IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LANDMARK LEGAL FOUNDATION **Plaintiff,** **vs.** **U.S. ENVIRONMENTAL PROTECTION AGENCY** **Defendant.**	**Civ. Act. No. 12-1726 (RCL)**

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, the United States Environmental Protection Agency (EPA), respectfully moves for summary judgment. This action is being brought under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.*, requesting declaratory and other relief. On August 17, 2012, Plaintiff sent a FOIA request to the EPA seeking disclosure of the following records:

1. Any and all records identifying the names of individuals, groups, and/or organizations outside the EPA with which the EPA, EPA employees, EPA contractors and/or EPA consultants have had communications of any kind relating to all proposed rules or regulations that have not been finalized by the EPA between January 1, 2012 and August 17, 2012. For the purposes of this request, "communications of any kind" does not include public comments or other records available on the rulemaking docket.

2. Any and all records indicating an order, direction or suggestion that the issuance of regulations, the announcements of regulations and/or public comment of regulations should be slowed or delayed until after November 2012 or the presidential elections of 2012.

Complaint, Exhibit 1, Landmark FOIA Request.

Upon mutual agreement, the scope of the request has been limited to the responsive records of senior officials in EPA headquarters.

As grounds for this motion, Defendants assert that there are no genuine issues of material fact and that they are entitled to judgment as a matter of law. A memorandum of points and authorities and a statement of genuine issues of material fact not in dispute are attached hereto.

Respectfully submitted,

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STATEMENT OF MATERIAL FACTS AS
TO WHICH THERE IS NO GENUINE ISSUE

Pursuant to Local Rule 7.1(h), Defendant, United States Environmental Protection Agency (EPA), submits this statement of material facts as to which there is no genuine issue.

1. On August 20, 2012, the EPA received a FOIA request, dated August 17, 2012, from the Plaintiff, Landmark Legal Foundation. Plaintiff sought expedited processing and a waiver of all fees associated with processing the request. Declaration of Eric E. Wachter, Director of the Office of the Executive Secretariat ("OEX") ("Wachter Decl."), ¶ 4 and Exhibit A attached thereto.

2. On August 21, 2012, the EPA's National FOIA Office sent a letter to Plaintiff acknowledging receipt of this request and providing the request's tracking number, HQ-FOI-01861-12. The request was then assigned to OEX. Wachter Decl. ¶ 5

3. On August 29, 2012, the EPA's National FOIA Officer sent a letter to Plaintiff, granting the request for a fee waiver but denying the request for expedited processing. Wachter Decl., ¶ 6

and Exhibit B attached thereto. On September 14, 2012, Plaintiff filed an administrative appeal challenging the denial of its request for expedited processing. The appeal letter was received by the Office of General Counsel on September 19, 2012. Wachter Decl. ¶ 6.

4. On October 5, 2012, Plaintiff agreed to narrow the scope of the request to "senior officials" in the EPA's headquarters offices, with senior officials being identified as Program Administrators, Deputy Administrators and Chiefs of Staff in EPA's headquarters offices. Wachter Decl. ¶ 8 and Exhibit C attached thereto.

5. On October 18, 2012, the EPA's Office of General Counsel denied Landmark's appeal for expedited processing. Wachter Decl. ¶ 9 and Exhibit D attached thereto.

6. On October 22, 2012, Plaintiff filed the instant Complaint in the United States District Court for the District of Columbia. PACER DKT. No. 1.

7. Plaintiff filed a Motion for Preliminary Injunction on December 12, 2012, which was denied on December 21, 2012. PACER DKT. Nos. 14 &19.

8. The parties conferred and a draft scheduling order setting forth production deadlines was prepared with input by both parties. PACER DKT. No. 21. Thereafter on February 19, 2013, the Court incorporated the agreed upon document production deadlines into a Scheduling Order. PACER DKT. No. 23.

9. On February 7, 2013, the EPA produced the first set of responsive records to the Plaintiff. The EPA provided Plaintiff with a disc containing three files. The first file consisted of 1,122 pages of responsive documents to be released in full. The documents designated to be released in full included letters, correspondence, or contacts with the EPA and outside parties not subject to any exemption, internal information not subject to any exemption, as well as some internal and potentially deliberative information that the EPA had determined was subject to

discretionary release. The second file consisted of 970 pages of documents that were released with redactions. The basis for the redactions was provided on the face of the record as well as in the Index of Withheld Information provided to Plaintiff. The third file was the 64-page Index of Withheld Information, which identified the withheld and redacted documents by number with the Exemption applied to the document. Approximately 32 documents totaling approximately 200 pages were designated for consultation and review by the White House and/or other executive branch agencies and, as a result, were not provided in this release.

Wachter Decl. ¶ 22.

10. Pursuant to 40 C.F.R. § 2.103(d), the EPA initiated a consultative process with the White House for 32 documents. The EPA consulted with the White House and its offices, including the Council on Environmental Quality, the Executive Office of the President, and the Office of Management and Budget. The consultative process with these Executive Branch entities was completed by February 27, 2013. Wachter Decl. ¶ 23.

11. The EPA's second production of responsive documents was on February 27, 2013. The EPA provided Plaintiff with a disc containing five files. The five files consisted of 1) the documents already released to Landmark in full on February 7; 2) the documents already released to Landmark on February 7 with redactions applied; 3) a supplemental production file that included the documents that had been designated in the February 7 Index as "other agency review" as well as some additional documents that were inadvertently omitted from the February 27, 2013, production; 4) an index of documents where some or all information was withheld; and 5) an separate index of just those documents withheld in full. Documents marked in the Index as "other agency review" had any redacted material and the basis for the redaction provided to Landmark on the face of the document. Wachter Decl. ¶ 24.

12. During the processing of the EPA's February 27, 2013, response, the EPA located a small number of documents in the database that did not yet have responsiveness coded or exemptions applied. The EPA notified Plaintiff of the existence of these additional documents on February 27, 2013, and anticipated that review would be complete on March 15, 2013. All but one (1) of these documents were nonresponsive to Plaintiff's request. The document numbered EPA-269 was deemed to be responsive. This document required additional time for the EPA to consult with the Executive Office of the President before release. This document was released with redactions to Plaintiff via electronic mail on March 19, 2013. Wachter Decl. ¶25.

13. On March 13, 2013, the EPA received an inquiry from Plaintiff regarding documents EPA-246 through EPA-269. Upon receipt of this inquiry the EPA staff involved in the processing of the documents re-reviewed and reprocessed the EPA's February 27, 2013, response in order to ensure that the manually applied numbering was intact and that all non-exempt and partially exempt documents had been provided to Plaintiff. The EPA then entirely reproduced its February 27, 2013, response on a disc on March 14, 2013. The EPA determined that document EPA-265 may have been inadvertently withheld and added it to the CD file entitled "Supplemental Docs Release_Update March 14." The EPA informed Plaintiff that document EPA-269 was undergoing further consultation and review. Document EPA-269 was produced to Plaintiff on March 19, 2013. Wachter Decl. ¶ 26.

14. The Plaintiff requested and the EPA removed the redaction of the secondary email address for former EPA Administrator Lisa Jackson. There was no longer a privacy interest to be maintained in this account because Ms. Jackson had departed from the Agency. Landmark also requested, and the EPA provided, approximately 460 pages of attachments to documents EPA-32

and EPA-33 that the EPA had previously indicated it would produce upon request. These releases were made on April 12, 2013. Wachter Decl. ¶¶ 27, 28.

15. On April 12, 2013, the EPA released a disc to Landmark containing three PDF files. The files were: 1) a file titled "Compiled Documents Released in Full," which contained 1,134 pages in 123 documents and were released in full to Landmark Legal Foundation; 2) a file titled "Compiled Documents Release with Redactions," which contained 1,678 pages in 196 documents and were numbered and released with some FOIA-exempt information segregated and redacted and the exemption noted on the face of the document; and 3) a file titled "Compiled Index of Withholdings," which contained a complete list, by number, of those documents that were determined to contain FOIA-exempt content. As the EPA explained to Plaintiff in its April 12, 2013, letter accompanying the final release, some documents that were previously redacted were now being released in full with the redaction removed from the secondary email account of former Administrator Lisa P. Jackson. Sixty (60) documents, totaling approximately 208 pages, were withheld in full as noted on the final "Compiled Index of Withholdings."
Wachter Decl. ¶¶ 28 and Exhibit E.

16. Thereafter, as part of the EPA's preparation of its Motion for Summary Judgment in this case, the EPA determined that an additional search for documents from the former Administrator, Deputy Administrator, and Chief of Staff in the Office of the Administrator would be necessary to ensure a complete and adequate production to Plaintiff. This additional search yielded approximately 365 additional responsive documents to Plaintiff's FOIA request. Approximately 101 additional documents were released in full to Plaintiff on May 15, 2013. Approximately 181 additional documents were released with some FOIA-exempt information redacted and the exemption noted on the face of the document. Wachter Decl. ¶ 29.

17. As of May 15, 2013, the EPA has located approximately 734 documents responsive to Plaintiff's request. Of those records, approximately 1,934 pages in 224 documents were released in full to Landmark Legal Foundation. Approximately 3,022 pages in 377 documents were numbered and released with some FOIA-exempt information segregated and redacted and the exemption noted on the face of the document. Approximately 133 documents were withheld in full under one or more FOIA exemptions. Wachter Decl. ¶ 30.

18. All reasonably segregable portions of the records were released to Plaintiffs after the appropriate exemptions were applied to the documents. Wachter Decl. ¶ 16, 21, 39.

Respectfully submitted,

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DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT.

I. INTRODUCTION

The Defendant, United States Environmental Protection Agency (EPA), submits this memorandum of points and authorities in support of its Motion for Summary Judgment.

The Plaintiff's FOIA request involves records related to communications EPA officials had with outside third parties pertaining to proposed rules or regulations that had not been finalized by the EPA between January 1, 2012 and August 17, 2012. The request also included records for the same time period indicating that the issuance of regulations should be slowed or delayed until after November 2012 or the presidential elections of 2012. Exhibit A to Wachter Decl.

The EPA conducted an adequate search for the requested records, provided Plaintiff with a description of the withheld information and has identified the applicable FOIA exemptions. See Wachter Declaration, attached hereto. EPA has properly withheld information from

disclosure pursuant to Exemptions 5, and 6. EPA, therefore, requests that the Court enter summary judgment in its favor and dismiss this matter with prejudice.

II. BACKGROUND

EPA respectfully refers the Court to its statement of material facts as to which there is no genuine issue, which is attached to this motion and fully incorporated herein.

III. LEGAL STANDARDS

"FOIA cases are typically decided on motions for summary judgment." *Defenders of Wildlife v. U.S. Border Patrol*, 623 F.Supp.2d 83, 87 (D.D.C. 2009); *see also, Flightsafety Services Corp. v. U.S. Department of Labor*, 326 F.3d 607, 610 (5th Cir. 2003); *Cappabianca v. Customs Service*, 847 F.Supp. 1558, 1562 (M.D. Fla. 1994)(where "documents in issue are properly identified, FOIA cases should be handled on motions for summary judgment."); *Fischer*, 596 F. Supp 2d at 42 (summary judgment is appropriate in a FOIA case where the pleadings, together with the declarations, demonstrate that there is no genuine issue of material fact in dispute and that the moving party is entitled to judgment as a matter of law.).

An agency is entitled to summary judgment on a FOIA claim where it shows that the documents withheld are "wholly exempt from the Act's inspection requirements." *Exxon Corp. v. Federal Trade Commission*, 663 F.2d 120, 126 (D.C. Cir. 1980) (*citing National Cable Television Association v. Federal Communication Commission*, 479 F.2d 183, 186 (D.C. Cir. 1973). In making that determination, the Court may rely on agency affidavits so long as they are relatively detailed, non-conclusory and submitted in good faith. *Miller v. U.S. Department. of State*, 779 F.2d 1378, 1383 (8th Cir. 1985).

Further, in FOIA cases, agency affidavits are accorded "a presumption of good faith." *SafeCard Services, Inc. v. Securities and Exchange Commission*, 926 F.2d 1197, 1200 (D.C. Cir.

1991). The fact that the agency did not respond to a FOIA request in a timely manner will not serve to justify the Court awarding a requester's motion for summary judgment. *Muhammad v. U.S Customs & Border Protection*, 559 F.Supp. 2d 5, 8 (D.D.C. 2008). In a FOIA action, a district court has jurisdiction only when an agency has improperly withheld agency records. 5 U.S.C. § 552(a)(4)(B).

Accordingly, the Declaration of Mr. Eric E. Wachter and the EPA's *Vaughn* index firmly establish that there are no genuine issues of material fact and EPA is entitled to summary judgment as a matter of law.

IV. ARGUMENT

A. EPA Conducted an Adequate Search for all records requested and Properly Produced to Plaintiff all Disclosable Material.

As set forth below, the EPA has conducted a reasonable search in response to Plaintiff's request and has released all disclosable materials subject to FOIA and found as a result of that search. *See Oglesby v. U.S. Department of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990); *Schoenman v. Federal Bureau of Investigation*, 2009 WL 763065, at *10 (D.D.C. 2009); *Bonaparte v. Department of Justice*, 531 F. Supp. 2d 118, 122 (D.D.C. 2008); and *SafeCard Services, inc. v. Securities and Exchange Commission*, 926 F.2d 1197, 1201.

The established reasonableness standard by which FOIA searches are judged "does not require absolute exhaustion of the files; instead it requires a search reasonably calculated to uncover the sought materials." *Miller v. Dept. of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985). Thus, "the issue in a FOIA case is not whether the agencies' searches uncovered responsive documents, but rather whether the searches were reasonable." *Moore v. Aspin*, 916 F. Supp. 32, 35 (D.D.C. 1996); *see also Fitzgibon v. U.S. Secret Service*, 747 F. Supp. 51, 54 (D.D.C. 1990); *Meeropol v. Meese*, 790 F.2d 942, 952-53 (D.C. Cir. 1986).

An agency demonstrates that it conducted a reasonable search by showing "that it made a good faith effort to conduct a FOIA search for requested records by using methods that can reasonably be expected to produce the information requested." *Western Center For Journalism v. I.R.S.*, 116 F. Supp.2d 1, 9 (D.D.C. 2000); *Oglesby*, 920 F.2d at 68.

The search standards established under the FOIA do not require an agency to search every record system, but rather, the agency need only search those systems in which it believes responsive records are likely to be located. *Oglesby*, 920 F.2d at 68. Even when a requested document indisputably exists or once existed, summary judgment will not be defeated by an unsuccessful search for the document so long as the search was diligent. *Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 892 n.7 (D.C. Cir. 1995).

Additionally, the mere fact that a document once existed does not mean that it now exists; nor does the fact that an agency created a document necessarily imply that the agency has retained it. *Maynard v. C.I.A.*, 982 F.2d 546, 564 (1st Cir. 1993).

Simply stated, the adequacy of the search is "dependent upon the circumstances of the case." *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). The fundamental question is not "whether there might exist any other documents responsive to the request, but rather whether the search for those documents was adequate." *Steinberg v. U.S. Dept. of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994) (*quoting Weisberg v. U.S. Dept. of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984)). EPA's declaration adequately sets forth the adequacy of the search conducted with regard to Plaintiffs' request. See Wachter Decl. ¶¶ 10-20.

The request itself was very broad and ambiguous and found to be impossible to process as written without some degree of narrowing. See Wachter Decl. ¶ 7. As a result, the parties agreed to narrow the scope of the request to "senior officials" in each of the EPA's headquarters

offices, with "senior officials" being identified as Program Administrators, Deputy Administrators and Chiefs of Staff in EPA's headquarters offices as well as the Associate Administrator and Deputy Associate Administrator in EPA's Office of Policy ("OP"). *Id.*, at ¶¶ 8 & 10.

In an effort to collect records responsive to the request, OEX initiated a search for records by electronic mail. The initial search request went to the Office of the Administrator (OA) and to the Office of Policy in the Office of the Administrator (OP) as well as to the FOIA Coordinators in each of the EPA headquarters offices: the Office of Administration and Resources Management (OARM), the Office of Air and Radiation (OAR), the Office of the Chief Financial Officer (OCFO), the Office of Chemical Safety and Pollution Prevention (OCSPP), the Office of Enforcement and Compliance Assurance (OECA), the Office of Environmental Information (OEI), the Office of General Counsel (OGC), the Office of International and Tribal Affairs (OITA), the Office of Research and Development (ORD), the Office of Solid Waste and Emergency Response (OSWER), and the Office of Water (OW). See Wachtel Decl., ¶10. The FOIA Coordinators are responsible for directing FOIA requests to the individuals in the program offices who are likely to have responsive records. *Id.*, at ¶11.

OEX also provided the program offices with a link to a records collection database, and instructed individuals to upload potentially responsive information into the database. *Id.* Individuals were instructed that they should not limit their search to an automated search through the use of key words but should search based on the plain meaning of the written request. *Id.* Due to the broad and unfocused nature of the request, the decision was made to instruct offices to search based on the request rather than strictly by key words. This was because precise key words could not be readily developed that would be narrowly tailored to find documents

responsive to the plaintiff's request, as the request was not focused on a particular topic, rule, particular third party, or other issue amenable to a search limited by key words. *Id.* Individuals within each headquarters' office were instructed to upload all potentially responsive information onto the database. *Id.*, at ¶ 11.

Each headquarters' office was individually responsible for uploading responsive documents into the records collection database. Wachter Decl., ¶ 11. OEX and the Office of General Counsel (OGC) were able to track which headquarters' offices had uploaded documents into the records collection database after the documents were uploaded. *Id.* Those offices that had not uploaded their documents into the database were contacted by OEX and reminded of the production deadline. *Id.*, at ¶12.

The initial document collection was closed on January 25, 2013. *Id.*, at ¶12. At that point OEX had either received a no-records response or coordinated the collection of documents from the immediate office of the Office of the Administrator, and from Assistant Administrators, Deputy Assistant Administrators, and Chiefs of Staff in the EPA's Office of Water (OW), Office of Air and Radiation (OAR), Office of Solid Waste and Emergency Response (OSWER), Office of Chemical Safety and Pollution Prevention (OSCPP), Office of Enforcement and Compliance Assurance (OECA), and Office of General Counsel, as well as documents from the Associate Administrator and Deputy Associate Administrator in EPA's Office of Policy. OEX determined that the remaining headquarters offices that had not provided a response (OARM, OEI, ORD, OCFO, and OITA) were not likely to have responsive records as those offices do not ordinarily engage in the Agency's rulemaking activities. Wachter Decl. ¶ 14. The total number of potentially responsive documents in the database totaled more than 4,600 documents. Wachter Decl. ¶ 15.

OEX and OGC staff then reviewed and processed these documents for responsiveness to Plaintiff's FOIA request and for any applicable privileges. Records were deemed responsive to the Plaintiff's FOIA request if they either 1) memorialized a meeting, communication with, or contact with an outside party related to a rule that was proposed, but not finalized, during the time frame identified by Plaintiff (not including standard interagency review of proposed rules or formal comments on rulemaking dockets) or 2) internal or external records from any party that discussed or memorialized discussions of delaying a rulemaking until after the election of 2012 or after November 2012 for political reasons. *Id*.

In the course of finalizing the materials for the Motion for Summary Judgment, it was determined that the search for documents from the former Administrator, the Deputy Administrator, and the Chief of Staff in the Office of the Administrator may have been insufficient. In the interest of a complete and adequate response to Plaintiff's request, the EPA determined that another search would be required of the accounts of the former Administrator, Deputy Administrator, and Chief of Staff in the Office of the Administrator. The EPA immediately notified Plaintiff and the Court of this deficiency and indicated that there would be a number of additional documents that may potentially be responsive to the Plaintiff's request. Wachter Decl., ¶ 18.

To start this supplemental search, staff in the Office of the Administrator were instructed by electronic mail to immediately complete a new search of the accounts of the former Administrator, Deputy Administrator, and Chief of Staff using the keywords "draft or proposed" within the same sentence as "rule, regulation, or guidance" for the time period of January 1, 2012, to August 21, 2012. This very broad and inclusive search was to verify that all documents related to a draft or proposed rule were collected so that they could be reviewed by OEX and

OGC staff to determine which of these documents were actually responsive to plaintiff's request. Wachter Decl., ¶ 19.

