e c s r v t s e a k a p r o e s d i r e e p u s b e d i c m m e (r 2 t t e , n s u r e f a i r t n a e f s f s e p c a t r e t a l i n e d S t) g i a r é f e p c a t r e a d i r o e p s p o r t t u d r e i v t e y l o p e v i d i e m h c r e e c b o s d p p t o h r e t b r j e c t t o i h o r e u a l r e t d h e r e e n b h y a t n h c e e q u a b j t u y d i r c e i v a i l e w . " - 1 3

T w s t a r u e t q e E s P A e p r o v T i e d x e a n s o d t h i e n r t e r p e a s r t a e i d e s p u a t é c e o f h F e i R a u l a e i d t u s n d e r s l u y p i p n S g e c t i o n t 5 A 5 P 3 A (r - 1) q u t o h r æ t s " e a a c g h e s b g l i a r e i n t e r p e e s r t s e b d e i g h p t e t i f t o f r b i e s s u a n c e , a m e n d m o e r n e t p c e a r l u l " F e a . i t o b e s e r b e a s A P h a e r o c e d u r e s , r e v e e s r i r b o h r e t b A e P A é s e v e r e s r i u b o n l r d e t e h r [e C A a A s a] e l 5 T 1 h A E P A a l l E o R V A s g r a n P e t t h i w i t i s i t o h m o e u e t t a i n p y g a r t i s c t u a l n a d r a r d .

I a d d i t t h C e A n A , r o v g i e l r e e p r m a o l v i r s e i l o a h t e a i d m m g i n i s t r a t i v e p r o c e e a c h j d u g i s r c e i v a i T l e h w C A A e q u E i P r A e d s a k l a e d d i t m i c o r n e a l , d e t a s i t l e e p d r o v i a s l i a g e o m t e h R e t o p R s e l e a ' s a i n s p d u r p t o h s æ t i n c l u s a l u e n s m a e r (y A t) h f e a c t d a a a w h i t c h p e r o p o r s e q e a b s a] s e B) ; t h m e e t h o d u o s l e o d g b y t a i t h d e a n a g a i d a n a l y t z n d e a n g a n (d C t) h e m a j l o e r g a l t e r p r e p a t i o c n y s i a e u n a d t e i r t h p s i r o g p o r s e d . " - 1

S p e c i § f 3 i 0 c 7 a (l d l) y (, 7) f (d B r) p m p a m o d v a i t d o d r i s y s c r e t i o n a r y r e c o n s i o d f e r r u a l t e i h E e R y A d m i n i s V t a r n a d t a o r t e o c r o y n s i i d s e r a t i o n p r o v y l e n w a " i s i m t p r a c t t o i a c i a s a h e j e w t t p t i m u e b d i c m m e n t p e r i o o i d f h g e r o u f n o s r s u c o h b j e a t o a s f e t t e n p e e r f o p d u b d i c m m e n t . a . n i d s f u c o h b j e i c s f c e n t r e a l e v a m o e u e t c o m l e r e u l e . "

D i s c r e r t e i c o n m a s r i y i d s e l r s a v o t a i i c l m a d § e 3 e 0 7 (d) l (P 7 P) G (n B d) u . s t r i e s , I n v c C a s t t h D e . , C i r n o t t e h d a e t i t i c i o u c l e d m s e m a h e w u l e p r o m u l b g y E a P t A e f d t r e m a b n y t d h c e o u o r n a , l t e r n c a o t u f l i d e p l e y t , i t i o n f o r r e c o n s i d d i e r r e a c t t E l R y A y e t m o u t g n r e u a l e s s h u a e d e e n p r o m u l t g w a y o t e e e d a s r l e i e g a r t d h l a e t S s s t i f t o R r e v n h e a d e e n f i l e d

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[1] 5 U . § § 5 . 5 C - . 5 9 .
[2] 4 2 U . S § § 7 4 0 1 - 7 7 0 0 .
[3] A z m R a d R i e o l L a e y a g l u n e c F . C C 5 2 4 . 2 2 7 2 3 6 D . C C i 2 0 0 8 i n t e r u o a a t i o n m a r k s m i t t e d) .
[4] l : n t t h l d n i , M i e M e o r k o e A r n s v M i n S e a f & H t e y a A d m i 4 n 0 F , . 3 2 5 1 0 2 , 5 9 (D . C C i 2 0 0 5 c) i S m a R l e l f i L r e e P r c h a s e - T D a o S w l o n r v o E e P A 0 5 . 3 0 6 5 , 4 7 (D . C C i 1 9 8 3))
[5] 5 U . § § 5 . 5 C - . 5 9 .
[6] S m a R l e l f i L r e e P r c h a s e - T D a o S w l o n r v o E e P A 0 5 . 3 0 6 5 2 , 3 D . C C i 1 9 8 3)) .
[7] C A A § 3 0 7 (d s) e S e 3 m a R l e l f i 7 n 0 e 5 r . 2 a 5 1 8 - (1 d 9 i s c u s s e i n g i r e m e C A A § 7 6 0 7 (d) (3)) .