In addition to the 4,600 documents that were initially identified as potentially responsive, approximately 4,500 additional documents were found in the Office of the Administrator during the time period of April 30, 2013 to May 3, 2013 from the files of the former Administrator, Deputy Administrator, and Chief of Staff. These additional potentially responsive documents were documents that contained the broad key words "draft or proposed" within the same sentence as "rule, regulation, or, guidance." OEX and OGC then reviewed and processed these documents for responsiveness to Plaintiff's FOIA request and for any applicable privileges. Records were deemed to be responsive to the Plaintiff's FOIA request if they either 1) memorialized a meeting, communication with, or contact with an outside party related to a rule that was proposed, but not finalized, during the time frame identified by Plaintiff (not including standard interagency review of proposed rules or formal comments on rulemaking dockets) or 2) internal or external records from any party that discussed or memorialized discussions of delaying a rulemaking until after the election of 2012 or after November 2012 for political reasons. With the addition of these 4,500 additional documents, more than 9,100 potentially responsive documents from across the agency were reviewed and processed by OEX and OGC in response to Plaintiff's FOIA request.

As of May 15, 2013, the EPA has located approximately 734 records responsive to Plaintiff's request. Of those records, approximately 1,934 pages in 224 documents were released in full to Landmark Legal Foundation. Approximately 3,022 pages in 377 documents were numbered and released with some FOIA-exempt information segregated and redacted and the

exemption noted on the face of the document. Approximately 133 documents were withheld in full under one or more FOIA exemptions. Wachter Decl., ¶ 30.

The EPA has made an adequate search and released all non-exempt responsive documents; and therefore, Defendants' Motion should be granted on this point.

B. EPA Properly Withheld Information under the FOIA.

1. Exemption 5

FOIA Exemption 5 protects 'inter-agency or intra-agency memorandum or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Exemption 5 encompasses the traditional privileges that the Government could assert in civil litigation against a private litigant including the presidential communications privilege, the attorney-client privilege, the work product privilege and the deliberative process privilege, and excludes these privileged documents from the FOIA's reach. *Loving v. Dep't of Def.*, 550 F.3d 32. 37 (D.C. Cir. 2008). Wachter Decl., ¶ 20.

Deliberative Process Privilege

Documents are covered by the deliberative process when they "reflect [ ] advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150 (1975) (citation omitted). The inclusion of this privilege in the FOIA's exemptions "reflect[s] the legislative judgment that the quality of administrative decision-making would be seriously undermined if agencies were forced to 'operate in a fishbowl' because the full and frank exchange of ideas on legal or policy matters would be impossible." *Tax Analysts v. IRS*, 117 F.3d 607, 617 (D.C. Cir. 1997).

To qualify for the deliberative process privilege, a record must satisfy certain requirements. It must be "inter-agency or intra-agency," 5 U.S.C. § 552(b)(5), that is, "its source must be a Government agency" *Department of the Interior v. Klamath Water Users Protection Association*, 532 U.S. 1 (2001). Additionally, the record must be "pre-decisional," *In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997), and it must be "deliberative." *Id*. To establish that a record or document is pre-decisional, the agency need not point to an agency final decision, but merely establish what deliberative process is involved, and the role that the documents at issue play in that process." *Judicial Watch v. Export-Import Bank*, 108 F.Supp.2d 19, 35 (D.D.C. 2000) (citation omitted). Moreover, a document which is created after the decision at issue can still be "pre-decisional" if it memorializes protected pre-decisional communications. *See Appleton v. FDA*, 451 F.Supp.2d 129, 144 n. 9 (D.D.C. 2006) (protecting "memorialization" of discussions subject to the deliberative process privilege). A record is "deliberative" when "it reflects the give-and-take of the consultative process." *Wolfe v. Department of Health and Human Services*, 839 F.2d 768, 774 (D.C. Cir. 1988) (citation and internal quotation marks omitted) (*en banc*). Deliberative documents frequently consist of "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. at 150. Thus, the exemption covers recommendations, draft documents, proposals, analyses, suggestions, discussions, and other subjective documents that reflect the give-and-take of the consultative process. *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980).

"There should be considerable deference to the [agency's] judgment as to what constitutes . . . 'part of the agency give-and-take - of the deliberative process - by which the decision itself is made." *Chemical Mfrs. Ass'n v. Consumer Prod. Safety Comm'n*, 600 F. Supp.

114, 118 (D.D.C. 1984) (quoting *Vaughn v. Rosen*, 523 F.2d 1136, 1144 (D.C. Cir. 1975). The agency is best situated "to know what confidentiality is needed 'to prevent injury to the quality of agency decisions.'" *Chemical Mfrs. Ass'n* , 600 F.Supp. at 118 (quoting *NLRB v. Sears, Roebuck & Co.*, 421 U.S. at 151).

Specifically, the documents that are protected by the deliberative process privilege are found in the *Vaughn* index, Exhibit F. The EPA withheld approximately 399 records, in full or in part, from disclosure under FOIA Exemption 5's deliberative process privilege. The records withheld under Exemption 5's deliberative process privilege comprise email chain discussions, draft versions of documents, briefing materials, and internal briefing memoranda that pertain to a myriad of EPA decision-making processes related to rulemaking and proposed rules. The attached *Vaughn* index provides a detailed description of each record or portion of a record withheld under Exemption 5's deliberative process privilege. See Wachter Decl., ¶ 32 and Exhibit F.

Document EPA-57 provides an example of Agency deliberation from staff to superiors regarding policy priorities and responses to outside parties on rulemaking activities. Documents EPA-63, EPA-64, and EPA-65 are example of internal Agency briefing documents and internal planning documents related to Agency rulemakings. Documents EPA-193, EPA-194, EPA-195, and EPA-196 are representative examples of conversations and deliberations that discuss EPA policy and decision making regarding a particular proposed rule. Wachter Decl., ¶ 33 and Exhibit F.

Because the communications contained in the records at issue reflect internal governmental discussions that are both pre-decisional and deliberative, EPA properly invoked

Exemption 5 to withhold these communications as protected by the deliberative process privilege.

Attorney-Client Privilege

As stated, Exemption 5 incorporates privileges available to an agency in civil litigation such as the attorney-client privilege. *National Labor Relations Board v. Sears, Roebuck & Company*, 421 U.S. 132, 149 (1975). The attorney-client privilege applies to facts divulged by a client to his attorney, and to opinions given by an attorney to his client based on those facts. *Schlefer v. United States*, 702 F.2d 233, 245 (D.C. Cir. 1983); *Brinton v. Dep't of State*, 636 F.2d 600, 605 (D.C. Cir. 1980). The attorney-client privilege covers attorney-client communications when the specifics of the communication are confidential, even though the underlying subject matter is known to third parties. *Upjohn Co. v. United States*, 449 U.S. 383, 395-96 (1981); *In re Amicillin Antitrust Litig.*, 81 F.R.D. 377, 388-90 (D.D.C. 1978).

In the instant case, the documents and/or information withheld all pertain to senior level EPA officials seeking advice from agency attorneys. The EPA withheld 56 records in full or in part from disclosure under Exemption 5's attorney-client privilege of the FOIA. *See Vaughn* index, Exhibit F.

The withheld records or portions of records comprise of communications between an EPA attorney and her or his client relating to a legal matter, such as legal issues related to the legal implications of the EPA's response to external parties or legal issues raised by policy proposals regarding rules and rulemaking letters regarding various rulemakings, for which the client office sought legal advice. The records also contain facts divulged by the clients to their attorneys in the course of seeking legal advice. Wachter Decl., ¶ 34 and Exhibit F.

Document EPA-188 provides an example of the attorney-client discussions that occurred during the process of responding to outside parties regarding the EPA's proposed rules. The meeting invitation that initiates the email communication originates with Susmita Dubey, a staff attorney in the EPA's Air and Radiation Law Office, Office of General Counsel, and incorporates communications with clients, including senior officials, in the EPA's Office of Air and Radiation and Office of Solid Waste and Emergency Response. These emails and the meeting invitation represent a communication between attorneys in the EPA's Office of General Counsel and clients in the EPA's Office of Air and Office of Solid Waste and Emergency Response related to a letter received from an industry representative by the EPA and the EPA's proposed response to this letter. Documents EPA-198, EPA-199, and EPA-201 provide examples of internal analysis by EPA staff and EPA attorneys of the legal and policy issues potentially raised by the a particular rule and contain legal advice from EPA attorneys to senior officials in EPA and discussion of options related to the rule as well as policy advice and analysis from EPA staff. Wachter Decl., ¶ 35 and Exhibit F.

2. Exemption 6

Exemption 6 of the FOIA provides for the withholding of matters contained in "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). To determine whether Exemption 6 would protect information in question from disclosure, the agency must determine whether 1) the information in question is contained within personnel, medical or similar files, and 2) disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy by balancing the public's right to disclosure of the information against the individual's right to privacy. *News-Press v. United States Department of Homeland Security*, 489 F.3d 1173 (11th

Cir. 2007). In a definitive opinion on the meaning of the term "similar files," the Supreme Court held that Exemption 6 "'[was] intended to cover detailed government records on an individual which can be identified as applying to that individual.'" *Department of State v. Washington Post Co.*, 456 U.S. 595, 602 (1982) (quoting H.R. Rep. No. 1497, 89th Cong., 2d Sess. 11, *reprinted in* 1966 U.S. Code Cong. & Admin. News 2428); *New York Times Co. v. NASA*, 920 F.2d 1002, 1005 (D.C. Cir. 1990) (*en banc*).

In *Department of State v. Washington Post Co.*, the Supreme Court held:

> '[T]he protection of an individual's right of privacy' which Congress sought to achieve by preventing 'the disclosure of [information] which might harm the individual,' H.R. Rep. No. 1497, supra, at 11, surely was not intended to turn upon the label of the file which contains the damaging information.

Id., 456 U.S. at 601. Thus, even information which is not specifically located in "personnel files" comes within the penumbra of Exemption 6. Indeed, the Supreme Court clarified that all information that "applies to a particular individual" meets the threshold requirement for Exemption 6. *Id*. at 599-603, 601. This broad construction of "similar files" was necessary in view of Congress' primary purpose in enacting Exemption 6, which was "to protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information." *Washington Post Co.*, 456 U.S. at 599.

Generally, government employees and officials, especially law enforcement personnel, have a privacy interest in protecting their identities because disclosure “could subject them to embarrassment and harassment in the conduct of their official duties and personal affairs.” *Moore v. Bush*, 601 F. Supp.2d 6, 14 (D.D.C. 2009), *citing Halpern v.U.S. Federal Bureau Investigation*, 181 F.3d 279, 296-97 (2d Cir. 1999). Exemption 6 has been found to apply to information such as names and contact information. *Judicial Watch, Inc. v. U.S. Food and Drug Administration*, 449 F.3d 141, 152-153 (D.C. Cir. 2006).

The EPA withheld portions of 179 records under Exemption 6, including: personal email addresses and cell phone numbers; personal medical information related to the health of an employee or family member; and an employee's use of leave of a nonmedical nature. The EPA initially withheld the secondary email address of the former Administrator Lisa P. Jackson under Exemption 6 but removed the redactions from that secondary email address as part of the April 12, 2013, production. Wachter Decl., ¶ 36 and Exhibit F. Consistent with the EPA's past practice, the name on this account had been redacted in the February and March releases under Exemption 6 and marked *Administrator* to clearly identify the records as being to or from the Administrator. This was because the Administrator had a significant personal privacy interest in preventing the burden of unsolicited emails and harassment. However, Administrator Jackson's departure from the Agency obviated the need to withhold the name on her secondary email account. Wachter Decl., ¶ 30-31. The EPA continues to withhold the email addresses of staff members within the Executive Office of the President and other White House offices under Exemption 6. Wachter Decl., ¶ 36 and Exhibit F.

EPA-74 and EPA-75 provide two examples of how the EPA withheld official email addresses of the Executive Office of the President under Exemption 6. The Executive Office of the President's staff members have a significant personal interest in preventing the burden of unsolicited emails and harassment. The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties. Generally, when the EPA withheld email addresses under Exemption 6, the Agency also provided the email owner's name in the redaction or the redaction directly followed the owner's name, as shown by EPA-74. Thus, there

is no confusion as to who received or sent the email communications. Wachter Decl., ¶ 37 and Exhibit F.

Moreover, "the only relevant public interest in the [Exemption 6] balancing analysis [is] the extent to which disclosure of the information sought would she[d] light on an agency's performance of its statutory duties' or otherwise let citizens know 'what their government is up to." *U.S. Dep't of Justice v. Reporters Comm.*, 489 U.S. 749, 773 (1989). It is the requester's obligation to identify a cognizable public interest. Absent the requester's identification of a public interest, "the balancing requirement does not come into play." *Griffin v. Exec. Office for US. Attorneys*, 774 F. Supp. 2d 322, 327 (D.D.C. 2011). Thus, "[i]n the absence of any public interest in disclosure, any countervailing interest in privacy defeats a FOIA request." *Oguaju v. United States*, 288 F.3d at 451 (citing *Nat'l Ass'n of Retired Fed. Emps. v. Horner*, 879 F.2d 873, 879 (D.C. Cir. 1989) ("[S]omething ... outweighs nothing every time")).

The EPA also withheld conference-call numbers and access codes under Exemption 6. The public release of these telephone numbers and access codes would allow uninvited third parties to listen to internal calls while potentially learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to these telephone numbers and access codes. The withheld information does not shed light on the EPA's performance of its statutory duties or otherwise let citizens know what their government is up to. Therefore, the balancing of interests does not come into play in the instant case; however, even if it did something outweighs nothing every time. The EPA has made every effort to release all segregable material. Wherever possible, such as in EPA-43, the remainder of the document is released in full with only the conference call line and

access code redacted. Wachter Decl., ¶ 38 and Exhibit F.

3. Segregability

The FOIA requires that, if a record contains information that is exempt from disclosure, any "reasonably segregable" information must be disclosed after deletion of the exempt information unless the non-exempt portions are "inextricably intertwined with exempt portions." 5 U.S.C. § 552(b); Mead Data Cent., Inc. v. United States Dept. of the Air Force, 566 F.2d 242, 260 (D.C. Cir. 1977); Kurdyukov v. U.S. Coast Guard, 578 F.Supp.2d 114, 128 (D.D.C. 2008).

In the instant case, all reasonably segregable portions of the records were released to Plaintiff after the appropriate exemptions were applied to the documents. Wachter Decl. ¶¶ 16, 21, 39.

V. CONCLUSION

WHEREFORE, for all the reasons set forth above, the Defendant respectfully requests the Court to grant its motion for summary judgment and enter judgment in its favor.

Dated: May 15, 2013

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LANDMARK LEGAL FOUNDATION 19415 Deerfield Lane, Ste. 312 Leesburg, VA 20176	)	
Plaintiff,	)	
v.	)	Case No. 1:12-cv01726 (RCL)
U.S. ENVIRONMENTAL PROTECTION AGENCY,	)	
Defendant.	)	

Declaration of Eric E. Wachter

1. I, Eric E. Wachter, director of the Office of the Executive Secretariat ("OEX") within the Office of the Administrator of the U.S. Environmental Protection Agency ("EPA" or "Agency"), declare that the following statements are true and correct to the best of my knowledge and belief and that they are based upon my personal knowledge and on information supplied to me by employees under my supervision and employees in other EPA offices.

2. I have served as the OEX director since June 2009. My 20-person office has four business lines: processing Freedom of Information Act ("FOIA") requests for the Office of the Administrator; maintaining the records of the Administrator and Deputy Administrator; managing the Administrator's and Deputy Administrator's executive correspondence; and administering the EPA's electronic correspondence tracking system. During my time as OEX director I served as vice chair of the Council of Federal Executive Secretariats in 2011 and as chair of the Council in 2012.

3. The Office of the Executive Secretariat processes approximately 120 FOIA requests for the Office of the Administrator every year and coordinates many requests for the entire Agency. The requests processed by my office generally are complex, involving large volumes of records, records from multiple geographic areas, cross-cutting programmatic issues, interagency coordination issues, and involve a variety of FOIA exemptions that are reviewed for discretionary release to provide the greatest amount of disclosure possible. My office employs two full-time employees to process FOIA requests and generally follows a first-in, first-out policy when responding to FOIA requests. When requests are narrowed and the complexity reduced, we are often able to process those requests more quickly and respond to them before they become first in the queue.

4. My statements in this declaration are based on information provided to me by employees under my supervision, information obtained by me in the performance of my official duties and my personal examination of withheld documents. I am personally familiar with Plaintiff's FOIA request, and I was responsible for overseeing the response to the request in my supervisory position as director of the Office of the Executive Secretariat (OEX). Documents responsive to Plaintiff's FOIA request originate in multiple Agency offices in EPA headquarters. However, due to the complexity and scope of the request, the EPA's Office of the Executive Secretariat coordinated and supervised the Agency's response to this request. This declaration will explain the steps taken to process Plaintiff Landmark Legal Foundation's FOIA Request HQ-FOI-01861-12 and to provide an explanation of the EPA's decision to withhold or redact certain information responsive to the request. I make this declaration in support of the EPA's Motion for Summary Judgment in the above-captioned litigation.

I. FOIA REQUEST BY THE PLAINTIFF LANDMARK LEGAL FOUNDATION

5. On August 20, 2012, the EPA received a FOIA request from Matthew C. Forys with the Landmark Legal Foundation. This FOIA request was dated August 17, 2012. A true and correct copy of this FOIA request, stamped "Received August 20, 2012," is attached to this declaration as Exhibit A.

6. In its August 17, 2012, FOIA request, Plaintiff sought:

- Any and all records identifying the names of individuals, groups, and/or organizations outside the EPA with which the EPA, EPA employees, EPA contractors and/or EPA consultants have had communications of any kind relating to all proposed rules and regulations that have not been finalized by the EPA between January 1, 2012 [sic] and August 17, 2012. For purposes of this request, 'communications of any kind' does not include public comments or other records available on the rulemaking docket; and
- Any and all records indicating an order, direction, or suggestion that the issuance of regulations, the announcements of regulations and/or public comment of regulations should be slowed or delayed until after November 2012 or the presidential elections of 2012.

Plaintiff also sought expedited processing and a waiver of all fees associated with processing this request. On August 21, 2012, the EPA's National FOIA Office sent a letter to Plaintiff acknowledging receipt of this request and providing the request's tracking number, HQ-FOI-01861-12. The request was then assigned to OEX.

7. My office was notified on August 29, 2012, that the EPA's National FOIA Officer sent a letter to Plaintiff, granting the request for a fee waiver but denying the request for expedited processing. The letter stated that the EPA would respond to this request as expeditiously as possible. A true and correct copy of this letter is attached to this declaration as Exhibit B. Plaintiff then filed an administrative appeal, dated September 14, 2012, and received by the Office of General Counsel on September 19, 2012, challenging the denial of its request for expediting processing.

8. After several days of internal discussion regarding the breadth of the EPA's rulemaking process and the volume of records generated by that process, on September 27, 2012, my staff contacted Plaintiff by telephone to discuss the complexity of this request and options for narrowing the scope. This discussion was necessary because without some degree of narrowing it would not be reasonably possible to process Plaintiff's FOIA request as written.

9. On September 28, 2012, my staff attempted, without success, to follow up with Plaintiff regarding the request. By exchange of email on October 5, 2012, Mr. Forys, on behalf of Plaintiff, agreed to narrow the scope of the request to "senior officials" in the EPA's headquarters offices, with senior officials being identified as program administrators, Deputy Administrators and chiefs of staff in EPA's headquarters offices. A true and correct copy of this October 5, 2012, email exchange memorializing our agreement with the Plaintiff as to the scope of this request is attached to this declaration as Exhibit C.

10. On October 19, 2012, my office was notified that the EPA's Office of General Counsel had denied Landmark's appeal for expedited processing by letter dated October 18, 2012. A true and correct copy of this letter is attached to this Declaration as Exhibit D.