anwdlapsendiitnhgDe. **C**ir C ouiotAtppe[47]aTlhseo unrotttehdeaitther rouwtoeupldo vaireev iecvo iuwrigtachontemporreacnoefobdaegency's consideeftlaiesisouraet,thheavrnith"epchsotrcationaodficzuart[48]sieohs"

Foerxamlpyae,Jan2u62a,0r0d9irecoctfthiennecomObanAadministration regartdhrieenvgoifewavnpdendrienggulatlhEiPoAndsm,inisevaieewed anumboefarctitcarkseinhpdbryevaiobnuisniisitnirtfasitnyiaeaOrnMarch 102,00E9P,AseiddsiscrtegtriaonetcoonsiodfeIhMeatr2cd72n,008 final rufletrhNeAAGfSsorzo[49]fwheinftiiiedushoppmocsteidcerquetshtaihtneg D.Circuit Ctohbeerfiesvfcaihoeegaltnudlcelt dtcieaascehsalleehnreguilneg inabeyaTnhdeeea.sfioEsrPAa'cstwiaoinsdtlsestiaerleltoiwfneearppropriate offifcrictanhlnseavdministtoreavtfilesavhandtadredtsenwnhienteher theyhobtendaintanionleidfpiedlderrveicsoensTihd2e9@e9l. reconsiwdlaegsrraatnitoentdhanwoceyaefatthefeinoazbsnteandlarel wapsropcasnedldbpountyeeafttehfeimnalwapsublilsmheesslpbonse three consiEEPAparstoipcovnspaulbliisdhaendu2a0r1y0.

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[47] 65 F. 2d 23a91 25(0D.CCi.1r98(1"pae tintaiyoefildeidrewcitEPAointerpret oamentchsetandtawridt,hdtrhewideborimsepse,cmiifdynight-to-midnight reporptrioncgedu(rceist4 2Uh.gSs.7C6.07 (dB5)U7.Ss.5C5.3 (e9 76)).

[48] *Idc.i,tOhigCthapdtfeMNeavaTjroiebaevTra5 1n5F.. 26d5,46 65-68Ci(rD..C. 1975).*

[49] DocNeoEPA-HQ-OAR-2005-0172.

[50] 75FeReg293(8Jan92,010).

[51] DocNeoEPA-HQ-OAR-2 D 02c12,0 0 0 7 4).

[52] DocNeOEPA-HQ-OAR-2003-0062).

[53] *SeNeorCtanrovEPA*5,3F.3d9 92,7(D.CCi2r008).

GROUNDS FOR RECONSIDERATION

I. EPA's Mischaracterization of the Texas SIP Was Not Known Until After the Close of the Public Comment Period, and Therefore It Was Impossible To Raise This Objection Before that Time

On October 28, 2016, after the close of the public comment period on the Final Rule, EPA filed its Answering Brief in *Walter Coke*,[54] stating that the affirmative defense [illegible] in the Texas SIP and that "[t]he Texas SIP is for decades without incident." The basis for evaluating the Texas affirmative defense was newly raised in this brief, and was not part of the proposal or final action or response to public comments.

This new position fundamentally undercuts the affirmative defense analysis EPA set forth in the SSM SIP Call, and expressly contradicts the factors [illegible] identified in the SIP-approvable affirmative defense in the Texas SIP, including the requirement that the affirmative defense proceeding, the affirmative defense[55] comment [illegible] affirmative defense the Texas [illegible].[56] The CAA requires that SIPs "include enforceable emission limitations and other control measures, means, or techniques, ... as may be necessary or appropriate to meet the NAAQS" and "program to provide for the enforcement of [such] measures."[57] This provides that SIPs must be adequate to meet the NAAQS.[58]

Furthermore, EPA reiterated that the affirmative defense can be consistent with the CAA, finding that an affirmative defense provision is consistent with the CAA if it is narrowly drawn to address only those excess emissions that are unavoidable and, if the requirement is intended to apply only in (use of) court to provide relief from injunctive (civil penalty); however, the overarching requirement of the CAA is attainment and maintenance of the NAAQS, and [illegible] SIP approval. The affirmative defense must meet this.[59] Importantly, EPA repeated its interpretation that the affirmative defense is reasonable to ensure that the overarching goal of title I of the CAA is attainment and maintenance of the NAAQS, balancing

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[54] Brief for Respondent EPA at 10, *Walter Coke, Inc. v. EPA*, No. 15-1166 (D.C. Cir. Oct. 28, 2016).

[55] The Texas affirmative defense for excess emissions from unplanned maintenance, startup, and shutdown (MSS) activities and for non-excessive emissions includes even emissions [illegible] 30 Tex. Admin. Code § 101.222(b).