II. EPA'S SEARCH AND RESPONSE TO PLAINTIFF'S REQUEST

EPA's Initial Search for Responsive Records

11. This request was narrowed by agreement as described in Paragraph 8 to assistant administrators, deputy assistant administrators, and chiefs of staff in EPA headquarters offices, as well as to the associate administrator and deputy associate administrator in EPA's Office of Policy ("OP"). My office initiated a search for records, as narrowed by agreement, on October 23, 2012, by electronic mail. The initial search request went to the Office of the Administrator (OA) and to the Office of Policy in the Office of the Administrator (OP) as well as to the FOIA

Coordinators in each of the EPA headquarters offices: the Office of Administration and Resources Management (OARM), the Office of Air and Radiation (OAR), the Office of the Chief Financial Officer (OCFO), the Office of Chemical Safety and Pollution Prevention (OCSPP), the Office of Enforcement and Compliance Assurance (OECA), the Office of Environmental Information (OEI), the Office of General Counsel (OGC), the Office of International and Tribal Affairs (OITA), the Office of Research and Development (ORD), the Office of Solid Waste and Emergency Response (OSWER), and the Office of Water (OW).

12. An electronic mail message initiating the search was sent to the designated FOIA Coordinators for each of the EPA's headquarters offices. The FOIA Coordinators are responsible for directing FOIA requests to the individuals in the program offices who are likely to have responsive records. The message to the FOIA Coordinators described Plaintiff's request in the "Request Description" as follows:

Request Description:

•Records relating to proposed rules or regulations that have not been finalized by the EPA between January 1, 2012 and August 17, 2012.
•Records reflecting an order, direction or suggestion, that regulations (or comments on regulations) should be delayed until after November 2012.
•**Note**: **This request has been modified.** <u>The search only applies to assistant administrators, deputy assistant administrators and chiefs of staff in EPA headquarters</u>.
The search will also include the associate administrator and deputy associate administrator(s) for the Office of Policy.

On October 25, 2012, my staff sent an additional communication to the FOIA Coordinators marked as an "Update and FAQ" regarding the search request. In this communication OEX provided a link to a records collection database and instructed individuals to upload potentially responsive information into the database. My staff instructed individuals to search based on the overall request as well as by key words, instructing that:

- There will not be an "automated search" for this request. However, potential key words for a manual search could include: "draft or proposed" within the same sentence as "rule, regulation or policy." Those suggestions are not meant to be exhaustive. The original request elaborates upon the records that are sought.

Due to the broad and unfocused nature of the request, the decision was made to instruct offices to search based on the request rather than strictly by key words. This was because precise key words could not be readily developed that would be narrowly tailored to find documents responsive to the plaintiff's request, as the request was not focused on a particular topic, rule, particular third party, or other issue amenable to a search limited by key words. Each headquarters office was individually responsible for uploading their responsive documents to the collection database. My staff and OGC staff were able to track who had uploaded documents into the records collection database after the documents were uploaded.

EPA's Initial Collection of Responsive Records

13. *Collection of Responsive Records.* As described in Paragraphs 10 and 11 above, my office initiated the search for records responsive to this request. The individual headquarters offices within the Agency were responsible for collecting and uploading responsive documents into the database, as instructed by my office in October 2012 and as described in paragraph 11. In January 2013, EPA's Office of General Counsel (OGC) contacted my office to inquire regarding the status of the collection and processing in this case. My staff and OGC staff then contacted assigned individuals in the Office of Air and Radiation, the Office of Water, and the Office of Chemical Safety and Pollution Prevention who had not yet completed their search and collection of responsive records to remind them of the upcoming production deadline.

14. It is my understanding that, on February 19, 2013, this Court ordered the EPA to produce the initial set of responsive documents on February 7, 2013, and the complete set of documents on February 27, 2013.

15. The initial document collection was closed on January 25, 2013. At that point my office had either received a no-records response or had coordinated the collection of documents from the immediate office of the Office of the Administrator, and from Assistant Administrators, Deputy Assistant Administrators, and Chiefs of Staff in the EPA's Office of Water (OW), Office of Air and Radiation (OAR), Office of Solid Waste and Emergency Response (OSWER), Office of Chemical Safety and Pollution Prevention (OSCPP), Office of Enforcement and Compliance Assurance (OECA), and Office of General Counsel, as well as documents from the associate administrator and deputy associate administrator in EPA's Office of Policy. My office determined that the remaining headquarters offices that had not yet provided a response (OARM, OEI, ORD, OCFO, and OITA) were not likely to have responsive records as those offices do not ordinarily engage in the Agency's rulemaking activities.

EPA's Processing of Potentially Responsive Records

16. *Processing Responsive Records.* As of January 25, 2013, the EPA had completed its search for records responsive to this FOIA request and identified more than 4,600 potentially responsive documents. OEX staff and OGC staff then reviewed and processed these documents for responsiveness to Plaintiff's FOIA request and for any applicable privileges. Records were deemed to be responsive to the Plaintiff's FOIA request if they either 1) memorialized a meeting, communication with, or contact with an outside party related to a rule that was proposed, but not finalized, during the time frame identified by Plaintiff (not including standard interagency review of proposed rules or formal comments on rulemaking dockets) or 2) internal or external records from any party that discussed or memorialized discussions of delaying a rulemaking until after the election of 2012 or after November 2012 for political reasons.

17. *Segregating Non-Exempt Material.* OEX staff and OGC staff also evaluated each record responsive to this FOIA request for segregability of non-exempt material. The staff determined that where a record was withheld in its entirety, no meaningful portion could reasonably be released. The staff members performed redactions where non-exempt material could be reasonably segregated and released non-exempt portions.

EPA's Supplemental Search for and Collection of Potentially Responsive Records

18. In April 2013 my office was informed that the Court had ordered the EPA to submit a Motion for Summary Judgment, *Vaughn* index and Declaration in this matter by April 30, 2013. My staff and OGC staff began working diligently to prepare our pleadings, including a complete *Vaughn* index and description of each redaction and withholding applied by the Agency.

19. In the course of finalizing the materials for this April 30, 2013, deadline, my office determined that the search for documents from the former Administrator, the Deputy Administrator, and the Chief of Staff in the Office of the Administrator may have been insufficient. In the interest of a complete and adequate response to Plaintiff's request, the EPA determined that another search would be required of the accounts of the former Administrator, Deputy Administrator, and Chief of Staff in the Office of the Administrator. The EPA immediately notified plaintiff and the Court of this deficiency and that there would be a number of additional documents that may potentially be responsive to the Plaintiff's request.

20. To start this supplemental search, staff in the Office of the Administrator were instructed by electronic mail to immediately complete a new search of the accounts of the former Administrator, Deputy Administrator, and Chief of Staff using the keywords "draft or proposed" within the same sentence as "rule, regulation, or guidance" for the time period of January 1,

2012, to August 21, 2012. This very broad and inclusive search was to verify that all documents related to a draft or proposed rule were collected so that they could be reviewed by my staff and OGC staff to determine which of these documents were actually responsive to plaintiff's request.

21. In addition to the 4,600 documents that were initially identified as potentially responsive, approximately 4,500 additional documents were found in the Office of the Administrator during the time period of April 30, 2013 to May 3, 2013 from the files of the former Administrator, Deputy Administrator, and Chief of Staff. These additional potentially responsive documents were documents that contained the broad key words "draft or proposed" within the same sentence as "rule, regulation, or, guidance." OEX staff and OGC staff then reviewed and processed these documents for responsiveness to Plaintiff's FOIA request and for any applicable privileges. Records were deemed to be responsive to the Plaintiff's FOIA request if they either 1) memorialized a meeting, communication with, or contact with an outside party related to a rule that was proposed, but not finalized, during the time frame identified by Plaintiff (not including standard interagency review of proposed rules or formal comments on rulemaking dockets) or 2) internal or external records from any party that discussed or memorialized discussions of delaying a rulemaking until after the election of 2012 or after November 2012 for political reasons. With the addition of these 4,500 additional documents, more than 9,100 potentially responsive documents from across the agency were reviewed and processed by my staff and OGC staff to process Plaintiff's FOIA request.

22. *Segregating non-exempt material.* OEX staff and OGC staff also evaluated each additional record responsive to this FOIA request for segregability of non-exempt material. The staff determined that where a record was withheld in its entirety, no meaningful portion could

reasonably be released. The staff members performed redactions where non-exempt material could be reasonably segregated and released non-exempt portions.

EPA's Production of Responsive Records

23. *EPA's February 7, 2013, production:* In accordance with the Court's order the EPA produced the first set of responsive records to the Plaintiff on February 7, 2013. The February 7, 2013, production to the Plaintiff consisted of three files. The first file consisted of 1,122 pages of responsive documents to be released in full. The documents designated to be released in full included letters, correspondence, or contacts with the EPA and outside parties not subject to any exemption, internal information not subject to any exemption, as well as some internal and potentially deliberative information that the EPA had determined was subject to discretionary release. The second file consisted of 970 pages of documents that were released with redactions. The basis for the redaction was provided on the face of the record as well as in the Index of Withheld Information provided to Plaintiff. The third file was the 64-page Index of Withheld Information, which identified the withheld and redacted documents by number with the Exemption applied to the document. Approximately 32 documents, totaling approximately 200 pages, were not provided in this release and were designated for consultation and review with the White House and other executive branch offices.

24. *Consultation with the White House and Executive Branch offices.* Pursuant to 40 C.F.R. § 2.103(d), the EPA initiated a consultative process with the White House for 32 records. The EPA consulted with the White House and its offices, including the Council on Environmental Quality, the Executive Office of the President, and the Office of Management and Budget. The consultative process with these Executive Branch entities was substantially completed by February 27, 2013.

25. *EPA's February 27, 2013, production.* The EPA's second production of responsive documents was on February 27, 2013. The EPA provided Plaintiff with a CD containing five files. The five files consisted of 1) the documents already released to Landmark in full on February 7; 2) the documents already released to Landmark on February 7 with redactions applied; 3) a supplemental production file that included the documents that had been designated in the February 7 Index as "other agency review" as well as some additional documents that were inadvertently omitted from the last production; 4) an index of documents where some or all information was withheld; and 5) an separate index of just those documents withheld in full. Documents marked in the Index as "other agency review" had any redacted material and the basis for the redaction provided to Landmark on the face of the document.

26. *Discovery of an additional document requiring White House consultation and review (EPA-269).* During the processing of the EPA's February 27, 2013, response, the EPA located a small number of documents in the database that did not yet have responsiveness coded or exemptions applied. The EPA notified Plaintiff of the existence of these additional documents on February 27, 2013, and anticipated that review would be complete on March 15, 2013. My staff and agency counsel reviewed these documents and determined that the majority of these documents were nonresponsive to Plaintiff's request. However, one document, numbered EPA-269, was deemed to be responsive. This document required additional time for the EPA to consult with the Executive Office of the President before release. This document was released with redactions to Plaintiff via electronic mail on March 19, 2013.

27. *EPA's March 14, 2013, production.* On March 13, 2013, The EPA received an inquiry through counsel from Plaintiff regarding documents EPA-246 through EPA-269. Upon receipt of this inquiry the EPA staff involved in the processing of the documents re-reviewed and

re-processed the EPA's February 27, 2013, response in order to ensure that the manually applied numbering was intact and that all non-exempt and partially exempt documents had been provided to Plaintiff. The EPA then re-produced its response on March 14, 2013. The EPA determined that documents EPA-247 through EPA-264 had been included in the February 27, 2013, production and informed Plaintiff of the page numbers where those documents could be located. The EPA also determined that document EPA-265 may have been inadvertently withheld and added it to the file "Supplemental Docs Release_Update March 14." Document EPA-266 was determined to be nonresponsive and was not included in any production. The EPA confirmed that documents EPA-267 and EPA-268 had been included in the February 27, 2013, production but re-produced those files, as well as the other previously released files, to ensure that the manual numbering was present on all produced files. The EPA also informed Plaintiff of the page numbers where documents EPA-265, EPA-267, and EPA-268 could be located in the "Supplemental Docs Release_Update March 14" file. Finally, the EPA informed Plaintiff that document EPA-269 was undergoing further consultation and review. Document EPA-269 was produced to Plaintiff on March 19, 2013.

28. *Release of the Secondary Email Account of Administrator Jackson.* Since the widespread use of email has become commonplace, EPA Administrators have been assigned two email accounts: a public account and a secondary account. The email address for Administrator Jackson's public account was posted on the EPA's website and was used by hundreds of thousands of Americans to send messages to the Administrator. This account was maintained and monitored by staff, and the emails were processed as official correspondence as appropriate. The secondary account was an everyday, working email account of the Administrator to communicate with staff and other government officials. This secondary email account was used

for practical purposes. Given the large volume of emails sent to the public account – more than 1.5 million in fiscal year 2012, for instance – the secondary email account was necessary for effective management and communication between the Administrator and colleagues.

Consistent with the EPA's past practice, the name on this account had been redacted in the February and March releases under Exemption 6 and marked *Administrator* to clearly identify the records as being to or from the Administrator. This was because the Administrator had a significant personal privacy interest in preventing the burden of unsolicited emails and harassment. However, Administrator Jackson's departure from the Agency obviated the need to withhold the name on her secondary email account. Therefore the EPA agreed to release the name of the secondary email account of Administrator Jackson. Landmark also requested, and the EPA agreed to provide, approximately 460 pages of attachments to documents EPA-32 and EPA-33 that the EPA had indicated would be produced upon request. The EPA agreed to provide an updated release package to Landmark with the redactions removed from the secondary email account by April 12, 2013. However, despite multiple communications, the EPA was unable to reach agreement with the Plaintiff to narrow the scope of any remaining issues.

29. *The EPA's April 12, 2013, supplemental production.* On April 12, 2013, the EPA released a disc containing three PDF files to Landmark. The files were: 1) a file titled "Compiled Documents Released in Full," which contained 1,134 pages in 123 documents and were released in full to Landmark Legal Foundation; 2) a file titled "Compiled Documents Release with Redactions," which contained 1,678 pages in 196 documents and were numbered and released with some FOIA-exempt information segregated and redacted and the exemption noted on the face of the document; and 3) a file titled "Compiled Index of Withholdings," which contained a complete list, by number, of those documents that were determined to contain FOIA-

exempt content. As the EPA explained to Plaintiff in its April 12, 2013, letter accompanying the final release, some documents that were previously redacted were now being released in full with the redaction removed from the secondary email account of former Administrator Lisa P. Jackson. There was no longer a privacy interest to be maintained in this account because Ms. Jackson had departed from the Agency. Those documents were provided in the "Compiled Documents Release with Redactions" file and included documents EPA-60, EPA-69, EPA-133, EPA-153, EPA-156, EPA-162, EPA-164, EPA-173, EPA-176, and EPA-177. Sixty (60) documents, totaling approximately 208 pages, were withheld in full as noted on the final "Compiled Index of Withholdings." The EPA's April 12, 2013, letter to Plaintiff accompanying the April 12, 2013 production in HQ-FOI-01861-12 is attached as Exhibit E.

30. *The EPA's May 15, 2013, Supplemental Production.* As described in paragraphs 17 through 21 above, as part of the EPA's preparation of its Motion for Summary Judgment in this case, the EPA determined that an additional search for documents from the former Administrator, Deputy Administrator, and Chief of Staff in the Office of the Administrator would be necessary to ensure a complete and adequate production to Plaintiff. This additional search yielded approximately 365 additional responsive documents to Plaintiff's FOIA request. Approximately 101 additional documents, totaling approximately 800 pages, were released in full to Plaintiff on May 15, 2013. Approximately 181 additional documents, totaling approximately 1,350 pages, were released with some FOIA-exempt information redacted and the exemption noted on the face of the document. Approximately 73 additional documents were withheld in full.

III. EPA'S VAUGHN INDEX AND APPLICATION OF EXEMPTIONS

31. *Final Numbers of Withheld Records as of May 15, 2013.* As of May 15, 2013, the EPA located approximately 734 documents responsive to Plaintiff's request. Of those documents, approximately 1,934 pages in 224 documents were released in full to Landmark Legal Foundation. Approximately 3,022 pages in 377 documents were numbered and released with some FOIA-exempt information segregated and redacted and the exemption noted on the face of the document. Approximately 133 documents were withheld in full under one or more FOIA exemptions as described in the attached *Vaughn* index at Exhibit F.

32. *FOIA Exemptions Asserted.* Documents were withheld in full or in part under Exemptions 5 and 6 of the FOIA. Some documents or portions of the documents were withheld under multiple exemptions. Pursuant to the Court's April 3, 2013, Order, a complete *Vaughn* index of withheld records and the exemptions claimed with justification for each withholding is attached to this declaration as Exhibit F.

33. ***Exemption 5 Deliberative Process Privilege.*** The EPA withheld approximately 399 documents, in full or in part, from disclosure under FOIA Exemption 5's deliberative process privilege. The documents withheld under Exemption 5's deliberative process privilege comprise email chain discussions, draft versions of documents, briefing materials, and internal briefing memoranda that pertain to myriad EPA decision-making processes related to rulemaking and proposed rules. The attached *Vaughn* index provides a detailed description of each document or portion of a document withheld under Exemption 5's deliberative process privilege.

34. Document EPA-57 provides an example of Agency deliberation from staff to superiors regarding policy priorities and responses to outside parties on rulemaking activities. Documents EPA-63, EPA-64, and EPA-65 are example of internal Agency briefing documents

and internal planning documents related to Agency rulemakings. Documents EPA-193, EPA-194, EPA-195, and EPA-196 are representative examples of conversations and deliberations that discuss EPA policy and decision making regarding a particular proposed rule.

35. ***Exemption 5 Attorney-Client Privilege.*** The EPA withheld 56 documents in full or in part from disclosure under Exemption 5 of the FOIA's attorney-client privilege. The withheld documents or portions of documents are comprised of communications between EPA attorneys and their clients relating to a legal matter, such as legal issues related to the legal implications of the EPA's response to external parties or legal issues raised by policy proposals regarding rules and rulemaking letters regarding various rulemakings, for which the client office sought legal advice. The documents also contain facts divulged by the clients to their attorneys in the course of seeking legal advice.

36. Document EPA-188 provides an example of the attorney-client discussions that occurred during the process of responding to outside parties regarding the EPA's proposed rules. The meeting invitation that initiates the email communication originates with Susmita Dubey, a staff attorney in the EPA's Air and Radiation Law Office, Office of General Counsel, and incorporates communications with clients, including senior officials, in the EPA's Office of Air and Radiation and Office of Solid Waste and Emergency Response. These emails and the meeting invitation represent a communication between attorneys in the EPA's Office of General Counsel and clients in the EPA's Office of Air and Office of Solid Waste and Emergency Response related to a letter received from an industry representative by the EPA and the EPA's proposed response to this letter. Documents EPA-198, EPA-199, and EPA-201 provide examples of internal analysis by EPA staff and EPA attorneys of the legal and policy issues potentially raised by the a particular rule and contain legal advice from EPA attorneys to senior

officials in EPA and discussion of options related to the rule as well as policy advice and analysis from EPA staff.

37. ***Exemption 6***. The EPA withheld portions of 179 documents under Exemption 6, including: personal email addresses and cell phone numbers; personal medical information related to the health of an employee or family member; and an employee's use of leave of a nonmedical nature. The EPA initially withheld the secondary email address of the former Administrator Lisa P. Jackson under Exemption 6 but removed the redactions from that secondary email address as part of the April 12, 2013, production. The EPA continues to withhold the email addresses of staff members within the Executive Office of the President and other White House offices under Exemption 6.

38. EPA-74 and EPA-75 provide two examples of how the EPA withheld official email addresses of the Executive Office of the President under Exemption 6. The Executive Office of the President's staff members have a significant personal interest in preventing the burden of unsolicited emails and harassment. The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties. Generally, when the EPA withheld email addresses under Exemption 6, the Agency also provided the email owner's name in the redaction or the redaction directly followed the owner's name, as shown by EPA-74. Thus, there is no confusion as to who received or sent the email communications.

39. The EPA also withheld conference-call numbers and access codes under Exemption 6. The public release of these telephone numbers and access codes would potentially allow uninvited third parties to listen to internal calls while possibly learning private information

about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this telephone number and access code. Furthermore, the withheld information does not shed light on the EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. The EPA made every effort to release all segregable material. In many cases, such as EPA-43, the remainder of the document is released in full with only the conference call line and access code redacted.

40. *EPA's Review of Documents for Segregability:* As indicated in the EPA's *Vaughn* Index, the EPA performed a document-by-document and line-by-line review of documents for any reasonably segregable information. There is no additional segregable factual information that could be released without revealing protected information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. Documents EPA-1, EPA-11, EPA-13, and EPA-15, among the many documents that the EPA partially released in this case, provide examples of the EPA's efforts to redact and segregate protected content from information that was subject to release.

Pursuant to 28 U.S.C. § 1746, I hereby affirm under penalty of perjury that the forgoing declaration is true and correct.

Executed this 15th day of May, 2013.

Eric E. Wachter
Director, Office of the Executive Secretariat
Office of the Administrator
U.S. Environmental Protection Agency

Exhibit A

RECEIVED
AUG 20 2012

FOIA Request
Matthew Forys to: FOIA HQ
Cc: Pete Hutchison
Please respond to Matthew Forys

08/17/2012 04:37 PM

Dear Sir or Madam:

Attached please find Landmark Legal Foundation's FOIA request regarding the delay of EPA regulations.

If you have any questions or comments, please contact the undersigned.

Matthew C. Forys
Landmark Legal Foundation
19415 Deerfield Ave
Suite 312
Leesburg, VA 20176
703-554-6104

703-554-6119 (facsimile)Final FOIA Delay of Regulations.pdf

LANDMARK
LEGAL FOUNDATION
THE RONALD REAGAN LEGAL CENTER

RECEIVED
AUG 2 0 2012

August 17, 2012

Via Express Mail and Electronic Mail

National Freedom of Information Officer
U.S. Environmental Protection Agency
1301 Constitution Ave., NW
Room 6416 West
Washington, DC 20004
hq.foia@epa.gov

Re: Proposed Rules, Summer/Fall 2012

To Whom It May Concern:

This is a Freedom of Information Act Request pursuant to 5 U.S.C. Section 552 *et seq.* relating to published reports that the Environmental Protection Agency ("EPA") is intentionally delaying the issuance of controversial new regulations until after the November elections. Reports also indicate that the Obama Administration "is seeking to issue regulations before the Nov. 8 elections that may bolster its messaging." (Exhibit A, "EPA Positioned To Stay Under Radar Through 2012 Election Season," InsideEPA.com, July 17, 012, available at http://insideepa.com/Inside-EPA-General/Inside-EPA-Public-Content/insider-special-July-17-2012/menu-id-565.html) The charges have come from multiple sources and suggest several troubling possibilities: the Obama Administration is improperly politicizing EPA activities, EPA officials are attempting to shield their true policy goals from the public, and/or EPA officials themselves are putting partisan interests above the public welfare.

For example, the Bozeman Daily Chronicle reports that "a growing number of regulations are being delayed at federal agencies or at the White House" including EPA regulations. (Exhibit B, "As the Election Nears, New Regs Facing Delays," Bozeman Daily Chronicle, July 31, 2012, p. A4.) Politico.com reports that, "Even some Democrats say the White House has responded to political reality in slowing down environmental regulations." In fact, more EPA-generated rules were held up in the review stage of the White House's Office of Information and Regulatory Affairs (OIRA) than any other department or agency. (Exhibit C, Jonathan Allen and Erica Martinson,"EPA Wears the Bulls-Eye," Politico.com, June 20, 2012, available at http://www.politico.com/news/stories/0612/77626.html) Politico.com also writes that "Some say [Obama] truly believes in regulatory restraint during tough economic times. Others see a crass political calculation at play: Don't give Romney any more ammunition before the election - and then open the floodgates after the polls close." (Exhibit D, Darren Samuelsohn

Headquarters: 3100 Broadway • Suite 1210 • Kansas City, Missouri 64111 • (816) 931-5559 • FAX (816) 931-1115
Virginia Office: 19415 Deerfield Avenue • Suite 312 • Leesburg, Virginia 20176 • (703) 554-6100 • FAX (703) 554-6119

and Jonathan Allen, "President Obama's Administration Slow-walks New Rules, Politico.com, July 12, 2012, available at http://www.politico.com/news/stories/0712/78419.html)

Accordingly, this FOIA request seeks information relating to any EPA rule or regulation for which public notice has not been made, but which is contemplated or under consideration for public notice between January 1, 2012 and the date of this request.

Given the timeliness of this matter and the public interest in the unprecedented privacy concerns raised, Landmark Legal Foundation ("Landmark") respectfully requests that this records request be given expedited processing. Moreover, as Landmark is a tax exempt organization with a long record of widely disseminating public records through various media outlets as part of its public education program, Landmark requests the waiver of all fees and costs associated with this request.

I. Records Requested

Landmark seeks disclosure of the following records[1] **from January 1, 2012 to August 17, 2012** relating to:

1. Any and all records identifying the names of individuals, groups and/or organizations outside the EPA with which the EPA, EPA employees, EPA contractors and/or EPA consultants have had communications of any kind relating to all proposed rules or regulations that have not been finalized by the EPA between January 1, 2012 and August 17, 2012. For the purposes of this request, "communications of any kind" does not include public comments or other records available on the rulemaking docket.

2. Any and all records indicating an order, direction or suggestion that the issuance of regulations, the announcements of regulations and/or public comment of regulations should be slowed or delayed until after November 2012 or the presidential elections of 2012.

II. Fee Waiver and Expedited Processing

Landmark seeks a fee waiver and expedited processing of this request.

A. Fee Waiver

Environmental Protection Agency ("EPA") regulations state:

> Records responsive to a request will be furnished without charge or at a charge reduced below that established under [40 CFR 2.107(c)] when a FOI Office determines, based on all available information, that disclosure of the requested

[1] The term "records" as used herein includes all records or communications preserved in electronic, written, or printed form, included but not limited to correspondence, documents, data, photographs, video recordings in any format, audio recordings in any format, faxes, files, guidance, guidelines, evaluations, instructions, analyses, technical manuals, technical specifications, training manuals, or studies.

information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. 40 CFR 2.107(l)(1) (2011).

EPA regulations further provide that four factors will be considered when determining whether a requester has satisfied the first requirement, i.e., whether the FOIA production is in the public interest.

(i) Whether the subject of the requested records concerns "the operations or activities of the government";

(ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the public is likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding."

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. 40 CFR 2.107(l)(2)(i)-(iv) (2011).

EPA regulations further dictate that the Agency employ the following factors when determining whether a requester has satisfied the second requirement, i.e., whether the FOIA production is or is not in the requester's commercial interest.

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure;

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, which disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. 40 CFR 2.107(l)(3)(i)-(ii) (2011).

Landmark satisfies each of these factors.

1. Release of Requested Records is in the Public Interest.

The FOIA requires the Agency to waive fees when disclosure of the requested record is in the public interest. 5 U.S.C. § 552(a)(4)(A)(iii), Long v. BATF, 964 F. Supp.494, 498

(D.D.C. 1997). Further, "the amended statute 'is to be liberally construed in favor of waivers for noncommercial requesters.'" McClellan Ecological Seepage Situation v. Carucci 835 F.2d 1282, 1284 (9th Cir. 1987), quoting 132 Cong. Rec. SS-14298 (Sept. 30, 1986) (statement of Sen. Leahy). Senator Leahy went on to explain that the 1986 amendment's purpose was "to remove the roadblocks and technicalities which have been used by various federal agencies to deny waiver or reduction of fees under FOIA." 132 Cong. Rec. S-16496 (Oct. 15, 1986).

As stated above, the EPA has set forth four factors to determine whether a release of requested records is in the public interest. Landmark satisfies each of these factors.

a. Whether the subject of the requested records concerns "the operation or activities of the government."

Landmark seeks EPA records related to the EPA's communications with external groups and individuals, including executive branch officials, over proposed rules or regulations. Proposing rules and regulations and the process leading up to such proposals are government activities. Clearly, the requested information concerns the operations or activities of the government.

b. Whether the disclosure is "likely to contribute to an understanding of government operation or activities."

The disclosure of the EPA records sought will contribute to the public's knowledge of EPA's regulatory process. Although comments are sought from the public about new regulations, not all communications relating to the process are readily available to the public. The release of records showing communications between the EPA and outside groups and individuals, including executive branch officials, would help shed light on government activities that aren't conducted in public view. This would undoubtedly contribute to an understanding of government operation or activities.

c. Whether the disclosure of the requested information will contribute to "public understanding."

The disclosure of the requested information will contribute to the public understanding of the EPA operations as a result of Landmark's long record of educating the public with information gathered through FOIA requests.

Upon receipt of this information, Landmark will promptly analyze and disseminate the requested material. Landmark will take several steps, among others, to ensure that the public has access to the information, thus ensuring that the information will contribute to the "public understanding" of the EPA's conduct and operations:

1. Landmark will post responsive information on its web site (www.landmarklegal.org), which is accessed regularly by thousands of individuals and makes the information available to potentially millions of citizens;

2. Landmark will utilize its extensive contacts in radio broadcasting to ensure proper public dissemination of requested records;

3. Landmark will include the information in its newsletter, which is distributed to thousands of individuals, groups, and the media;

4. Landmark will disseminate the information via its widespread distribution technology, which reaches hundreds of media outlets, reporters, editorial writers, commentators and public policy organizations;

5. Landmark staff will use the information to publish articles in print media, many of which are widely circulated. Landmark has successfully published such numerous articles in the past;

6. Landmark will issue press releases to specific media outlets; and

7. Landmark staff will appear on television and radio programs.[2]

Landmark has a proven record of ensuring that information it receives pursuant to FOIA requests garners widespread attention in print, electronic and broadcast media. Landmark's investigations have been cited by the Associated Press, The Wall Street Journal, The Washington Post, The Washington Times, and Fox News Channel.

d. Whether disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

The disclosure of EPA information, including documents, electronic mail, audits, reviews and reports, will contribute significantly to the public understanding of government operations or activities. The possibility that individuals within the EPA consider political ramifications during the rulemaking process and alter their schedule according to the electoral calendar would significantly contribute to the public understanding of government operations or activities. Indeed, if individuals within the EPA discuss these considerations with outside groups or receive instructions to alter their regulatory timetable, the general public would have great interest in such information and would have a significantly greater understanding of the EPA's true activities. Disclosure could demonstrate that the EPA is attempting to shield its true policy intentions from public view during the election season- the time when many Americans are most focused on policy issues such as environmental regulation. Disclosure of such records will allow Landmark to determine if the EPA seeks to protect the public wellbeing first and foremost.

Landmark clearly satisfies each of these four factors. Consequently, disclosure of the requested materials is in the public interest.

---

[2] See Judicial Watch, Inc. v. Rosotti, 326 F.3d 1309, 1314 (D.C. Cir. 2003). Here, the Court determined that an entity who provided "nine ways in which it communicates collected information to the public" sufficiently justified how disclosure would contribute to the public's understanding as to the activities of the federal government.

2. Disclosure of Requested Material is Not in Landmark's Commercial Interest.

In order for a fee waiver to be granted, the disclosure of the requested material must not be in the commercial interest of the requester. The EPA sets forth a two-part test in determining whether the requester has a commercial interest in the records release: (1) The Agency determines whether the requester has a commercial interest that would be furthered by the requested disclosure; (2) If the Agency determines the requester has a commercial interest, the Agency will engage in a balancing test to determine whether the identified commercial interest outweighs the public interest in disclosure. 40 CFR 2.107(l)(3)(i)-(ii) (2011).

Thus, in order to trigger the second part of the commercial interest test, a requester must have a commercial interest in the records release.

Landmark does not have any commercial interest in the release of the requested records. Obtaining, analyzing, and disseminating this information is consistent with Landmark's mission to educate the public concerning the activities of federal agencies. Landmark has no commercial interest of any kind, nor can it as a 501(c)(3) public interest non-profit organization. Since Landmark satisfies the first part of the commercial interest test, the balancing of the requester's commercial interest against the identified public interest is inapplicable.

B. Landmark's Request Should Receive Expedited Processing.

In order to receive expedited process, a FOIA request must show a "compelling need" by either: (1) establishing that the failure to obtain the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or (2) if you are a person primarily engaged in disseminating information, by demonstrating that an urgency to inform the public that actual or alleged Federal Government activity. 40 CFR 2.104 (e)(i)-(ii) (2011).

1. There is a Compelling Need For Public Disclosure of the Requested Records.

There is a compelling need for the immediate release of the information requested. With respect to entities "primarily engaged in disseminating information," a compelling need is demonstrated by an "urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. Section 552(a)(6)(E)(v)(II). Among the factors to be considered as to whether there is a compelling need are "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." ACLU, 321 F.Supp.2d at 29.

The requested records related directly to several matters of tremendous public interest and debate as shown by the attached exhibits, including the delay of the rulemaking process because of an upcoming election. This delay raises the possibility that the Obama Administration has improperly politicized the EPA, the possibility that the EPA's leadership is

intentionally concealing its regulatory activity from an unwary public, and/or the possibility that the EPA's leadership is putting the partisan interests of a particular candidate above the safety of the general public by delaying controversial regulations. Each one of these issues is a matter for immediate and full disclosure.

There are many significant public interests implicated in the possibility that the EPA's activities have been politicized. The health and wellbeing of the public as well as the economic wellbeing of the country are at stake with improper environmental regulation. Delay puts these at risk and prevents the American public from being able to engage in timely, thoughtful debate over the extent of regulation and the management of the EPA. Furthermore, these issues regarding EPA's regulatory activities (the EPA's fulfillment of its responsibilities to inform the public and submit to appropriate congressional oversight, and the possibility that the EPA has put partisan interests above the health and wellbeing of the general public) should be considered by the American public before voting in this year's presidential and congressional elections. In short, Landmark meets the factors for a compelling need.

2. Landmark is Primarily Engaged in Disseminating Information.

As part of its mission as a tax-exempt, public interest law firm, Landmark investigates, litigates and *publicizes* instances of improper and/or illegal government activity. As stated above, Landmark will take various steps to disseminate responsive information to the public. Specifically, Landmark will post information on its web site; include the information in its newsletters; disseminate information via various widespread distribution technologies; publish articles in large circulation print media; and issue press releases to a wide range of media outlets.

Moreover, Landmark's work is regularly reported on in national print, broadcast and electronic media outlets, including the *Washington Post*, *Washington Times*, *The New York Times*, *Wall Street Journal*, and many other national publications. Landmark's work is often discussed on national radio talk shows including *The Rush Limbaugh Show*, and *The Sean Hannity Show*. Landmark's president is a nationally syndicated talk show host, and while not in any way affiliated with Landmark, the Foundation's activities are regularly discussed on the program, which is heard by millions of Americans throughout the country. Landmark's only purpose in seeking this information, furthermore, is to disseminate such information to the public.

Landmark has thousands of supporters throughout the United States who are regularly informed through newsletters and other correspondence of the Foundation's activities. Landmark exists only through the donations received from the general public and does not accept any government funds. Accordingly, Landmark must disseminate information about its activities to the general public in order to function.

In Elec. Privacy Info. Ctr. v. DOD, 241 F. Supp. 2d 5 (D.D.C. 2003), the D.C. District Court found that a public interest group was "primarily engaged in disseminating information" for purposes of the FOIA. The court reasoned that he group "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience." Elec. Privacy Info. Ctr. v. DOD, 241 F. Supp. 2d

5, 11 (D.D.C. 2003)(citing National Sec. Archive v. U.S. Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

As noted on Landmark's website, "Among Landmark Legal Foundation's primary activities is to disseminate to the public information about the conduct of governmental agencies and public officials that runs afoul of constitutional limits or ethical standards." Landmark gathers information of potential interest to the public, especially those with a conservative viewpoint, analyzes the information, and then creates a report or summary of that information which it distributes to Landmark's audience through newsletters, reports, and its webpage. Landmark's audience includes its supporters, including official advisors, news media, visitors to its website and the general public when Landmark officials discuss the information in print, television and radio.

If Landmark's FOIA Request is not expedited, the potential exists for spoliation of evidence that could demonstrate improper Agency conduct. Expediting Landmark's Request will allow Landmark – and the public – to understand an issue of national interest.

Please note, Landmark has previously been involved in extensive litigation arising from a governmental agency's failure to properly produce documents in accordance with its obligations under the FOIA. See Landmark Legal Foundation v. Environmental Protection Agency, 272 F.Supp.2d 70 (D.D.C. 2003). In that case, the EPA destroyed records in violation of a preliminary injunction and failed to properly circulate Landmark's Request to relevant departments within the Agency. Consequently, the Agency was found in civil contempt of court. Landmark fully expects the EPA to fully comply with the legal mandates set forth in the FOIA.

Furthermore, please provide assurances that EPA officials are taking steps to prevent destruction of repositories of information that may hold records responsive to this request. Additionally, be aware that any actions taken in contravention of the Agency's responsibilities will be raised if this request becomes the subject of litigation.

III. Conclusion

If you intend to deny this request in whole or in part, Landmark requests that you provide specific and substantive justifications with full citation to applicable exemptions and supporting case law.

Please also note, while Landmark realizes that the EPA considers requests for fee waivers and expedited processing on a case-by-case basis, the EPA has granted Landmark's requests in the past. Moreover, Landmark has successfully litigated the issue of whether it qualifies for a fee waiver in federal court.

For the reasons stated above, Landmark asks that the EPA grant Landmark's fee waiver and grant its request for expedited consideration. You may contact Matthew Forys at (703) 554-6100 if you have any questions. Please deliver responsive records to Mr. Forys's attention at the following address:

Matthew Forys
Landmark Legal Foundation
19415 Deerfield Ave.
Suite 312
Leesburg, VA 20176

Certification

Pursuant to Agency regulations and as required by law, I certify, to the best of my knowledge, that the above facts are true and correct.

Mark R. Levin
President
Landmark Legal Foundation

Exhibit A

INSIDEEPA.COM
an online news service from the publishers of Inside EPA

Insider Special -- July 17, 2012

Insider Special -- The Unfinished Agenda

EPA Positioned To Stay Under Radar Through 2012 Election Season

Posted: July 17, 2012

Editor's Note: You can read all the background stories and documents referenced in this special report by signing up for a free, one-month trial to InsideEPA.com (see box on this page).

EPA and its regulations have long-been a favorite target of critics but the agency is positioning itself to largely fly under the political radar through the elections.

The agency completed most of its controversial rules months ago, and is now killing some and delaying many others until November or later, while preparing to release relatively popular, non-controversial items such as its vehicle greenhouse gas (GHG) rule before the elections.

"I think we all understand that there are political windows that are better and others that are worse," says one environmentalist.

A former Bush administration official says EPA intentionally sought to establish deadlines for controversial measures that would fall after the election "no matter what." And it has put many discretionary items "on the slow track."

In an early indication of the administration's pre-election priorities, a top EPA transport official said recently that completion of the vehicle GHG rule, which is expected to cut gasoline consumption, is a "top priority," while a pending Tier III fuel and engine rule, which many critics said would raise gasoline prices, would be delayed.

The former Bush official says the Tier III standard -- which had drawn charges that EPA was seeking to further raise gasoline prices when they briefly spiraled upward this spring -- "was an easy one to delay," especially because the agency can synchronize it with its vehicle GHG rules that are years away from taking effect.

Most recently, EPA officials July 13 announced they had dropped a controversial rulemaking that would have required livestock operators to report a host of data to the agency under the Clean Water Act -- an issue that was riling many producers in Iowa, a key election battleground, and other important farm states. And EPA July 16 said it had renegotiated a legal deadline for a controversial stormwater control measure, from 2012 until 2014.

As a result of such efforts, EPA faces no legal mandates to issue major rules between now and the elections, with several deadlines pegged for December, such as for a pending final fine particulate matter air quality standard and a final Portland cement rule package.

The agency is also expected not to finalize until after the election its proposal setting a first-time greenhouse gas (GHG) new source performance standard (NSPS) for new power plants despite winning a sweeping June 26 ruling from the U.S. Court of Appeals for the District of Columbia Circuit broadly backing its GHG regulatory program. EPA maintains it has "no plans" to issue GHG standards for existing sources but could do so late this year, several sources say.