[56] See, e.g., the following Docket No. EPA-HQ-OAR-2012-0322 comments: *Texas Commission on Environmental Quality, Regulatory Implementation* [illegible] (Nov. 5, 2014), Docket Item 0336; Comments on EPA's Proposed [illegible] and Related Actions (Nov. 6, 2014), Docket Item 0578; [illegible] Working Group Comments (Nov. 6, 2014), Docket Item 0958.

[57] CAA § 110(a)(2)(A), 42 U.S.C. § 7410(a)(2)(A) (emphasis added).

[58] See *Train v. NRDC*, 421 U.S. 60, 79 (1975).

[59] 78 Fed. Reg. 12459, 12474 (Feb. 22, 2013).

three at lhi at ey s, po e es ef f o s o s rtceecsh, n io s laolg[60] Ni cb tl he i tn nhge
F i n R au ll e l e n a t i e f c i h e n d o b l a o s t g i s i s c p a p E c P r A c t 'h s a m g e l i c y .

T h e r e t f h T e C E Q j u s r t e i l f u i p e a t d h f e g t c h t E a R a A p p r e c h i e a t e d
s i g n i i f m i p c i a a C n s l c P a w l o l u h l a d v o e t h c e o n s t r o a f t o T e r e g x y E a R A b 'r s i e f
c o n t r t a h d e f s a e t a s h c s l e m o n s E t P r A a 'a s e f a n d e r s o a f h c i c s m t g r o l
s t r a A s s g u y c t h r, e e s w u a l a s f u n d a m i e n r a t d l a e d q f u l h a p e u y b c l o i n c m e n t
p r o c o e n t s h p e r o p a o r s s d a u l p p l e p m r e o n p t c a s l a l .

T h a e f f i r d m e a f t e p i n l v s a e a y s i t o i c m a h i d s f c e n t e a l e v e t h c e e
o u t c o o f m h e F e i n R a u l l A e s d . e t a i i n c l o e m d m e f n i t o s e t c h d e o c k t e h T e e , x a s
a f f i r d m e a f t e i n v s e e k c e o y m p o o n f e h m e t s c t l a e a t a i s m r t ' s a a t n e d g a y s
e x i s i t s e o c h r f , e o r a m s f , a b r a e a k s h o e r i g T i e n x S a l s P f 1 9 7 A 2 s m e n t i o n e d
p r e v i E c P u A s s l E y e t , x a a f s f ' i r d m e a f t e i n v s e e e r e x a m o p h l c e a v n
a f f i r d m e a f t e i n v s e e p r o p c e r r a l f y b e p c a o r a r a p p r S V E D v e r t h e
c o u o f s e d i e c a t d h e e p s r , e o v i h s a i t o c e n c s c a i k n e p y a o r a c o m p r e h e n s i v e
a n e d l f f e s c t t r i a t t e e g c y e m t i s c s T l i h o T e n e s x S a l s P r i g i e s a a a b l y i s h e d
s t r i p e g i e a n r i t d u l e - e b m a i s s e s d i m o i n t t h s b e a s t h s a r t a v o i d a b l e
e m i s s f i r d V n S s S n n d a l f u n c c o t u b l e d d l s r e s s e s p e a d r t a h t r e o l u y g h
r e p o o t e r i n i g s a i n d d a s b g i m p l e m æ n n a t r i r n o g w l y a f f a i r m a t i e d t e
d e f e w n i s E e P , A p p r o o f v h a e v s a e r i o u a s S I r P e u v l i e 6 s A i b m e s 5 y t e a r s
l a t t e h T r e C , E C D e s x a a f s f i r m a t i v e d l e e a e i n n s t e e p g c c o a f n h t e i n u e s
g e n e r a f l o t - r h T e e l x a a i s s r u a p i r d g 6 r a m .

I n i g E E P A m 'i s s u n d e r o s f t h a e e d t o t g h e a e f f i r d m e a f t e p i n l v s a i e y n s
t h T e e x S a l s P C , E r Q e s p e c e d q u E e P s A t y e s c o n i s f i t i d s n e t r e r p o r f e h t e a t i o n
p e r m i s c s a i b f i i l r i c h t e a y f t e i n v i s e t e e s s p t e u c n p l a V h S n e S e n d i s s i o n s a s
p r o v i i n d l e T e e x a s S I P .