Also likely delayed until after the election: a proposed guidance for permitting hydraulic fracturing operations that use diesel fuel, final cooling water standards for power plants, "uniform" air toxics standards for chemical and other industrial plants, guidance for determining when isolated wetlands and other marginal waters are subject to regulation under the water law, the "Tier III" fuel and engine standards, and a long-delayed rule setting standards for disposal of coal ash.

One industry source notes that the administration was able to delay the fracking permitting guidance and the "uniform" air toxics standards by extending the comment deadline -- a clear indication that the measures will not go final anytime soon. "The administration is not interested in any new rules that they don't have to do between now and the election," the source says.

Additionally, because EPA's final NSPS for the oil and gas sector has not yet been published in the *Federal Register* months after it was signed, any challenges to that rule will be delayed.

Political Messaging

But the administration is seeking to issue regulations before the Nov. 8 elections that may bolster its messaging. Key among them is the GHG vehicle rules for model years (MY) 2017-2025, which EPA delivered to the White House for review July 16, in time for its release in the midst of election season.

The rule, which has widespread support including from most automakers, will likely allow the administration to make a host of key arguments, including highlighting its efforts to curtail GHG emissions, improving fuel efficiency and demonstrating the potential economic benefits of environmental regulations -- the latter of which would likely play well in Michigan, Ohio and other auto manufacturing states that are also key swing states.

Similarly, the administration is likely to issue its revised package of air and waste rules regulating incinerators and boilers that will weaken an earlier final rule to address industry criticism.

While they were not able to win broader industry support, the Obama re-election campaign is nevertheless highlighting EPA's controversial power plant air toxics rule, alongside the vehicle GHG rules. "The new [power plant] rules will help to clear our skies of pollutants that can make health problems like asthma and bronchitis worse, saving up to 17,000 lives per year," the campaign website says.

The former Bush official says that "if something is not done now, it's pretty well going to slide" until after the election, adding that "absolutely the last point in time" a rule would be signed is mid-September to avoid chances of a new administration immediately overturning it. "The most conservative thinking says don't even bother because if the administration flips [the new administration] will go back and take a look at what you did anyway. Or if it doesn't flip then you can put it out at the end of the year."

The source adds that EPA is also "in a pretty good place" with its Cross State Air Pollution Rule (CSAPR), which has been challenged in the D.C. Circuit and where a ruling is expected imminently. "If the court comes out tomorrow morning and [remands or vacates it], there is probably a space where they say they are evaluating the court opinion" and do not take any new action for months. If EPA wins, then it is another legal victory for the agency.

EPA air chief Gina McCarthy said at a July 10 forum that the agency would push back compliance deadlines if the agency prevails in the challenge, saying the agency would be "very sensitive" to state and utility needs for more time.

A second industry source notes that the Obama administration started with a number of controversial items "dumped in its lap early on, some of which it took on willingly and some the product of deadline litigation, particularly in the case of the Clean Air Act. . . . They coupled must-dos with want-to-dos to make for a very busy first term, particularly the first three years. What's happened now in 2012 is a combination of presidential election reticence as well as some of these obligations drying up. . . . It is a slightly odd confluence of events."

The environmentalist agrees that not much is going to move before the election but vows to continue to press the agency to act on important measures.

While EPA is "certainly not shut down for the rest of the term," the source says, "it's very likely that none of this stuff gets done before the election." Still, the source says it is possible some stalled items could move. "The obvious question for them is do they think it is either something no one is really going to pay attention to or something industry wants done, which could be the case with the boiler air toxics standards because it weakens them."

House Hits

Despite the agency's attempts to slow down rulemakings, sources across the political spectrum expect House Republicans to continue placing EPA in their crosshairs.

Lawmakers continue an almost daily messaging of press releases, hearings, letters and other actions highlighting agency measures and their effects. The GOP leadership has named the week of July 23 "Red Tape Week," where they intend to highlight the effects of EPA and other agency regulations and vote on a series of measures to strengthen the regulatory review process.

Similarly, Rep. Ed Whitfield (R-KY) has slated a series of forums on amendments to the Clean Air Act starting with a focus on the law's state implementation plan provisions late this month.

The environmentalist expects "pretty much more of the same" from the House "including overreach on everything" that will mostly be "political and for show."

A Democratic strategist notes those efforts will "not go anywhere in the Senate. The House is going to try and force the construction of the Keystone XL pipeline . . . but that is also not going to happen. Between now and the election there will be much heat but little light shed on energy issues."

The former Bush official says the transportation bill enacted into law this summer was "the last" legislative vehicle for environmental policy riders that could have moved before the election, but EPA critics fared poorly there -- failing to attach a controversial measure blocking EPA's pending coal ash rules. "I don't know of anything that was more likely to get through than [the coal ash measure] and it didn't, and it's hard to imagine anything else significant," says the first industry source.

The source notes that lawmakers are not even planning to move any appropriations measures before November.

Efforts likely to go nowhere include GOP bids to revoke EPA's GHG authority, nascent lame-duck efforts to impose a carbon tax and efforts to pass tax extenders for a range of energy credits such as biofuels and renewables, though several sources are holding out hope that the energy credits could be included in end-of-year "fiscal cliff" efforts.

A second environmentalist adds that long-sought reforms to the Toxic Substances Control Act (TSCA) still appear doomed despite a recent victory from longtime TCSA reform supporter Sen. Frank Lautenberg (D-NJ) in attracting GOP support.

EPA And The Election

Sources agree that EPA will not have a top-tier role in the presidential election between Obama and GOP challenger Mitt Romney, though the Democratic strategist expects Democrats to hint at agency stances when they talk about "protecting public health and protecting clean energy jobs of the future." The source adds Obama will continue to talk about his pro-environmental record of saving lives, spurring innovation and creating jobs.

The second environmentalist says activists are disappointed that Obama is not running more on his environmental record and "excoriating" Romney for his flip-flopping on climate change. Because of Romney's change in position, he is also not expected to bring the issue up much. "Obama has made a fundamental mistake on these issues and has tried not to popularize them, which he could have done," the source says.

But sources say that regardless of the election's outcome, there is likely to be a flurry of rules and other policies being issued after Nov. 8 -- including measures that are subject to legal deadlines, or, in the event President Obama loses his re-election bid, to leave traps for the administration of GOP challenger Mitt Romney.

"If there is no second term, I would expect EPA to finalize a bunch of rules that are not final," the first environmentalist says, adding EPA will also propose discretionary rules as well for the Romney administration to finalize or kill.

The second industry source also expects a flurry of November and December activity from EPA if Obama loses, with the hope of some of them becoming permanent, while a more tempered pace if he wins.

But a third industry source would expect a lame-duck EPA to "not try to put things through if [Obama] loses because they can be undone." -- *Dawn Reeves*

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Defense Environment Alert
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Budget
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Natural Gas
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Exhibit B

2 of 65 DOCUMENTS

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Bozeman Daily Chronicle

July 31, 2012 Tuesday

SECTION: NATION; Pg. A.4

ACC-NO: 116114

LENGTH: 407 words

HEADLINE: As the election nears, new regs facing delays

BODY:

WASHINGTON (AP) -- When the Obama administration agreed to set the first-ever federal limits on runoff in Florida, environmental groups were pleased. They thought the state's waters would finally get a break from a nutrient overdose that spawns algae, suffocates rivers, lakes and streams and forms byproducts in drinking water that could make people sick.

Nearly three years later -- with a presidential election looming and Florida expected to play a critical role in the outcome -- those groups are still waiting. The rules, originally scheduled to take effect in March, now won't be active until next January, and even then could be replaced altogether by state-drafted regulations.

In fact, a growing number of regulations are being delayed at federal agencies or at the White House. The list includes a rule cracking down on junk food at school bake sales, another banning children from dangerous work on farms and one setting federal standards for disposing toxic ash from coal-fired power plants.

Together, the delays suggest caution by the administration at a time when President Barack Obama is increasingly under attack by Republicans and business groups for pushing regulations that they say will kill jobs or needlessly extend federal power.

"Issuing more regulations now would not help dispel the perception that President Obama's administration is 'anti-business,'" said John D. Graham, who from 2001 to 2006 headed the Office of Information and Regulatory Affairs, the White House's political gatekeeper for new rules. And with unemployment at 8 percent, "the Obama administration knows that more costly burdens on business will not create jobs. Those rules will have to wait until after the election."

It's not uncommon for rulemaking to slow during election years "because the White House does not want to create any controversy," Graham, now dean of Indiana University's School of Public and Environmental Affairs, wrote in an email to The Associated Press.

Just last week, the EPA announced it would wait until 2013 to issue a regulation aimed at reducing the number of juvenile fish and shellfish that die in power plants' cooling water intakes and would also tweak a rule requiring new power plants to control mercury and other toxic air pollution. Republicans and industry had charged that both rules would help "kill" coal as an electricity source by helping to shut down older plants and preventing new ones from being built.

LOAD-DATE: August 1, 2012

Exhibit C

OBAMA'S LAST STAND
The latest eBook by POLITICO's GLENN

POLITICO

EPA wears the bull's-eye

By: Jonathan Allen and Erica Martinson
June 20, 2012 09:21 AM EDT

This election year the EPA is toxic.

The Senate is voting on whether EPA planes can take pictures of farms — after it was mistakenly reported that drones were flying over the heartland. House Republicans want to cut the agency's funding to pre-1998 levels. And the president has threatened to veto a House bill, due up Wednesday, that would restrict Clean Air Act rules.

(Also on POLITICO: Energy issues crop up with farm bill)

Oh, and there were at least 10 — count 'em 10 — Capitol Hill hearings and markups on environmental matters Tuesday.

Forget drones, EPA could use a missile shield.

This week is just the latest round of a Republican attack that has forced the White House to hold back on new environmental regulations, lawmakers say — at least for now.

"They have slowed down some of that stuff, but it's only until after the election," Rep. Mike Simpson (R-Idaho) said. "After that, it's going to be scary."

Even some Democrats say the White House has responded to political reality in slowing down environmental regulations.

"The unrelenting attacks by the Republicans on environmental protection, I think, have caused people in the administration to be careful to pick their fights," said California Rep. Henry Waxman, the top Democrat on the House Energy and Commerce Committee.

To Republicans, the agency is the very embodiment of what they see as the worst of President Barack Obama and, as they see it, his liberal policies: big government reaching into the minutia of businesses.

And the drone rumor follows a list of other strange accusations plaguing the agency this year, like talk that it would start regulating farm dust (which it had no plans to do) and spilled milk (a trumped up version of reality).

"They are just an intimidating, overreaching, regulatory body," **Rep. Nick Rahall** (D-W.Va.) said of EPA. Rahall's state recently held a symposium on EPA's "War on Coal," a response to regulations now in effect and in the pipeline that could damage the coal industry.

Mitt Romney has hammered Obama over EPA policies during campaign stops in coal

country. For his part, Obama has warned that a Romney administration would roll back existing regulations to the detriment of public health, and his campaign has pointed to instances of Romney reversing past support for environmental regulations.

"It's not that people don't care in Missouri about the environment and it's not that they don't want some basic rules to make sure we have clean air and water," Sen. Claire McCaskill (D-Mo.) told POLITICO. "It's they don't want the overreach. And I think that's been a political talking point on the other side that has taken root particularly in the rural part of the state."

There are currently 25 EPA-generated rules held up in the review stage of the White House's Office of Information and Regulatory Affairs, more than any other Cabinet department or agency, according to the Office of Management and Budget. HHS, charged with implementing the president's health care law, has just 17 in that pipeline.

The full list of EPA rules in various stages of regulatory purgatory is much longer. They include mandates on coal ash, gasoline sulfur standards, Clean Water Act jurisdiction and industrial boilers. Gina McCarthy, the EPA's air chief, said Tuesday she doesn't know when the new boiler rule will be finalized.

"Still working on it," she told POLITICO. "Still working on it."

Last week, EPA sent a letter saying it isn't prepared to regulate greenhouse gas emissions from planes, and that it won't do so for engines on ships and other off-road vehicles and machines.

Some environmental groups say the agency should fight harder.

"The best defense against political attacks on the Clean Air Act is ambitious implementation of all its successful clean air programs, because they save lives and protect the climate. But when the EPA drags its heels on clean air implementation, big polluters and their lobbyists just sense weakness and redouble their attacks," said Kassie Siegel, the director of the Climate Law Institute at the Center for Biological Diversity.

But the stalled regulations don't tell the whole story. The Obama administration has finalized several significant environmental regulations — most under court orders — that have provided fodder for congressional cannons. They include greenhouse gas limits for new power plants, the mercury and air toxics rule at existing power plants, requirements to cut methane emissions at hydraulically fractured natural gas drilling sites, and a heavy hand overseeing mountaintop mining.

Sen. Lamar Alexander (R-Tenn.) is one of the few Republicans to embrace environmental regulations. He is a fan of a rule requiring costly power plant upgrades that would stop mecury and other toxins from getting into the air, and one that tries to protect downwind states from other states' pollution.

"That's what should have been done years ago. These pollutants were identified in the law in 1990, and 20 years later we're just getting around to doing what the courts have ordered EPA to do," Alexander said.

But for most Republicans and some Democrats the politics are clear: It's best to kick the EPA when it's down. Some are trying to block regulations that the administration is no longer pursuing.

McCaskill and Sen. Mike Johanns (R-Neb.) offered an amendment to the farm bill that would have stopped the EPA from implementing a farm dust rule that had been abandoned. (That amendment didn't make it onto the final list of 73 amendments being debated on the floor this week.) And McCaskill is proud of her efforts to block a child labor regulation from the Labor Department.

"I want to make sure no one forgets I had a part in killing both of them," she said.

For many environmental protection advocates, the battle is a partisan one. The Republicans who defended the EPA in the 1980s and 1990s are now gone. Waxman and Rep. Ed Markey (D-Mass.) published a report on Monday listing 247 votes the Republican-led House has taken since January of 2011 that they say would hurt environmental or public health policy.

And some on the left note that the House Republicans haven't really won many battles.

"The toxic cloud of anti-EPA rhetoric from congressional Republicans has had limited effect because the Senate and the president have kept most of their nasty little bills to gut our health and environmental protections from becoming law," David D. Doniger of the Natural Resources Defense Council said. "All this anti-EPA venom appeals to their base, but it is out of step with the majority of the American people, who consistently say they want EPA to do its job and they want Congress to keep its hands off the laws that protect our health and our environment."

But Republicans made clear late Tuesday that they have no intention of giving even an inch to the EPA. House Energy and Commerce Chairman Fred Upton (R-Mich.) and several members of his committee sent a letter to EPA and the White House suggesting that the federal government is overreaching in its research and regulation of hydraulic fracturing, also known as "fracking."

Sen. Jim Inhofe (R-Okla.), who is forcing a Wednesday vote on repealing the EPA's rule limiting mercury and other air pollutants from power plants, sent a letter to the agency's inspector general asking for an investigation into a controversial natural-gas enforcement case in Texas.

And the White House is fighting back against congressional Republicans. OMB issued a veto threat Tuesday against a House energy bill that it says would block implementation of rules associated with the Clean Air Act.

Darren Goode contributed to this story.

This article first appeared on POLITICO Pro *at 9:23 p.m. on June 19, 2012.*

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Exhibit D

POLITICO
MORNING MONEY
Political Intelligence at the intersection of Washington and Wall Street

POLITICO

President Obama's administration slow-walks new rules

By: Darren Samuelsohn and Jonathan Allen
July 12, 2012 04:35 AM EDT

It's a staple of Mitt Romney's talking points: President **Barack Obama** and his lefty lieutenants have stifled economic growth with a Politburo-style regulatory regime.

After all, the president dropped two of the biggest regulatory bombs in memory with the **Dodd-Frank Wall Street Reform** and a **health care law** that gives the Health and Human Services Department sweeping authority to run a whole new insurance system.

But now Obama's making it tougher to put costly new rules in place. His enforcer: **Cass Sunstein**, an old buddy from their University of Chicago days whose friendship with the president gives him more clout in the West Wing than many advisers of higher rank. Sunstein has imposed what is essentially a soft freeze on new regulations.

Even though that's not official policy, the administration has been increasingly frugal in issuing regulations, according to a POLITICO review of government data and more than two dozen interviews with current and former administration officials, lawmakers in both parties, business leaders and liberal activists. The analysis of the federal rule-making database shows Obama as of Tuesday had issued 1,004 final regulations since arriving in office. That's fewer than his two immediate predecessors, George W. Bush and Bill Clinton. This year, Obama is also on pace to put out the fewest "economically significant" regulations of any year in his presidency.

In classic Washington fashion, the administration's slowdown of new rules is making liberals mad and winning Obama no credit from Republicans or the business community — especially not in an election year in which the over-regulator meme is so prevalent.

Some say he truly believes in regulatory restraint during tough economic times. Others see a crass political calculation at play: Don't give **Romney** any more ammunition before the election — and then open the floodgates after the polls close.

Either way, the result is the same.

Most agencies aren't even on the scoreboard with big-ticket rules this year: The Environmental Protection Agency: two major regulations, clamping down on emissions from petroleum refineries, and on oil-and-gas drilling operations. The Department of Justice: One, on prison rape. Treasury: One, on Dodd-Frank.

Republicans "just assert stuff and the facts have never encumbered them. I think there's a sense that Democrats are regulation-bound or regulation-minded and so the assertion sticks. I don't think it's any more complicated than that," said Harold Ickes, who served as deputy chief of staff to Clinton and then counted delegates for Hillary Clinton when she ran against Obama.

Romney has linked the administration's rule-making to his larger narrative about Obama's job-killing agenda.

In Michigan last month, the Republican led a call-and-response asking a crowd if it wanted "four more years of Obamacare," "four more years of Dodd-Frank" and "four more years of energy policies that say we can't use our oil and our coal and our gas."

And here's what he said in March in Illinois: "Day by day, job-killing regulation by job-killing regulation, bureaucrat by bureaucrat, this president is crushing the dream and the dreamers, and I will make sure that finally ends."

GOP-aligned groups are reinforcing the message.

American Crossroads is running an ad quoting Cecil Roberts, president of the United Mine Workers of America, discussing concerns about rules to limit coal pollution. "Our health care, pensions and way of life are on the line," a narrator warns. "Say no to the Obama administration's extreme EPA rules."

Clearly sensitive to the attacks, Obama has defended himself on the trail.

"I don't believe every regulation is smart, or every tax dollar can be spent wisely," Obama said at a campaign rally last month in Durham, N.H.

Facts can be tricky things, as evidenced by a House Energy and Commerce Committee news release issued last month June when EPA bowed to industry demands to soften a proposal regulating cement kilns — to the consternation of environmentalists.

In the same sentence, Rep. John Sullivan (R-Okla.) called the industry-friendly rule a "welcome development" while still denouncing the "EPA's radical regulatory agenda."

Experts on federal regulations say that rule-making often slows down in an election year but that it's particularly acute now because Republicans have focused so much attention on that element of the president's work.

"They're just incredibly afraid of the job-killing label," OMB Watch President Katherine McFate said.

Agency officials say the White House is so obsessed with depriving Republicans of fresh ammunition that Sunstein has moved beyond the traditional role of reviewing regulations to dip into minor matters that don't rise to his level as head of the Office of Information and Regulatory Affairs, such as guidance from the agencies to the states.

"They are asserting their review authority over lesser and lesser things," an EPA official said.

Regulations are a methodical and essential part of any administration's governing once the legislative sausage-making is complete. Agencies must follow strict administrative requirements to propose rules, accept public comment and then finalize their plans — all with the Office of Management and Budget keeping close tabs on the process.

Obama's regulatory policies have caused heartburn for agency officials and advocates who see months and years of work blocked by the White House internal review process.

Ideas stuck on the drawing board include an EPA plan to reduce mercury waste from dentist offices, an Occupational Safety and Health Administration update to protect workers from exposure to crystalline silica dust and Energy Department efficiency standards for walk-in freezers.

Sunstein said the number of economically significant regulations that come out in any given month or year depends on several factors — but not politics.

"The president has made clear his priority is getting out of a tough economic situation," Sunstein told POLITICO. "From the time I got here, my priority was to make sure our regulatory framework fit with economic priorities. If you have expensive rules, you want to make sure they are amply justified."