I I A s t O T e x a t s h F e i n R a u l C e o n f w i i d E t P s A ' s R e v e i e s t t d o t n s s R e g i C o n a s i s R t e e g n u c l y a t i o n s

E P A F ' i s R a u l a e t a i s o T h e x S a l s C P o n f w l i i s c h t b s s e q e u v e i n t s t c i o E n P s A ' s
" r e g c i o m m s a i l s r t e e g n u d f a l " t n i a o l n i s t z l e c e l l c o a s f f e h p e u b c l o i n c m é o t
t h F e i n R a u l O e A . u g 6 8 0 1 E 6 P , A i n a r l e i v z i e t s d i t o s e s g i c o n n a s l i s t e n c y
r e g u l 6 a i t n i e c s m p s o e n d s e e c i o s f i h D e C C i r i c N a i E h l v D t e l v A s s ' n ' s
C l e A a i n P r o j v E E P A A s p a o r f t h a u t l e m E R e A x n p g l , " a u i n n d s l e r e e v i s e d
r e g u l a v t o i u o b l n a s l , e t a n a a r t y a s d u v c e d r e s c e i t s h i a o s t r h a b s e e i s s u e d
w o u b l e a l p p l t i t e h e n d o b a s r e e o a p s a r t h a a s t u e n d t e h r i e s s c o o n g t ' s
j u r i s d 6 5 E P A u o m e [x e] r " t a h i a r h t s e o c t o r f i r m t e e r n c o i n r a c q u u i i t e s c e n c
w h i E c P h p A r o p b e e e n d b e d i c h i e t r d s e g u l a a s " i p o r n a s i c y t h i c a e h e c i s i o n
b y a f e d e i a d c o u i i s t i n o b i n n l g r h c a s r e e (a i t s r h c i a s s e p e c s i t f a a i t r e d s

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[60] *I d .*
[61] S e C e o *m m e t n y t s T e e x C a o s m m i s o s t E i n o v n i r o r n Q m u e a n R t i a t g l y a r S d t i a n t g e I m p l e m e P l t a a t 4 s i - o 1 n 1 5 (2 N 0 o 1 D 4 o) c N e E t P A - H Q - O A R - d 2 o 0 c 1 k 2 e - e 0 n 3 2 2 , 0 9 3 6 .*
[62] 3 O T e A d . r C i o r d e 1 0 § 1 § . 2 1 1 0 1 1 (a 2) 1 2 0 1 1 (. e 2) - 2 (2 e a ( ) r b , t d) 0 1 . 2 2 3 (c) .
[63] 8 1 F e R l e 5 1 1 0 A 2 u 3 g 2 . 0 1 6) .
[64] 7 5 F 2 . 9 6 (9 D C . C i 2 r 0 . 1 4) .
[65] 8 0 F e R l e 5 0 2 5 6 0 2 (5 A 4 u l g 9 2 , 0 1 5) .

t haes s o cEiPaAteegdisounbsjt)etchdei rjeucrti s d f bnteui loccininrgc u i t
c o u[66]r t . "

U n d tehrepsrei n cniopwleecso,gbnyEPAtlaedrpo f bnaam e n d mteon t s
i trse g icoonnasli s ut ewahsiycchas f ttehcel oospeu b d cimmeomtthFei n a l
R u EePAS'lsPaalsl Te xiaissm p r oTphelr. GSo uorAtp p efaoltrsFei f t h
C i rcvuiit h, j u o v Ted xhaes lj ebmi n cdliencgitshiatohrTee x a s
a f f i rdneaftepnrseev idsoni o"hnse gtahdeies tcpiucrtt ' s jtuarsissedsisc t i
c ipvenl aulstitehger i t e r i a n[O A 1l3i(oeet)dset ap tee r m i t t i n g
a u t h o r i t tyo'esc opvioepwreemra f[67] T h Fe is C f hr chuoi l t d'isnigr e c t l y
c o n t tr Ea Pr Ao'nsh y a t i f o n i a S l s C P a f l d T r e x[68] a B s e. c a E u P s A e a s s i n c e
a d o p i t t e s d r e g i o n a e l g u c b a n t s u i s f t o s e h i o y d l i e n c g i s w h e n s
a c t i n g a c w o u t j h t i r s s d a i n d t h e o n e f o o e s i o d f e h F e i t R i a o l l i n e
a p p r o p a n n i e a c t e s s a r y .

I I E P A s o F t o r e c f o s e n d M a i n t L s o i n g i - S g t P a n e d - i N h R g D , C
I n t e r p r o e A t f a f t i i r o n D a e t f i e v i n e a S e I P

E P A s o f t o r e c f l r o q s m e e d s e i r t v s i n l o p r n , g s t i a n n t d e i m p g r e g a t d i o n g
t h p e e r m i s o s f a h a f f i r t h e a f t e i n v s e e a S W E P A h u i n m m a r i z e d t h i s
i n t e r p o r f e h C a A t A i e o f n b h F e i C t i h r c u i t , s t a t i n g t h a t :

> [T S h t e i s e r a n a t u e t d h o d i e t t y e r w n h i a n t e n s t a i v t i u o t l e a s t i o n ,
> a n t d d i s t i b n o g t u h i s h t i a n a q t u i a v l e i l t y a e t t i w d e e i e n f y e r e n t
> t y p o e f v s i o l a T t h i o p s n a s o . f h e e s s e f n l t e i x a i l e c b o g i h y z e d
> r e g u l a a b t i o l r d ' e s f y e i m t f e o r e m a i s s l e i o n n i s t [6] a t i o n s .

I n t h F e i R a u l E e P A e v e i r t s s e d i f t o i l o l n d o w 2 i e O n 1 g 4 e c i c s f i h D e C .
C i r C o u i t N t R D V C E P [7] A (N R D s C t) a , t ' i t h t g h r e e a s c o n f i h c e g u i r n t
[N R D i C n] d i t c l a t h t e s e s t a l t e l s E P T A h a e n e a u t h o f S i p l P r y o v i t s o i o n s
a l t t e h j e u r i s d i f c f i c o e u r a l s s p t e e s r s a f d v r i i e o s l a o t C i A o A n s
r e q u i r t e l m r e c a u t f g s h i r d n e a f t e p n r s e e v i [7] s E P A o s r s i " g l i o n n a g l - , s t a n d i n
i n t e r p t r e t a t d h v i e s o e a f f i r d n e a f t e i n v t s e h e b e s e p i o s l b i e c y a i u t s e
p r o v s i t d a w s i e t s h a e u t h o h i e t y s t o m p l e t m h e e n i t r f o r c p e r m o e g n r t a m s
a s t h e e y f e i t .

T C E u Q r g E e P s t A o e c o n i s t r i s e l e e r c n h t a l n y i g r e t d e r p r i t e t e g l t t h c e n
s i g n i i f m i p c a a b n i t t r s t e r p w e u h a a d v o e t m T e e x S a l s P o t r h f e o l l o w i n g
f o u e a s n o e n i s t , h C e A r A o t r h N e R D C e c i s i o n f f o r r q e m c e l s o e s i r e t v s i E r P g A
p r i i o n r t e r p r e g a t d h p e e m r g m i s s a f b f i l i d h e y f t e i n v s e S e l s P .

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[66] 8 0 F e d . 5 R 2 5 0 2 5 2 - (5 A 0 u 2 g 2 3 0 1 5) .
[67] *L u m i n G æ m t e r C a d L . i L o C n E P A* , 1 4 . 8 4 1 8 5 n 3 . (9 5 C ' i 2 r 0 . 1 3) .
[68] 7 9 F e R l e 5 5 9 5 5 9 9 4 4 - (5 S 5 e 9 p 7 2 5 0 1 a 4 n) 8 d F e R l e 3 3 8 3 9 8 5 1 - a 3 n 3 c 8 5 2
3 3 9 6 8 - (3 J 3 u 9 n 2 2 e 9 0 1 5) .
[69] B r i o R e s p o E P A 2 7 L , *u m i n G æ m t e r C a d L . i L o C n . E P A* , 8 4 (1 5 C ' i h r .
2 0 1 3) .
[70] 7 4 F 9 . 3 0 1 5 (5 D . C C i 2 r 0 . 1 4) .
[71] 7 9 F e R l e 5 5 9 a 2 5 0 5 9 2 9 .

A. EPA's pre-NRDC approval was justified and properly approved.

EPA's 2010 approval of TCEQ's affirmative defenses was upheld by the Fifth Circuit.[72] The court found that the TCEQ's SIP-approved affirmative defenses were not inconsistent with EPA's policy and that the TCEQ's affirmative def[enses are] narrowly tailored such that the source must meet a high burden to comply with emission standards and comply with the CAA. ... incentives to ... reduction of emissions ... the TCEQ's affirmative defense rule is consistent with the ... CAA § 113(e).[73] Accordingly, EPA is not constrained from its long-standing interpretati[on] …

B. The NRDC decision does not apply to measures in SIPs.

The NRDC decision limits EPA's authority for affirmative defenses to regulations adopted by EPA under CAA § 112.[73] In NRDC, the court was faced with determining whether EPA had the authority to determine the appropriateness of penalties in a regulation establishing an affirmative defense implementing CAA § 112.[74] The court held EPA lacked the authority, as EPA's general rulemaking authority under CAA § 301(a) is insufficient to override the jurisdiction of the district courts to determine the appropriate penalties.[75] The court's opinion explicitly notes that it does not address the question of whether an affirmative defense may be contained in a SIP.[76] Accordingly, NRDC's application of affirmative defenses under CAA § 110 and the court's holding has no direct preclusive effect on EPA's approval of a state's SIP.

C. State has broad discretion to determine the scope of emissions limitations and control measures under § 110 of the CAA.

Although the NRDC Court did not weigh in on the approval of affirmative defenses in SIPs, the Fifth Circuit's holding in Luminant (affirming EPA approval of affirmative defenses in the TCEQ SIP) remains valid with respect to EPA's consideration of this reference.