So far, the number of Obama's regulations trails those of his predecessors. After the midterms, Bill Daley entered the White House as chief of staff. He courted the U.S. Chamber of Commerce and promised to make the administration more business-friendly.

While the overall number of final Obama rules was slightly higher the year after the 2010 mid-terms, the number of economically significant rules — which have either a $100 million price tag or $100 million in public health benefits — dropped from 70 in 2010 to 55 last year, according to a search of the economically significant rules listed in the OMB database. This year, nearly a third of the big-ticket rules — eight of 25 — have been related to implementing the health care law.

The length of time regulations sat at OMB for review also has increased by more than three weeks since the 2010 elections, from an average of 45 days before to 67 days after.

And here's how Obama's 1,004 rules completed as of Tuesday compares overall with his predecessors: George W. Bush had completed 1,073 rules at the same point in office, Clinton 1,775, according to the OMB database. In September 1993, Clinton issued an executive order that narrowed the definition of a economically significant rule and the number of rules reviewed by the White House.

"Just the fact is we haven't had as many as our predecessor," Sunstein said. "That's suggestive that there's been some discipline."

Sunstein, once a target of conservative commentator Glenn Beck, has now become a lightning rod for agency officials and liberal activists. His office, which is part of the White House OMB, can make or break new regulations — and, more frustrating to some folks in the administration, tweak them just enough at the last minute to tip the balance more toward industry.

A hard-nosed number-cruncher known for halting regulations if he determines they would burden business more than they would benefit the public, Sunstein has the added gravitas of coming into his job in September 2009 as a friend of Obama's.

"I can talk to him if I need to," Sunstein said. "But he has a lot of things to do, so I want to work under his guidance without diverting him from other things like wars and averting a depression."

Sunstein's "strength in the administration appears to be increasing over time," said John Graham, George W. Bush's first regulatory chief and now dean of the Indiana University School of Public and Environmental Affairs. Graham noted that Sunstein has pushed

through a pair of regulatory reform initiatives that eliminate red tape at agencies and kill redundant rules, an effort that should help Obama improve his image with industry.

"The more visible OIRA becomes in regulatory reform, the more it will relieve the widespread concern that President Obama is anti-business," Graham said.

A former Obama administration official told POLITICO that Sunstein's influence also has grown since OMB Directors Peter Orszag and Jack Lew moved on, elevating Jeff Zients to the role of acting chief.

"Cass is in the enviable position of being very close to the president, and he is therefore able not only to read him well but also to reflect him well," said Sally Katzen, former Clinton regulatory chief and now senior adviser at the Podesta Group.

In the interview, Sunstein touted a range of rules that he said have gotten the government solid bang for its buck: roughly $91 billion in net public health benefits and consumer savings through the first three fiscal years of Obama's term. He cited new fuel economy regulations that will reduce the number of trips Americans need to make to the gas station and a salmonella rule that's preventing up to 79,000 illnesses a year. There have also been other efforts, including replacing the food pyramid with a graphic that displays food categories on a plate.

"If you've got a rule that prevents a serious harm to people who can't in some cases really protect themselves, that's good," Sunstein said.

Obama-era regulation implementation costs also have peaked at just more than $9 billion in a single year. "We didn't hit the [George W.] Bush high" of $10 billion, nor the highs during the prior three administrations — Clinton, George H.W. Bush and Ronald Reagan — which were all well over $10 billion, Sunstein said.

Speaking Friday in Pittsburgh, Obama went on offense on regulations, saying Romney plans to eliminate rules "that we just put in place to make sure that Wall Street doesn't act recklessly and we can prevent another taxpayer-funded bailout when the financial system goes out of whack; regulations that protect our air or our water; regulations that protect consumers from being taken advantage of."

Democratic lawmakers defend Obama's regulatory record.

"From the beginning, they've been trying to balance the equities there," said Rep. Chris Van Hollen (D-Md.). "My sense is that they work very hard to be reasonable both in protecting the public health and protecting consumers but doing it in the most cost-effective way."

While Republicans are not holding back in their criticism, most industry groups are far more restrained. Some acknowledge the numbers show a less aggressive government than the political rhetoric suggests. Others don't want to upset Obama for fear he'll unleash many more rules if he wins a second term.

"It's probably accurate to say the regulations, the economically significant regulations, have been fewer," said Bill Kovacs, a senior vice president of the U.S. Chamber of Commerce, who noted the Obama EPA hasn't exercised its full authority under the Clean Air Act in regulating power plants. So far, EPA has proposed rules only for new facilities and postponed until after the election a much more costly set of requirements on the

nation's aging electric utilities.

"The president has said, 'Hey, we've got to slow this down,'" said Rep. Lee Terry (R-Neb.). "We can't have more layoffs in October and November."

Rep. Mike Simpson, the Idaho Republican who is in charge of EPA's annual spending bill, predicted an Obama defeat would unleash a torrent of midnight regulations from Obama before Romney is sworn in.

And "if he is reelected," Simpson added, "it's hellbent for leather."

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Exhibit B

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 29, 2012

OFFICE OF
ENVIRONMENTAL INFORMATION

Mr. Matthew Forys
Landmark Legal Foundation
19415 Deerfield Avenue
Suite 312
Leesburg, VA 20176

RE: Request Number HQ-FOI-01861-12

Dear Mr. Forys:

This is in response to your request for a fee waiver and expedited processing in connection with your Freedom of Information Act (FOIA) request to the U.S. Environmental Protection Agency (EPA) seeking a copy of records regarding any EPA rule or regulation for which public notice has not been made, but which is contemplated or under consideration for public notice between January 1, 2012 and August 17, 2012.

We have reviewed your fee waiver justification and based on the information provided, we are granting your request for a fee waiver. However, this fee waiver does not include a waiver of fees for otherwise publically available records.

We have reviewed your expedited processing justification and based on the information provided, we are denying your request for expedited processing. You have not demonstrated that the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. The EPA will respond to your information request as expeditiously as possible.

Under the FOIA, you have the right to appeal this determination to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania

Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOI number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Should you choose to appeal this determination, please be sure to fully address all factors required by EPA's FOIA Regulations, located at 40 C.F.R. § 2.107(l) in your appeal. If you have any questions concerning this determination please contact me at (202) 566-1667.

Sincerely,

Larry F. Gottesman
National FOIA Officer

Exhibit C

RE: FOIA Request Number HQ-FOI-01861-12
matt
to:
Jonathan Newton
10/05/2012 04:06 PM
Hide Details
From: "matt" <matt@landmarklegal.org>

To: Jonathan Newton/DC/USEPA/US@EPA

History: This message has been forwarded.

Dear Mr. Newton:

Landmark will agree to limit the scope of the search to senior officials in EPA HQ with the understanding that Landmark does not waive the right to expand the scope to the original request if warranted by responsive records.

Moreover, Landmark does not waive any rights to its pending administrative appeal regarding the EPA's denial of Landmark's request for expedited processing or to any additional remedy available pursuant to the FOIA or EPA's FOIA regulations.

Sincerely,

Matthew C. Forys
Landmark Legal Foundation
19415 Deerfield Ave
Suite 312
Leesburg, VA 20176
703-554-6104
703-554-6119 (facsimile)

This electronic mail transmission may contain confidential or privileged information. If you believe that you have received the message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it. DISCLOSURE REQUIRED BY IRS CIRCULAR 230: In accordance with IRS requirements, be informed that any tax advice contained herein is not intended to be used for avoiding tax penalties due the Internal Revenue Service, or to promote, market, or recommend to another party to participate in any transaction or matter addressed herein.

From: Jonathan Newton [mailto:Newton.Jonathan@epamail.epa.gov]
Sent: Friday, October 05, 2012 1:04 AM
To: matt
Subject: Re: FOIA Request Number HQ-FOI-01861-12

Mr Forys:

Thank you for following up; I could not get through to your office by telephone on Friday afternoon.

In order to make this request more manageable, would you consider narrowing the search to senior officials in EPA HQ (ie., Program Administrators, Deputy Administrators and Chiefs of Staff)? These individuals are likely to be involved in policy decisions of the nature referenced in your request.

I am out of the office until Tuesday but periodically checking email. If you are comfortable with this scope I can have processing begin prior to my return.

Thank you again for following up,
Jonathan

Jonathan V. Newton, Esq.
U.S. EPA, Office of the Executive Secretariat
1200 Pennsylvania Avenue, NW (MC 1105A)
Washington, D.C. 20460
(202) 566-1981

-----"matt" <matt@landmarklegal.org> wrote: -----

To: Jonathan Newton/DC/USEPA/US@EPA
From: "matt" <matt@landmarklegal.org>
Date: 10/04/2012 02:31PM
Subject: FOIA Request Number HQ-FOI-01861-12

Dear Mr. Newton:

I'm writing to check in with you about our FOIA, Request Number HQ-FOI-01861-12, which we last discussed on September 28. You indicated that you would be sending me an email that day concerning the request, but as of today I have not heard from you.

Please let me know what the status is as soon as possible.

Thanks for your assistance.

Sincerely,

Matthew C. Forys
Landmark Legal Foundation
19415 Deerfield Ave
Suite 312
Leesburg, VA 20176
703-554-6104
703-554-6119 (facsimile)

This electronic mail transmission may contain confidential or privileged information. If you believe that you have received the message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.
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Exhibit D

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

OCT 18 2012

Mark Levin
Landmark Legal Foundation
19415 Deerfield Ave, Suite 312
Leesburg, VA 20176

Re: Freedom of Information Act Appeal HQ-APP-00186-12 (HQ-FOI-01861-12)

Dear Mr. Levin:

I am responding to your September 14, 2012 appeal of a denial of expedited processing under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 ("Appeal Letter"). You appealed the August 29, 2012 letter from Larry F. Gottesman, National FOIA Officer of the U.S. Environmental Protection Agency (the "EPA" or "Agency") to deny your request for expedited processing of your FOIA request numbered HQ-APP-01861-12 ("Denial Letter"). Your request for a fee waiver for this FOIA request was granted, and you are not appealing the decision regarding your request for a fee waiver at this time.

You seek expedited processing of your FOIA request for documents and records regarding communications about proposed rules and regulations that have not been finalized between January 1, 2012 and August 17, 2012, specifically, "information relating to any EPA rule or regulation for which public notice has not been made, but which is contemplated or under consideration for public notice between January 1, 2012 and August 17, 2012." Your request was subsequently modified by limiting the search to senior officials in EPA HQ. Your request was made on behalf of the Landmark Legal Foundation, which you describe as a "tax-exempt, public interest law firm." FOIA Request Letter from Landmark Legal Foundation, August 17, 2012 ("Request Letter") at 7.[1] Your request for expedited processing was denied because "[y]ou have not demonstrated that the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual." Denial Letter, August 29, 2012.

I have carefully considered your initial request for expedited processing, the EPA's initial denial of your request, and your appeal. For the purposes of this appeal, I am not addressing the

[1] For purposes of this appeal, "you" and "your" refers to communications between the EPA and any representative of Landmark Legal Foundation regarding this FOIA request.

question of whether your request, as written, reasonably describes the records that you are requesting in order to constitute a proper FOIA request. For the reasons set forth below, I have concluded that your appeal requesting expedited processing should be, and is denied.

Analysis

In your appeal letter, you state that your request qualifies for expedited processing under 40 C.F.R. § 2.104(e)(i)-(ii), which provides for the EPA to take requests out of order and provide expedited processing when the EPA determines that such requests or appeals involve a "compelling need," as follows:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.

In your appeal letter, you have not contended that the documents you request are required due to an imminent threat to the life or safety of an individual. Therefore, I will analyze your request for expedited processing under section (ii) of the EPA's regulations only.

"Person Primarily Engaged in Disseminating Information to the Public"

To qualify for expedited processing under 40 C.F.R. §2.104(e)(ii), a requester must establish that they are a person primarily engaged in disseminating information to the public. As EPA's regulations state at 40 C.F.R. §2.104(e)(ii)(3), in order to receive expedited processing under this provision, the requester must submit a statement certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for the request. *Id.* If you are not a full-time member of the news media, you must establish in that statement that you are a person whose primary professional activity or occupation is information dissemination, although it need not be your sole occupation. *Id.*

In your FOIA Request Letter, incorporated by reference in your Appeal, you state that your organization has a primary mission as a tax-exempt, public interest law firm, who investigates, litigates, and publicizes instances of improper and/or illegal government activity. Request Letter at 7. In your appeal, you noted that Landmark reviews and provides comments to EPA on proposed regulations and assist with challenges to EPA actions. You have not established that the Landmark Legal Foundation is <u>primarily</u> engaged in disseminating information to the public. You also claim that Landmark Legal Foundation "is discussed" by various third party media outlets and that Landmark has published articles in print media and

appeared on TV. However, you did not provide any evidence or examples. Research and advocacy that is covered by third party media, your group's public appearances, and information presentations do not demonstrate that Landmark Legal Foundation itself is primarily engaged in dissemination of information to the public.

For the reasons explained, I find that you have not established that you are a person primarily engaged in disseminating information to the public to meet the threshold requirement of 40 C.F.R. §2.104(e)(ii), and your appeal for expedited processing is denied on this basis.

Your request also does not meet the second element of the test for expedited processing because you have not demonstrated an urgency to inform the public about the government activity involved in the request beyond the public's right to know about government activity generally. 40 C.F.R. § 2.104(e)(ii)(3). Your request is not focused on any specific EPA activity or rule. Instead, your request asks the EPA to provide you broadly identified records based on your stated belief that proposed rules are being delayed for political reasons. The few news articles that you attached as Exhibits to your request and appeal indicate slight evidence of media interest in the general topic of politics and rulemaking. However, these articles and opinion pieces do not demonstrate substantial interest, either on the part of the American public or the media, in any particular issue which would be addressed by information responsive to your broad request. *See Am. Civil Liberties Union v. Dep't of Justice*, 2005 WL 588354, *12-14 (N.D. Cal. March 11, 2005) (citing *Al-Fayed v. Central Intelligence Agency*, 254 F.3d 300, 311 (D.C.Cir. 2001). You have therefore not demonstrated an urgency to inform the public.

Conclusion

This letter constitutes EPA's final determination on your appeal. In accordance with 5 U.S.C. § 552(a)(4)(B), you have the right to seek judicial review of this determination by instituting an action in the district court of the United States in the district in which you reside, or have your principal place of business, or in which the Agency records are situated, or in the District of Columbia.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, ogis@nara.gov; telephone, 301-837-1996 or 1-877-684-6448; and facsimile, 301-837-0348.

Please call Jennifer Hammitt at (202) 564-5097 if you have further questions regarding this matter.

Sincerely,

Kevin M. Miller
Assistant General Counsel
General Law Office

cc: HQ FOI Office,

Larry F. Gottesman, National FOIA Officer

Exhibit E

U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

April 12, 2013

VIA FEDEX and EMAIL

Mr. Michael J. O'Neill, Esq.
Assistant General Counsel
Landmark legal Foundation
19415 Deerfield Ave.
Ste. 312
Leesburg, VA 20176
mike@landmarklegal.org
rpetehutch@landmarklegal.org

RE: Landmark v. EPA, Civ. Act. No. 12-1726 (RCL)

Dear Mr. O'Neill:

Enclosed please find a disc with the final production in HQ-FOI-01861-12 (Landmark v. EPA). This release contains 3 files:

1) "Compiled Documents Released in Full" file (1134 pages), consisting of 123 documents that were released in full to Landmark
2) "Compiled Documents Release with Redactions" file (1678 pages), consisting of 196 documents that were numbered and released with some information redacted. Some of these documents were released in full as described below – these numbered documents are in the compiled file.
3) A "Compiled Index of Withholdings." Documents designated as "Release-Redaction" are in the Release with Redactions file and numbered. 60 documents were withheld in full. These have been designated as "Withhold in Full" in the Compiled Index.

The following documents were numbered as potential documents for "Release with Redactions" early in EPA's processing. As per our agreement with you memorialized on April 1, 2013, EPA

removed the redactions from the secondary account of the Administrator. Therefore some documents are now being released in full in the final production that were redacted in earlier productions.

Doc 51 was deemed nonresponsive
Doc 60 – Released in full
Doc 69 – Released in full
Doc 78 and 79 – nonresponsive
Doc 97 – nonresponsive
Doc 133 – released in full
Doc 153 – released in full
Doc 156 – released in full
Doc 162 – released in full
Doc 164 – released in full
Doc 173 – released in full
Doc 176 – released in full
Doc 177 – released in full
Doc 225 – nonresponsive
Doc 226 – nonresponsive
Doc 230 – nonresponsive
Doc 243 – nonresponsive
Doc 274 – 277 – nonresponsive
Doc 278 – 280 – these 3 documents were initially designated "release in full" for internal review in the agency but had partial withholdings applied after the first set was numbered. These were submitted for interagency review and released without numbering in the supplemental release on February 27, 2013. They have been numbered here in the final release for ease of tracking.

The files that EPA is providing today have been "OCR" processed and made searchable for your convenience. This release represents EPA's final response to your request. As stated in the court's order, EPA will file its motion for summary judgment on all remaining withholdings on April 30, 2013.

Sincerely Yours,

/s/

Heather Graham-Oliver
Asst. U.S. Attorney
555 Fourth St. NW
Civil Division-Rm. 4-4410
Washington, DC 20530
(202) 305-1334

EPA-1	**Subj:** Next Environmental Stakeholder Brown Bag is Wed., January 4, 2012, 12:00 - 1:30 p.m.	01/03/2012 02:37:28 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US

Attachments
NRC Sust 4-pgr.pdf
Environmental_Jan2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-1 transmits meeting information for a meeting with environmental stakeholders, including outside parties, on environmental law issues and rulemakings. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-1. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-2	**Subj:** Fw: Follow-Up to Deputy Administrator's November 30 Meeting with Small Businesses	01/04/2012 08:33:18 PM	**Auth:** Nancy Stoner

Recipients
"Sonia Altieri" <Altieri.Sonia@epamail.epa.gov>

Attachments
Air Permitting Reforms Recommendations.pdf
Nov 30 2011 DA Meeting Attendee List Updated Dec 1 2011.docx
Nov 30 2011 DA Meeting Summary.docx
TCEQ.pdf
TOPICS-QUESTIONS for Nov 30 Deputy Administrators Meeting with Small Businesses.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-2 transmits follow-up items from meeting with Deputy Administrator Bob Perciasepe and small business representatives. The email contains five attachments. Portions of attachments to this email contain personal email addresses and a cell phone number, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses and cell phone number have a significant personal privacy interest in preventing unsolicited emails, phone calls and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. One of the attachments also contains redacted personal information about an individual's religious affiliation. Public disclosure of these email addresses would not shed light on the performance of EPA employees official duties or EPA's official mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

One of the attachments, a "Meeting Summary" document relating to a Nov. 30, 2011 EPA Deputy Administrator Meeting with Small Businesses includes five

instances of "Action Items" redacted and withheld under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the process and the development of EPA's response to small business stakeholders present at the meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff concerning evolving stakeholder issues and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to such issues. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All segregable material has been released. The text of the email was released in full. All attachments have been released with portions of some attachments withheld pursuant to Ex. 6 as described above. Additonally, approximately five sentences from a six page attachment were redacted pursuant to Ex. 5 for the reasons described above. The release of any remaining, redacted information would reveal personal privacy or deliberative information not subject to disclosure and any facts are inextricably intertwined with the deliberative material.

EPA-3	**Subj:** Fw: WOUS press events in Colorado	01/06/2012 07:22:04 AM	**Auth:** Nancy Stoner

Recipients
Windsor.Richard@epamail.epa.gov; Bob Perciasepe/DC/USEPA/US@EPA; Sussman.Bob@epamail.epa.gov; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The email string falls within Documents EPA-4 to EPA-6. Document EPA-3 contains a question in the most recent email message from Nancy Stoner, Assistant Administrator, Office of Water, to EPA senior leadership requesting advice on a policy matter regarding Agency outreach. This question has been redacted under FOIA's deliberative process privilege. The redacted portion qualifies for protection under the deliberative process privilege of Exemption 5 because it is an intra-agency communication that relates to pre-decisional considerations concerning potential policy-related actions and public policy stances to be taken by the Agency. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to potential future Agency actions and external outreach.