While the NRDC Court found that EPA had no statutory authority to determine the appropriateness of penalties, it is also clear that the states may do so. CAA § 110[77] grants states the authority to establish enforceable emission limitations and other control measures, means, or techniques, as appropriate or necessary, and "provide for the enforcement of [such] measures."[78]

Furthermore, EPA's implementation of CAA § 110 was consistent with the explicit emission standards within the section, giving states flexibility to implement SIPs consistent with … as explained by the U.S. Supreme Court,

[72] *Luminant Generation Co. LLC v. EPA*, 714 F.3d 841 (5th Cir. 2013).
[73] 42 U.S.C. § 7412.
[74] *NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014).
[75] See CAA §§ 113(b), 304(a).
[76] *NRDC v. EPA*, 749 F.3d at 1064 n.2 (D.C. Cir. 2014).
[77] 42 U.S.C. § 7410.
[78] CAA § 110(a)(2)(A) (emphasis added).

Clark v EPA, No. 1:18-cv-00075 (D.D.C.); EPA-HQ-2017-008007 ED_001710B_00015757-00012

" sloo a g huel t iemfafoeeSt tt a d he d oisfe re i s ls iino in tiastoimopalrs c e
w i t hnea t isotnaanldfaaarmdbsiaeintrhSet a i s e l tiebdeowpthya t e v e r
m i oxé m i s ls iino in tiatte ie bmrss u i t t o e pls a r t is c u t u a r t i o n . "[79]

D A f f i r d m e a f t e s s l v o n e o a t l t e D e i s C o i u g t u s l s d i c t i o n .

A l t h E P A F h i s R a u t e n c t e l d S e t s a h t a e t s e o d a i d s c r i e i n t n p d r e m e n t i n
e m i s s l i i o n r i s t a a n t d i o o r m s e a s u i r a t e s s s , e h n a t s f i r d m e a f t e s i s v e
e x c t e l e d i t s t c i b o e n c a t u h s e e y t e j e u r i s d i f l o d e i i s o t n o u t C T t C s E Q
r e q u E e P s r A t e s o n s i t d h p i o s s i t i o n .

S t a a t u e t s h t b o r i e t d a y e t f e e s s m o n e p e a n a i l s t o i n e s s i w s i t t e h n t e e t o x f t
b o t C A A § 1 B (e n) (3 § 0) 4 S e c B D e 4 w l a i a c u h t h o c r i i t z s i e z s e t h s ,
a l l a o c w o s u t r ö t a p p n l a y p p r o p r i p r i e a n t a e l i t a c i e t s s ' z E e l e c t i o n
1 1 3 (p e r) o (v l h i) d a e c s o u s r h t o l ' d l e t e r t r h a i e m m o [u e n t n p y e n a t b t e y
a s s e S N s e e i d a l d ' e l r e h s o s v e l s t e r w n h i e n t n e h o e n r e p e a n a l r t e i e s
" a p p r o p a s l i a s t f e r n t t h ' t e a m o o p e h a i l a f m i o e n s e p e a n a i l s t y
a p p r o p r m i o a r s t e p e e , c i w f h i e c t a l S e l s c t a c h e t e r t r h r a c t e a e t a r y
p e n a a l r h e i o a t s p r o p r c i e a r t S e a v P i f n o o l r a t i o n s .

T h C e A A a r a t n h t d e s i s t c o i u c t r ' i s s d i v e e i t c i b a n a f i a c p r p s l i c a b l e
s t a n d a l a d r e d t . e r m w h n e t t h h g e h r a l a s e e a v n i o l c a f t S i l d P h d e i s t r i c t
c o u m r u t s n t e e c s s a l r o i b l a y p w h s a p t e c s i t f a i t a c s h o s e h a i p t e s
e m i s s c i o n p s r o g w r i a t m t h h d e i s c r e t i b o y t n h C e g A A a n d S e 1 e r 1 d C T h e
i n c l o u f s r a d r f i r d m e a f t e i n v s e e v r i e s p o e o s n s e e t s a b n y w l s m c h
s t a h t a e v s e o s é m p l e t m h e e n t r i s s c i o n p s r o g W a h m e a r c . i a r d t i o n
c l a a i m a s l e g v e i d o l S a l h S e l e P s n t , a b t l h i s e s t l a e n l s y a r m i d t c h a e l l e g e d
v i o l i a j s t u i d o g T e h d e o u t r h t e p p t l h f e a s o t f s h c e a s e h s a t t a n a d r a d r d
w h e a r v e i o l i a f s t o i u c r m o d n , s w d e t t h a e w r a a p d e n a o b t t y h a e u r t h o r i z e d
r e l a i s p e r f e s c i m t i h s e e a l a n t d h S e l P .

O n T e e x f a e s d e o e h a a s p p l t h T e C d E C a f s i r d m e a f t e i n v s e e s u s t
d e s c r l i S b i e e d C I r u a E n v e F g u y t H o e d C o g a s c . i , t s i z f e i h l u e d t e h r e
C A A i n t W e e s t D e i r s n b T i e o x t a h S e , i e C r l r a a b l e g e d l a t e o r t s a i n
e m i s l s i i n o i n t h T e e x S a l a P n d e q u e c s i p v e i d a D t e i f e e s n a d s a s n e t t r s h t e e d
T e x a a f s f i r d m e a f t e i n T v s e e e s u d r i n d o d t i s m f i o l s r a s o c j k u r i s d i n s t i e a n d ,
h o l d a t i h g e t e r a i l a e d y n t e j r u i d n g g n o e t r h n t e e r a i f t t s e o n s i d o e a r l a l t i o n
o f h f e a p t r s s e T h d e i d s t o i u c t t e a s b n f e a e f t f i r m a t i w v a e s d e f e
c o n s i w d i e t r h E e d l f t h d C e i t r e c r u m i i t t n ' u a s t i i n o i a m t c h a h a e l l e n g e t o
E P A a ' p s p r o o f v a t l f h f e i r d m e a f t e i i n v s e h T e e x S a l s P n , t d h c e o u f r o t u t n h d a t
t h T e e x d a e s f e c h o s e " s n e g t a d e i e s t r i c t c o t u e r s t s ' c s i s v s j i u l r i s d i c

[79] *T r a v i N n R D C 2 U S 6 0 7 , 9 (1 9 7 5) .*
[80] 8 0 F e R d e g 3 8 a 4 3 0 3 8 (4 J B u l n 2 2 , 0 1 5) .
[81] *I d a . 3 3 8 4 5 .*
[82] C A A § § 1 3 a (n b d) 3 4 0 2 4 (3 § 7 ; 4 1 3 a (n 7 d 6 0 4 (a) .
[83] S e C A A § § 1 1 3 a (n e d) 3 4 0 2 4 (3 § 7 ; 4 1 3 a (n 7 d 6 0 4 (a) .
[84] C A A § 3 0 4 2 U . S § . 7 C 6 . 0 4 .
[85] S e *M e e m o r a n d u m d S r e C I r u a E n t e F r u g t y H o e d C o g* N s o . 1 . , 2 - 1 0 8 , 2 0 1 4
W L 2 1 5 3 9 W 1 3 D e . M a 2 , 8 2 , 0 1 4) .
[86] *L u m i n G a m t e r C a d L . i L o C E P A* , 1 F 4 . 8 4 (1 5 C ' i 2 r 0 . 1 3) .

penalties under CAA § 113(d)(1) for permitting authority's decision to issue a PSD permit, provided the narrow exception for "[b]ona fide" reliance on a duly promulgated EPA rule is satisfied.[87] The Court's determination that the Clean Air Act bars EPA from recognizing a state's authority under CAA § 110.

RELIEF REQUESTED

For the foregoing reasons, Petitioners respectfully request that the Administrator grant the Petition, initiate a rulemaking proceeding regarding the exclusion of fugitive emissions from Title V permitting, and pending reconsideration.

March 15, 2017

Respectfully submitted,

Chairman
Texas Commission on Environmental Quality

[87] *Id.* at 853.

CERTIFICATE OF SERVICE

I certify that a copy of the Texas Commission on Environmental Quality's Petition for Reconsideration and Request for Administrative Stay was served on the following persons and in the manner indicated, certified mail, return receipt requested, on March 15, 2017.

James Boyd Hudson

James Boyd Hudson
Attorney, Environmental Litigation
Texas Commission on Environmental Quality
Texas Bar #01574000

Administrator Scott Pruitt
United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
MC-1101A
Washington, DC 20460
pruitt.scott@epa.gov

Jeffrey Wood
United States Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
Tel (202) 514-0997
Fax (202) 514-8865
jeffrey.wood@usdoj.gov

To: Brown, Byron[brown.byron@epa.gov]; Mccabe, Catherine[McCabe.Catherine@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Schaaf, Eric[Schaaf.Eric@epa.gov]; Anderson, Kate[Anderson.Kate@epa.gov]
From: Starfield, Lawrence
Sent: Fri 3/24/2017 8:54:28 PM
Subject: RE: Endangerment abatement order Puerto Rico landfill Toa Alta
Toa Alta briefing memo_Feb 9_2017.docx

Bryon,

Catherine or others in Region 2 can provide more background, but here, FYI, is the briefing paper we have on this case.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Brown, Byron
Sent: Friday, March 24, 2017 4:28 PM
To: Mccabe, Catherine <McCabe.Catherine@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: Re: Endangerment abatement order Puerto Rico landfill Toa Alta

Hi Catherine - thanks for the email. Larry's email below references other enforcement actions.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process Happy to look at a briefing paper - either the one used for Justin last month or current one - if that would help answer these questions. Thanks. - Byron

Sent from my iPhone

On Mar 24, 2017, at 12:18 PM, Mccabe, Catherine <McCabe.Catherine@epa.gov> wrote:

Good morning – Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process Thank you.

Catherine McCabe

Acting Regional Administrator, Region 2

From: Starfield, Lawrence
Sent: Friday, March 24, 2017 11:47 AM
To: Brown, Byron <brown.byron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: FW: Daily Enforcement Report

Byron and Justin,

Ex. 5 - Deliberative Process

Thanks.