All segregable material, including the factual information about the public inquiry and the substance of the communication leading to the inquiry, has been segregated and released to plaintiff. One email was released in full and one email had one sentence redacted pursuant to Exemption 5 for the reasons described above. The release of the redacted sentence would reveal the deliberative information described above, which not subject to disclosure.

EPA-5	**Subj:** Re: WOUS press events in Colorado	01/06/2012 08:13:04 AM	**Auth:** Brendan Gilfillan

Recipients
Richard Windsor/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The email string falls within Document EPA-6 and includes EPA-3 and EPA-4. Refer to the entries for EPA-3 and EPA-4 for the informaton withheld from those email strings. In addition to EPA-3 and EPA-4, Document EPA-5 consists of a response email from Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education in response to EPA Administrator Lisa Jackson who was responding to a question from Nancy Stoner, Assistant Administrator,

Office of Water. The response email consists of one sentence and was redacted. The redacted sentence is an intra-agency communication that relates to pre-decisional considerations concerning potential policy-related actions and public policy stances to be taken by the Agency. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to potential future Agency actions and external outreach.

All segregable material, including the factual information about the public inquiry and the substance of the communication leading to the inquiry, has been segregated and released to plaintiff. The release of the redacted sentence would reveal the deliberative information described above and any factual information is inextricably intertwined with the deliberative discussion.

EPA-6	**Subj:** Re: WOUS press events in Colorado	01/06/2012 08:47:49 AM	**Auth:** Nancy Stoner

Recipients
Brendan Gilfillan/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-6 (related to EPA-3, EPA-4, and EPA-5) is a continuation of an email string with the most recent, non-redacted email written by Nancy Stoner, Assistant Administrator, Office of Water in response to Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education, who was writing in response to EPA Administrator Lisa Jackson, who was responding to a question from Ms. Stoner. The response from Ms. Stoner that was additional in EPA-6 was released. Please see the entries for Documents EPA-3 to EPA-5 for the explanation of the withheld portions of this email string.

EPA-7	**Subj:** Follow-up: Environmental Stakeholder Brown Bag is Wed., January 4, 2012, 12:00 - 1:30 p.m.	01/06/2012 01:54:41 PM	**Auth:** Sonia Altieri

Recipients
Mike Shapiro/DC/USEPA/US

Attachments
NRC Sust 4-pgr.pdf
Jan 4th_Sustainability for OW.pptx
attendees_jan2012.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-7 is an email communication that was sent to outside parties for the "Environmental Stakeholder Brown Bag" presentation. The email communication was released in full. Portions of one of the email's attachments (a sign-in sheet for attendees) contains personal cell phone numbers, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the cell phone numbers have a significant personal privacy interest in preventing unsolicited phone calls and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of these phone numbers would not shed light on the performance of the employees’ official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. All segregable material, which includes the the email and remainder of the attachments, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-8	**Subj:** OCSPP Workflow, January 9-20	01/06/2012 03:37:10 PM	**Auth:** Douglas Parsons

Recipients

Niva Kramek/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; OPP Division Directors & Associate Directors; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Angela Hofmann/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Caroline Klos/DC/USEPA/US@EPA; Claire Gesalman/DC/USEPA/US@EPA; Dale Kemery/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Deborah Mccray/DC/USEPA/US@EPA; Denise Adams/DC/USEPA/US@EPA; Denise Wright/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Harriett Haymon/DC/USEPA/US@EPA; Janet Weiner/DC/USEPA/US@EPA; Joan Ebzery/DC/USEPA/US@EPA; Linda Strauss/DC/USEPA/US@EPA; Louise Washington-Mayronne/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Marilyn Malloy/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Mary McKiel/DC/USEPA/US@EPA; Michael OReilly/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Sharon Clark/DC/USEPA/US@EPA; Shirley Myers/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Wanda Hall/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; Zelma Taylor/DC/USEPA/US@EPA

Attachments

Workflow, January 9 - 20, 2012.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-8 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment, was withheld in full. The email communication was released in full.

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting and discussions on EPA's rule development in OCSPP. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion related to EPA actions.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-9	**Subj:** Environment Colorado press conference re: Waters of the US	01/09/2012 05:15:26 PM	**Auth:** Lisa Mcclain-Vanderpool

Recipients
Gregory Peck/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Richard Mylott/R8/USEPA/US@EPA

Attachments
TALKING POINTS WOUS 1.5.12.docx

Exemption(s)
Release

Justification
EPA-9 has been released in full to Plaintiff.

EPA-10	**Subj:** Fw: Revised Douglas County and Wayne County controls re: WUS guidance/rule	01/11/2012 05:24:23 PM	**Auth:** Jim Pendergast

Recipients
Gregory Peck/DC/USEPA/US@EPA

Attachments
Control -- Wayne County Commissioners v3.docx
Control -- Douglas County.docx
AX-11-002-1006 Obrecht.pdf
AX-11-002-0991 Kock.pdf
AX-11-001-2901 Johnson.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
Document EPA-10 is an email written by Jim Pendergast, Associate Director of the Wetlands Division with the Office of Water's Office of Wetlands, Oceans & Watersheds, to EPA management within the Office of Water. The portions of the email that have been redacted qualify for protection under the deliberative process privilege of Exemption 5 because they are intra-agency communications that relate to pre-decisional considerations concerning the creation of draft letter responses. Two draft letter responses from EPA to the counties that were proposed for EPA to respond to the communications were included as attachments. These two attachments have been withheld as deliberative because they are non-final draft communications that represent a proposed, but not final, option for the Agency to respond to the public inquiry regarding a potential rulemaking activity. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to creation of such reports and could cause public confusion by providing reasons and rationales that were not in fact the basis for the Agency's final decision.

All segregable material, which includes the incoming letters to the agency from the outside parties that were the subject of the proposed response, have been released to Plaintff. The release of any remaining, redacted information would reveal deliberative information not subject to disclosure. Any remaining factual information is inextricably intertwined with the deliberative content in EPA-10.

EPA-11	**Subj:** Draft Transmittal Email-Small Entity Report	01/12/2012 08:42:36 AM	**Auth:** David Evans

Recipients

Attachments
Small Entity Report 2012Jan11.docx

Denise Keehner/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Donna Downing/DC/USEPA/US@EPA; Jim Pendergast/DC/USEPA/US@EPA

Small Entity Report 2012Jan11 Complete.pdf

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-11 is an email written by David Evans, Director of the Wetlands Division with the Office of Water's Office of Wetlands, Oceans & Watersheds, to EPA management within the Office of Water. This email transmits draft versions of reports that were drafted internally within EPA following Office of Water outreach to small entities regarding a potential rulemaking. The redacted information consists of three paragraphs within the email that contain the analysis, opinions, and advice of EPA staff to EPA leadership regarding policy issues and options. The three paragraphs that have been redacted qualify for protection under the deliberative process privilege of Exemption 5 because they are intra-agency communications that relate to pre-decisional considerations concerning the creation of draft reports and agency policy on outreach to and responses to small entity concerns on proposed Agency rulemaking activities. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to creation of such reports and could cause public confusion.

The attached .PDF files are drafts of final reports for internal review before the reports are sent to intergovernmental parties (SBA, OMB, and the Army Corps of Engineers). These internal drafts were not circulated outside of the federal government. These materials are marked "draft, internal, deliberative" and were developed to assist in the intergovernmental decisionmaking process. These materials represent the opinions and judgments that were under consideration by EPA in formulating policies and options before any decision was made about an official Agency or United States government policy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material, which includes the remainder of the document, has been released. The first two paragraphs and last sentence of the email were released; three paragraphs were redacted. The two attachments were withheld in full. Any factual information in the withheld portion of the email and the draft materials is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-12	**Subj:** Re: FDEP Numeric Nutrient Criteria: Question from Drew --RESPONSE REQUESTED	01/12/2012 04:12:13 PM	**Auth:** Sara Hisel-McCoy

Recipients

Ellen Gilinsky/DC/USEPA/US@EPA; Lee Schroer/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA; Gail Mitchell/R4/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Peter Ford/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA; "Betsy Behl" <Behl.Betsy@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege

Release-Redaction

Justification

Document EPA-12 is an email string with the most recent email written by Sara Hisel-McCoy, Director of the Office of Science and Technology's Standards and Health Protection Division in response to other management level officials within the Office of Water and attorneys within the Officer of General Counsel. The redacted portions qualify for protection under the deliberative process privilege of Exemption 5 because they are intra-agency communications that relate to pre-decisional considerations concerning potential policy-related actions on the development of Florida water quality standards under consideration by the Agency. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to potential future Agency actions.

The withheld information on the second page of the email is protected under Exemption 5's attorney-client privilege because it represents legal advice provided to EPA program office personnel by an EPA Office of General Counsel attorney that relates to the interaction between state law and specific EPA rules. This communication chain contains the opinions and questions of an EPA attorney. The withheld portion comprises of communications between an EPA attorney and his clients relating to a legal matter. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning EPA's prospective action in regard to its treatment of state agency proposals and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going consideration of these proposal as they relate to EPA rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal deliberative or attorney-client information not subject to disclosure. Any factual information in the withheld portion of the draft materials is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-13	**Subj:** Re: Fw: Quick turn request (sorry) in prep for meeting with the President's Manufacturing Council	01/12/2012 04:18:09 PM	**Auth:** Lisa Feldt

Recipients

Shawna Bergman/DC/USEPA/US@EPA; "Kathryn Boyle" <Boyle.Kathryn@epamail.epa.gov>; "Barry Breen" <Breen.Barry@epamail.epa.gov>; "Becky Brooks" <Brooks.Becky@epamail.epa.gov>; "Barbara Hostage" <Hostage.Barbara@epamail.epa.gov>; "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>; "Matt Straus" <Straus.Matt@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-13 is an email string with the most recent email being from Lisa Feldt, Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER) to other OSWER staff members, including senior managers. The withheld information consists of one sentence within the initial originating email, written by Stuart Miles-Mcclean, who works within EPA's Office of the Administrator, Office of Regulatory Policy Management. The portion of the email redacted is protected under Exemption 5's deliberative process privilege because it consists of internal queries and discussion of policy issues developed to assist other Agency personnel in their preparation for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld portion of the email is predecisional because it contains requests for information that do not represent official EPA policy at the time of the email's creation.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for meetings and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's positions to be disclosed during such

meetings.

All segregable material in this record has been released to the Plaintiff. There are six emails in this email string. Five emails were released in full and the sixth email had one sentence redacted. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-14	**Subj:** Workflow, January 16-27	01/13/2012 10:39:14 AM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, January 16 - 27, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-14 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion related to EPA actions.

All segregable material in this record has been released to the Plaintiff. To the extent the withheld attachment contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-15	**Subj:** Re: Due to OP by 2:00 today: prep for meeting with the President's Manufacturing Council	01/13/2012 12:44:18 PM	**Auth:** Shawna Bergman

Recipients
Kathryn Boyle/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA; Nancy Jones/R6/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA; Lura Matthews/DC/USEPA/US@EPA; Craig Matthiessen/DC/USEPA/US@EPA; Barbara Grimm-Crawford/DC/USEPA/US@EPA; Barbara Hostage/DC/USEPA/US@EPA; Gerain Perry/DC/USEPA/US@EPA; David Nicholas/DC/USEPA/US@EPA; Debi Morey/DC/USEPA/US@EPA; Colleen Keltz/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-15 is an email message from Shawna Bergman, Chief of Staff to EPA's Office of Solid Waste and Emergency Response, to EPA staff concerning background and briefing information assembled in preparation for an upcoming meeting. The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information that reflects an employees opinion and recommendation as part of the process to assist in preparing an agenda for the meeting. The withheld information does not represent an official Agency decision or policy and instead reflects an employees opinion and recommendation. The withheld portions of the email are predecisional because they contain information selected by EPA staff to prepare for the meeting. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for public meetings and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's presentations for such meetings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. This email string consists of two emails. One email consists of approximately 4 and 1/2 pages and was released in full. The second email consists of two sentences and was redacted in full. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-16	**Subj:** Materials for 316 (b) Final Rule Options Discussion Meeting with Bob Perciasepe on January 17, 2012	01/13/2012 03:35:36 PM	**Auth:** Lynn Zipf

Recipients
Ellen Gilinsky/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ann Campbell/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Paul Balserak/DC/USEPA/US@EPA; Paul Shriner/DC/USEPA/US@EPA; Julie Hewitt/DC/USEPA/US@EPA; Robert Wood/DC/USEPA/US@EPA; Richard Witt/DC/USEPA/US@EPA; Steven Neugeboren/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Teri Porterfield/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA

Attachments
Section 316 OS dicussion 01172012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-16 is an email message from Lynn Zipf of the Office of Water's Engineering and Analysis Division to other EPA program staff members and Office of General Counsel attorneys concerning background and briefing information assembled in preparation for an upcoming meeting concerning an EPA rulemaking proposal. The withheld attachment in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, concerning the rulemaking being discussed. The withheld attachment does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld attachment is predecisional because it concerns a rulemaking and options being discussed about the rulemaking. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff related to on going rulemaking options and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's position. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. The text of the email was released in full. The attachment was withheld in full. To the extent any of this withheld attachment contains facts, the selection of those facts was an integral part of the deliberations and additionally factual information is inextricably intertwined with the deliberative discussion concerning this document.

EPA-17	**Subj:** Settlements Discussions: Refineries NSPS (toxics and ghgs) and Power Plant GHG NSPS	01/15/2012 09:40:54 PM	**Auth:** Gina McCarthy

Recipients

Richard Windsor/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Scott Fulton" <Fulton.Scott@EPA.GOV>; "Bob Sussman" <Sussman.bob@EPA.GOV>; "Michael Goo" <goo.michael@epa.gov>; Joseph Goffman/DC/USEPA/US; Janet McCabe/DC/USEPA/US; "Avi Garbow" <garbow.avi@epa.gov>; "Lorie Schmidt" <schmidt.lorie@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-17 is an email written by Gina McCarthy, Assistant Administrator for the Office of Air & Radiation, to EPA Administrator Lisa Jackson and other EPA senior management level officials, including the EPA General Counsel. The redacted portions qualify for protection under the deliberative process privilege of Exemption 5 because they are intra-agency communications that relate to pre-decisional considerations concerning policy-related actions and rulemaking by the Agency. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to potential future Agency rulemaking.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients, counsel within the Office of the Administrator and the EPA General Counsel seeking legal advice regarding EPA rulemaking and litigation. This email contains communications between EPA attorneys and clients relating to a legal matter - the legal implications involved in ongoing litigation and rulemaking - for which the client office sought legal advice. The record contains facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's participation in pending litigation. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys. This information was not circulated beyond those with a need to know in the agency.

All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal deliberative or attorney-client information not subject to disclosure.

EPA-18	**Subj:** Re: Fw: > REQUEST FOR UPDATE: CWA Conflict of Interest/ 10% income rule issue	01/17/2012 11:40:03 AM	**Auth:** Greg Spraul

Recipients

Heidi Faller/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; peck.gregory@epa.gov; Kathryn Kelley/DC/USEPA/US@EPA; Ross Brennan/DC/USEPA/US@EPA; Tom Laverty/DC/USEPA/US@EPA; Randy

Attachments

Hill/DC/USEPA/US@EPA

Exemption(s)
Release

Justification
Document EPA-18 is an email string between EPA personnel within the Office of Congressional Affairs and the Office of Water, as they discussed the collection of information requested by a congressional staffer, whose email is at the bottom of the string. The withheld portions of this email communication are protected under Exemption 5's deliberative process privilege because they consist of internal discussions related to the Agency's official response to the congressional staffer. The withheld portions do not represent an official Agency decision or policy. The withheld information is predecisional because it relates to the Agency's preparation for the response to the staffer. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for responses to Congress and the public and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's preparation for such correspondences. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-19	**Subj:** Next Industry Stakeholder Coffee is Wed., January 18, 2012, 9:00 - 10:30 a.m.	01/17/2012 04:08:21 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US

Attachments
NRC Sust 4-pgr.pdf
Jan 18_Sustainability for OW.pptx
Industry Stakeholder_Jan 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-19 transmits meeting information for a meeting with industry stakeholders. Portions of one of the email's attachments contains an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-19. All segregable material, which in this case includes the remainder of the email and attachments, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-20	**Subj:** Next Industry Stakeholder Coffee is Wed., January 18, 2012, 9:00 - 10:30 a.m.	01/18/2012 12:52:56 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US

Attachments
Industry Stakeholder_Jan 2012 Agenda.docx
Jan 18_Sustainability for OW.pptx

NRC Sust 4-pgr.pdf
jan2012.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-20 transmits meeting information for a meeting with industry stakeholders. Portions of one of the email's attachments contains a sign in list that includes phone numbers of the participants and one personal email address. The phone numbers and email address are withheld under Exemption 6. There is no public interest in the third party phone numbers and the personal email address. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The phone numbers and email on the sign-up sheet are the only withheld information in EPA-20. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-21	**Subj:** Re: Mtg with Cass Sunstein	01/18/2012 06:30:53 PM	**Auth:** Michael Goo

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-21 is an email chain of two emails between Micheal Goo, Associate Administrator for the Office of Policy; Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance; EPA Administrator Lisa Jackson; and EPA Deputy Administrator Bob Perciasepe. The email chain discusses EPA and United States Government policy and decisionmaking regarding the NPDES E-Reporting Rule and other rules.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material has been released. Any factual information in the redacted portions of the document is inextricably intertwined with the deliberative content and its release would reveal deliberative information not subject to disclosure.

EPA-22	**Subj:** Workflow, January 23 to February 3	01/20/2012 12:44:01 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, January 23 - February 3, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Withhold attachment

Justification

Document EPA-22 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. The email text was released in full. The attachment was withheld in full. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-23	**Subj:** Fw: OSCPP HIT List	01/23/2012 11:31:01 AM	**Auth:** Jim Jones

Recipients

Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US

Attachments

Hit.ListOCSPP.1-18..docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-23 is an email chain of two emails between EPA personnel including EPA Administrator Lisa Jackson; Robert Sussman, Senior Policy Counsel to the Administrator; Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP); and Bob Perciasepe, EPA Deputy Administrator. The first e-mail is from Jim Jones, Acting Assistant Administrator in OCSPP EPA staff forwarding a "Hot issues" tracker, which has been withheld in full.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. The email text was released in full. The attachment was

withheld in full. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-24	**Subj:** Fw: Leahy Inquiry Re: Formaldehyde Standards for Composite Wood Products Act	01/23/2012 05:20:47 PM	**Auth:** Douglas Parsons

Recipients
"Jim Jones" <Jones.Jim@epamail.epa.gov>; "Louise Wise" <Wise.Louise@epamail.epa.gov>; "Niva Kramek" <Kramek.Niva@epamail.epa.gov>

Attachments
3.17.11 RutlandPlywood_Leahy to EPA.pdf
4.21.11 EPA Response.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-24 is an email string that includes communications between EPA personnel within the Office of Congressional Affairs and the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed the collection of information requested by a congressional staffer, whose email is at the bottom of the string with attached letters that were released to Plaintiff. One email has the text withheld under Ex. 5. The withheld portions of this email communication are protected under Exemption 5's deliberative process privilege because it consists of internal discussion related to the Agency's response to the congressional staffer. The withheld information is predecisional because it relates to the development of the Agency's response to the congressional inquiry about an EPA rule making process. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for responses to Congress and the public and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's preparation for such correspondences.