Larry

The Toa Alta Municipal Solid Waste Landfill in Puerto Rico is posing significant risks to public health and the environment. The liner and leachate controls have been abandoned and damaged, and large volumes of uncontrolled contaminated leachate and storm water are being released. The landfill, which is already filled to capacity, is located over an important drinking water aquifer and is in close proximity to residences. During the week of March 20, Region 2 plans to issue a unilateral administrative order under RCRA §7003 (an "imminent and substantial endangerment" provision) to the municipality and several companies that presently or formerly operated the landfill, requiring: certain urgent improvements to operations at the landfill; the prompt evaluation and repair, if possible, of the leachate control system; the permanent cessation of waste receipt at the landfill by a specified date, followed by the application of an intermediate cover; and steps to minimize the landfill serving as a breeding ground for mosquitoes carrying the Zika virus (a significant health threat on the island). No penalty is being sought.

Region 2 has previously taken enforcement actions to abate threats at twelve other landfills in Puerto Rico. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process OECA and Region 2 briefed Justin Schwab on this matter on February 15, 2017. This is a time-sensitive matter, given the overflows from the landfill. If possible, we'd request a response by early next week.

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Name of Case (Region): Toa Alta Municipal Solid Waste Landfill, EPA Region 2

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Jackson, Ryan[jackson.ryan@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Tate Bennett[Ex. 6 - Personal Privacy]Brown, Byron[brown.byron@epa.gov]
From: Dravis, Samantha
Sent: Sun 3/26/2017 10:14:36 PM
Subject: RE: SSM SIP call rule

Ex. 5 - Deliberative Process

I will find out for sure tomorrow.

-----Original Message-----
From: Jackson, Ryan
Sent: Sunday, March 26, 2017 6:12 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tate Bennett <Ex. 6 - Personal Privacy
Brown, Byron <brown.byron@epa.gov>
Subject: RE: SSM SIP call rule

What's your gut tell you?

And ICR letters take weeks, and what else can't we do...

-----Original Message-----
From: Dravis, Samantha
Sent: Sunday, March 26, 2017 6:11 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tate Bennett <Ex. 6 - Personal Privacy
Brown, Byron <brown.byron@epa.gov>
Subject: RE: SSM SIP call rule

Sarah Rees should have that. But as discussed, I think we kind of need one repository that merges the two.

Hopefully Schnare was incorrect that getting SCOUT working would take a year.

-----Original Message-----
From: Schwab, Justin
Sent: Sunday, March 26, 2017 6:09 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Tate Bennett <Ex. 6 - Personal Privacy
Brown, Byron <brown.byron@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: SSM SIP call rule

Update: what Kevin has is a document of all obligations under consent decrees, including those that might require us to disapprove SIPS or issue FIPs. It is not a list of *all* ongoing SIP/FIP processes. Mandy, do you know if OAR has that kind of document?

Sent from my iPhone

> On Mar 26, 2017, at 3:04 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>
> Yes. I will get the document from Minoli tomorrow and circulate it.
>
> Sent from my iPhone

>
>> On Mar 26, 2017, at 3:02 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Justin, is there a SIP issue review table on which we are working to get a handle on petitions and SIP issues?
>>
>> From: thomas.jackson@bakerbotts.com [mailto:thomas.jackson@bakerbotts.com]
>> Sent: Thursday, March 23, 2017 5:03 PM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: SSM SIP call rule
>>
>> Ryan – I hope you are well. Congratulations on your new position. I was interested in chatting with you about the EPA SSM SIP Call rule and the petition for reconsideration submitted by TCEQ last week (copy attached). It would be great if you could give me a call or let me know when you are available to talk.
>>
>> Tom Jackson
>> Baker Botts L.L.P.
>> Thomas.jackson@bakerbotts.com<mailto:Thomas.jackson@bakerbotts.com>
>> T +1.202.639.7710
>> F +1.202.585.1009
>> M +1.202.285.2311
>>
>> 1299 Pennsylvania Ave., N.W.
>> Washington, DC 20004-2400
>> USA
>> [cid:image003.jpg@01D130E8.AAB6AEE0]
>>
[cid:image002.png@01D1157E.8884C440]<https://www.facebook.com/BakerBottsLLP/>[cid:image005.png@01D1157D.DD226850]<https://twitter.com/bakerbotts>[cid:image006.png@01D1157D.DD226850]<https://plus.google.com/u/0/+bakerbotts/about>[cid:image007.png@01D1157D.DD226850]<http://www.linkedin.com/company/baker-botts-llp?trk=hb_tab_compy_id_8300>[cid:image008.png@01D1157D.DD226850]<https://www.youtube.com/channel/UCgys2C8DwRY-BVN079QNnwQ>
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>>
>>
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>> <removed.txt>
>> <image002.png>
>> <image003.png>
>> <image004.png>
>> <image005.png>
>> <image006.png>
>> <TCEQ_s SSM SIP Call PFR.PDF>