All segregable material in this record has been released to the Plaintiff. Two of the three emails and both attachments were released in full. The text of one email was redacted. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-25	**Subj:** summary of industry associations discussion with OMB on PMN CBI Amendment	01/24/2012 11:15:14 AM	**Auth:** Barbara Cunningham-HQ

Recipients
Jim Jones/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA

Attachments
Notes from 1-20-12 EO12866 Meeting.docx
ACC Agenda.1-20-12.pdf
ACC Whitepaper.1-19-12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
Document EPA-25 includes is an email that features communications between EPA personnel within the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed a meeting held with EPA stakeholders about potential changes to EPA regulations that concern certain types of confidential business information. The withheld portions of this email and a withheld attachment, which includes notes taken from the meeting by an EPA participant, are protected

under Exemption 5's deliberative process privilege because they consist of internal opinion, observations, and reactions about the EPA's potential changes to the regulations governing certain types of CBI. The withheld portion and withheld attachment do not represent an official Agency decision or policy. The withheld information is predecisional because it contains information related to the potential EPA regulatory change and includes issues brought forth by the meeting. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider responses to such issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the information received by EPA from outside parties. Two attachments were released. The email text and one attachment were withheld. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-26	**Subj:** Pat O'Toole, Family Farm Alliance re: WUS Policy	01/24/2012 12:45:11 PM	**Auth:** David Evans

Recipients

Damaris Christensen/DC/USEPA/US@EPA; Donna Downing/DC/USEPA/US@EPA; Andrew Bostrom/DC/USEPA/US@EPA; Christopher Hunter/DC/USEPA/US@EPA; Hadas Raanan-Kiperwas/DC/USEPA/US@EPA; Jenny Thomas/DC/USEPA/US@EPA; Jim Keating/DC/USEPA/US@EPA; Jim Pendergast/DC/USEPA/US@EPA; Joel Corona/DC/USEPA/US@EPA; Kathy Hurld/DC/USEPA/US@EPA; Rachel Fertik/DC/USEPA/US@EPA; Rose Kwok/DC/USEPA/US@EPA; Sonia Altieri/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

A portion of EPA-26 contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call and access code is the only information withheld in EPA-26. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-27	**Subj:** Re: ReCommunity Solid Waste Determination question	01/24/2012 03:13:08 PM	**Auth:** Lisa Feldt

Recipients

Matt Straus/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

A portion of this email contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. In addition, a very small portion of this email communication, withheld under Exemption 6, relates to personal medical information of an EPA employee. The employee maintains a privacy interest in personal medical information. Release of this information would not shed light on the employee's or EPA's performance of statutory duties, and therefore the privacy interest of the employee outweighs the public interest in disclosure. The release of any remaining, redacted information that was withheld under Exemption 6 would reveal personal privacy information not subject to disclosure.

Portions of this email are between Lisa Feldt, Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER) to other OSWER staff members as they discussed a query from a representative of EPA stakeholders about the potential reconsideration of an Agency rule related to non-hazardous secondary material. The withheld portions of this email are protected under Exemption 5's deliberative process privilege because they consist of internal discussions and opinion on how to respond to the query and the EPA's evaluation of requests for reconsideration of the rule. The withheld portion and withheld attachment do not represent an official Agency decision or policy and instead reflect analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it relates to issues brought forth by the stakeholder query about the rule and EPA's evaluation of requests for reconsideration. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider responses to such issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. One email was released in full and three emails were redacted. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-28	**Subj:** Fw: CLA Dinner Meeting, Wed, Jan 25	01/24/2012 05:49:19 PM	**Auth:** Douglas Parsons

Recipients

"Jim Jones" <Jones.Jim@epamail.epa.gov>; "Louise Wise" <Wise.Louise@epamail.epa.gov>; "Teresa Green" <Green.Teresa@epamail.epa.gov>

Attachments

Spray Drift 1_20_12.docx
Pollinators 1_23_12.docx
CWA-FIFRA Common Effects Characterization Methodology - Jan 24, 2012.docx
OW - Overview of PGP talking points - Jones CLA presentation - Jan 24 2012.docx
PRIA and Pesticide Fees - Jones CLA presentation - Jan 24 2012.docx
ESA - Jones CLA presentation - Jan 24, 2012.docx

Exemption(s)

Release

Justification

Document EPA-28 is an email that features communications between EPA personnel within the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed preparations for an upcoming meeting. The withheld attachments feature background information and talking points and are protected under Exemption 5's deliberative process privilege because they consist of selected issues and information prepared by EPA staff to prepare an EPA manager for a presentation at a meeting. The withheld information is predecisional because it contains information selected by EPA staff to prepare and update an EPA manager. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider preparations for such meetings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. There are nine emails in this email string. All text of the nine emails have been released and six attachments in one email were withheld in full. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-29	**Subj:** Fw: NSPS timing from BNA	01/30/2012 03:40:06 PM	**Auth:** John Millett

Recipients
Gina McCarthy/DC/USEPA/US@EPA; "Janet McCabe" <McCabe.Janet@epamail.epa.gov>; "Joseph Goffman" <Goffman.Joseph@epamail.epa.gov>; "Lorie Schmidt" <Schmidt.Lorie@epamail.epa.gov>; "Don Zinger" <Zinger.Don@epamail.epa.gov>; "Mike Flynn" <Flynn.Mike@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-29 includes an email string that features communications between EPA personnel within the Office of Air & Radiation, as they discussed potential reactions to media releases pertaining to EPA's work on new source performance standards related to power plants. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of an opinion provided to EPA managers related to media potential regarding EPA's work on new source performance standards. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-30	**Subj:** HIT List	01/31/2012 08:47:06 AM	**Auth:** Kate Graf

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA

Attachments
HITList.OCSPP.Jan 27.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-30 is an email between EPA staff within the Office of Chemical Safety & Pollution Prevention (OCSPP) that includes an attachment featuring a draft version of a "Hot issues" tracker, which has been withheld in full.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank

discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. Furthermore, release could cause public confusion on EPA action.

All segregable material has been released to the Plaintiff. All text in the email was released and the attachment was withheld in full. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-31	**Subj:** Fw: OCSPP HIT List	01/31/2012 01:16:09 PM	**Auth:** Jim Jones

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US

Attachments
HITList.OCSPP.Jan 31.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-31 is an email between EPA staff within the Office of Chemical Safety & Pollution Prevention (OCSPP) that includes an attachment featuring a "Hot issues" tracker, which has been withheld in full.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material has been released to the Plaintiff. This document consists of 2 emails and one attachment. All text in the two emails was released. The attachment was withheld in full. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-32	**Subj:** Fw: Fwd: Rozol	02/02/2012 06:24:33 AM	**Auth:** Jim Jones

Recipients
Steven Bradbury/DC/USEPA/US@EPA

Attachments
Vyas annual report 2010.pdf
Eco Risk on Rozol for BTPD.pdf
Prairie Dogs Pesticides and Protected Species golden.pdf
RED for rodenticide cluster.pdf
Rozol ad and coupon.pdf
Rozol and Kaput Info.doc
ROZOL letter.doc

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-32 is an unsolicited email from an outside party to an EPA manager's personal email account related to a potential Agency action. This was forwarded by that manager to EPA employees responsible for the action and to his personal assistant in EPA. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owner of the email address has a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

All segregable material, which includes the incoming email from the outside party and all attachments to the incoming email message, has been released to Plaintiff. The redacted information followed the name of the EPA manager who owns the email account, so that the public is aware of who is sending and receiving this email. All segregable material, which includes the remainder of the document, has been released. The release of the sole redacted information that is the personal email account would reveal personal privacy information not subject to disclosure.

EPA-33	**Subj:** Fw: Rozol	02/03/2012 08:29:34 AM	**Auth:** Jim Jones

Recipients
Teresa Green/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US; Niva Kramek/DC/USEPA/US@EPA

Attachments
Vyas annual report 2010.pdf
Eco Risk on Rozol for BTPD.pdf
Prairie Dogs Pesticides and Protected Species golden.pdf
RED for rodenticide cluster.pdf
Rozol ad and coupon.pdf
Rozol and Kaput Info.doc
ROZOL letter.doc

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-33 is an internal follow-up regarding EPA-32, which is an unsolicited email from an outside party to an EPA manager's personal email account related to a potential Agency action.
A portion of this email string falls within EPA-32. The only information withheld from EPA-33 falls within EPA-32. Therefore, please see the entry for EPA-32 for the discussion of the withheld information.

EPA-34	**Subj:** Re: November 2011 "Monthly Briefing"	02/06/2012 06:08:49 PM	**Auth:** Gregory Peck

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-34 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses from outside parties, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public

disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

This email string contains eight emails. Not text was withheld from the eight emails. The only information withheld from EPA-34 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-35	**Subj:** Re: November 2011 "Monthly Briefing"	02/06/2012 06:10:01 PM	**Auth:** Gregory Peck

Recipients

"Martha Workman" <Workman.Martha@epamail.epa.gov>; "Matt Klasen" <klasen.matthew@epa.gov>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-35 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses of outside parties, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

This email string contained eight emails. All text from the eight emails was released. The only information withheld from EPA-35 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-36	**Subj:** Fw: November 2011 "Monthly Briefing"	02/06/2012 06:10:37 PM	**Auth:** Gregory Peck

Recipients

"Matt Klasen" <klasen.matthew@epa.gov>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-36 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-36 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-37	**Subj:** Re: November 2011 "Monthly Briefing"	02/06/2012 06:43:04 PM	**Auth:** Gregory Peck

Recipients
Martha Workman/DC/USEPA/US@EPA; "Matt Klasen" <klasen.matthew@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-37 contains an email string between EPA and Dan Keppen of the Family Farm Alliance, and one withheld internal communications between EPA staff members. Portions of this document contain personal email addresses which were withheld.

The single sentence withheld under FOIA Exemption 5 is predecisional and deliberative. It consists of an opinion about a proposed course of action related to an invitation to an EPA manager in the most recent message in the email string and is from Gregory Peck to Martha Workman, Executive Assistant to the Acting Assistant Administrator for the Office of Water. It does not represent any final agency decision or position taken with respect to the potential speaking invitation. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about invitations provided from third parties.

The public disclosure of the personal email addresses would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

All segregable material has been released. Besides the personal email addresses withheld under Exemption 6, one sentence was withheld under exemption 5. The release of any remaining information would reveal personal privacy information not subject to disclosure or harm the deliberative process involved in assessing and accepting invitations from third parties to speak.

EPA-38	**Subj:** Invitation: Pat O'Toole, Family Farm Alliance re: WUS Policy (Feb 7 03:00 PM EST in OW Conf. Rm. 3233 EPA-East, Conf. Call, (b)(6) [redacted] Access: (b)(6) [redacted]	02/07/2012 11:51:57 AM	**Auth:** David Evans

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
A portion of this email contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-39	**Subj:** Heads up: Water Utility Stakeholder Brownbag, Thursday, February 9, 2012	02/08/2012 06:56:42 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Ron Hoffer/DC/USEPA/US@EPA; Roberta Parry/DC/USEPA/US@EPA

Attachments
Water Utility Brown Bag_Feb 2012.Agenda.docx
Feb 9_Sustainability for OW.pptx
NRC Sust 4-pgr.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
This email string contains four emails and three attachments. Three emails and the three attachments were released in full. Three sentences were redacted from one email pursuant to Exemption 5. The most recent email message from Sonia Altiere, Director of Outreach in the Office of Water, has been redacted; it qualifies for protection under the deliberative process privilege of Exemption 5. The three sentences that comprise this paragraph address pre-decisional opinion and considerations concerning possible topics that might be raised at a meeting the next day regarding EPA water issues. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff regarding stakeholder meetings about EPA activity.

All segregable material in this record has been released to the Plaintiff. The release of any remaining information would reveal deliberative, pre-decisional material the disclosure of which would harm the Agency's decision-making processes.

EPA-40	**Subj:** Fw: Denial Incoming Letters	02/10/2012 01:49:35 PM	**Auth:** Matt Straus

Recipients
"Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Barry Breen" <breen.barry@epa.gov>; "Lisa Feldt" <feldt.lisa@epa.gov>; "Shawna Bergman" <bergman.shawna@epa.gov>; "Becky Brooks" <brooks.becky@epa.gov>; "Nancy Jones" <jones.nancy@epa.gov>

Attachments
12-000-1035.pdf
12-000-1571.pdf

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
This email string of 8 messages, all internal to EPA, contains 5 messages that are also in Document EPA-187, the oldest of the messages in this string. The two attachments were released in full. The text in three of the eight email messages have been redacted. The withheld information qualifies for protection under both the deliberative process and the attorney-client privileges of Exemption 5. All communications in this document were internal to EPA; and they are pre-decisional and deliberative. They represent discussions between and among 3 different OGC attorneys who were asked by a program office at EPA (OAQPS) to assist in responding to letters that were attached to the email messages (and released to the Plaintiff as responsive to the FOIA request).

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding the responses to letters from outside industry groups and from members of Congress related to specific EPA rules. This communication chain contains the opinions of attorneys and represents the legal questions raised by these letters and EPA's proposed response. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. This communication was kept confidential and only circulated to those with a need to know in the Agency. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys. Because the withheld material consists of communications between the Agency's attorneys and individuals within one of its air programs about a legal matter, they qualify for attorney-client protection. These email messages contain the opinions of attorneys responding to legal questions and were circulated only to those with a need to know in the Agency.

There is no segregable factual information within the redacted material in the three emails that could be released without revealing that which is protected under Exemption 5 privileges.

EPA-41	**Subj:** Fw: Meeting with Ron Nichols, LADWP	02/13/2012 03:30:40 PM	**Auth:** Jeff Lape

Recipients
Bob Sussman/DC/USEPA/US@EPA; Ann Campbell/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Elizabeth Skane/DC/USEPA/US@EPA; Paul Shriner/DC/USEPA/US@EPA

Attachments
LADWP one pager.docx
USEPA Letter 1-23-12.pdf
OTC EPA Paul Shriner Enclosures 1 - 4.pdf
ATTZO8RA.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
This email and attachments are released except for one single-page document entitled "316(b) Cooling Water Intakes Structures" that was attached to the most recent message in the email string, from Jeff Lape, Acting Director (OST/OW), to the noted Agency officials and staff. The headings in this one-page summary include "Proposed Rule Background," "Rulemaking Status," "Synopsis of the issue," and "Possible approaches." This particular attachment is entirely internal, predecisional and deliberative; it describes both current status and pending concerns about the proposed rulemaking as well as suggested options for consideration by senior managers.
Release of this document would severely inhibit the free exchange of ideas among agency personnel about issues and approaches, harming the development of rulemaking in this instance, and - - for the future - - other processes that require open and frank discussions among staff that is necessary to allow necessary analysis, advice and deliberation in the decisionmaking process.
Nothing in this document represents final agency action or policy.

Furthermore, all segregable material in this email string has been released to the Plaintiff. All email text was released. Two attachments were released and one attachment was withheld. To the extent the withheld attachment document contains facts, those facts reflect Agency deliberations; the seclection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably interwtwiined with the deliberative discussion in this "one pager."

EPA-42	**Subj:** Reuters -- U.S. carbon rules could slam	02/14/2012 09:19:03 AM	**Auth:** John Millett

	door on new coal plants		

Recipients
Gina McCarthy/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA; Mike Flynn/DC/USEPA/US@EPA; Don Zinger/DC/USEPA/US@EPA; Lorie Schmidt/DC/USEPA/US@EPA; Steve Page/RTP/USEPA/US@EPA; Ketcham-Colwill.Jim@epamail.epa.gov; Andrea Drinkard/DC/USEPA/US@EPA; noonan.jenny@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
This email message conveys a news article from Reuters to senior managers and staff in the Office of Air and Radiation. The sender, John Millett in OAR's communications office, included a single sentence that is redacted. The withheld sentence includes the EPA employee's opinion on the media article, which was about potential new EPA power plant rules. The withheld sentence consists of an opinion provided to EPA managers related to the article about EPA's work. The withheld portion does not represent an official Agency decision or policy. The withheld information is predecisional because it contains an opinion by an EPA staff member to EPA management. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts.

Disclosure of this sentence would have a chilling effect on the Agency's ability to have open and frank discussions among its program staff and managers and would likely harm the EPA's decisionmaking as a result.
All segregable material and factual information in this document has been released.

EPA-43	**Subj:** Next Theodore Roosevelt Conservation Partnership Coffee - February 15, 9:00 am - 10:30 a.m.	02/14/2012 12:09:08 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US

Attachments
NRC Sust 4-pgr.pdf
Teddy Roosevelt Coffee_Feb.docx
Feb 15_Sustainability for OW.pptx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-43 transmits meeting information for a meeting with the Theodore Roosevelt Conservation Parternerships. Portions of the email's attachments contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-43. All segregable material, which in this case includes the remainder of the email and attachments, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-44	**Subj:** to-dos from today's meeting	02/15/2012 06:49:09 PM	**Auth:** Damaris Christensen

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Sonia Altieri/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; David Evans/DC/USEPA/US@EPA; Donna Downing/DC/USEPA/US@EPA; Jim Pendergast/DC/USEPA/US@EPA; Jim Keating/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA

Attachments
ECOS et al letter.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
EPA-44 contains an email from Damaris Christensen, Office of Water, to OW managers and staff which sets out a list of seven items for further consideration the following day. One of the seven "to-do" bullets has been released along with the pertinent attachment. The remaining six items have been redacted because they qualify for protection as internal communictation that is pre-decisional and deliberative. The withheld portions of the email are internal and predecisional because they were sent to EPA managers to assist with follow-up and planning of EPA activity. Release of this material, noting potential tasks for future action and review by managers, would severely limit the EPA's ability to have open and frank discussion among its staff and, consequently, would likely harm the Agency's decisionmaking in this context.

All segregable material in this record has been released to the Plaintiff. The release of any remaining information would reveal deliberative, pre-decisional material the disclosure of which would harm the Agency's decision-making processes.

EPA-45	**Subj:** Workflow, February 21 to March 2	02/17/2012 12:30:20 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, February 20 - March 2, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-45 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The attachment was withheld in full. The email text was released in full.

The withheld information in the attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to

comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. The text of the email was released and the attachment was withheld. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.The email pertains to workflow of communications-related assignments in OSCPP.

EPA-46	**Subj:** Fw: Draft HIT List	02/23/2012 11:53:50 AM	**Auth:** Kate Graf

Recipients
Jim Jones/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
OCSPP.HIT List. February17..docx
Draft HIT List.2.23.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-46 is an email chain of two emails between EPA personnel in the Office of Chemical Safety and Pollution Prevention, including Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) and other senior managers and policy advisors in OCSPP. The first e-mail is from Douglas Parsons, a member of EPA staff forwarding a "Hot issues" tracker ("HIT List"), which has been withheld in full. The follow-up email from Kate Graf to others in OCSPP contains a revised version of the draft "HIT" list with her comments and additions regarding policy proposals from OCSPP.

The withheld attachments contain predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. The text of both emails was released and two attachments were withheld. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-47	**Subj:** Material for Bob Perciasepe's talk before CLA	02/23/2012 02:12:06 PM	**Auth:** Kate Graf

Recipients
Jim Jones/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA

Attachments
Talking points - Perciasepe at CLA - 2-22-12.docx
PRIA and Pesticide Fees fact sheet - Perciasepe at CLA-2-22-2012.docx
ESA fact sheet- Perciasepe at CLA - 2-22-12.docx

Spray Drift fact sheet- Perciasepe at CLA - 2-22-12.docx
Carbendazim fact sheet- Perciasepe at CLA - Feb 17, 2012.docx
PGP fact sheet - Office of Water - Nov 2011.docx
OW - Overview of PGP talking points - Jones CLA presentation - Jan 24 2012.docx

Exemption(s)
Release

Justification
EPA-47 has been released in full.

EPA-48	**Subj:** February 29 State Associations Meeting - revised agenda	02/27/2012 05:40:22 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US@EPA; Andrew Sawyers/DC/USEPA/US@EPA; Benita Best-Wong/DC/USEPA/US@EPA; Jim Hanlon/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Sean Conley/DC/USEPA/US@EPA; Heidi Faller/DC/USEPA/US@EPA; Elizabeth Skane/DC/USEPA/US@EPA; Stephanie Vonfeck/DC/USEPA/US@EPA

Attachments
Feb 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
A portion of this email contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. The only withheld portion was the conference call number and access code. The release of this information would reveal information not subject to disclosure under Exemption 6.

EPA-49	**Subj:** Fw: Request for meeting with Jim Jones	02/28/2012 04:07:18 PM	**Auth:** Barbara Cunningham-HQ

Recipients
Jim Jones/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA

Attachments
Summary of NGO mtg 120206.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

This document is a long email chain with one internal email and the remaining emails between EPA staff in the Office of Chemical Safety and Pollution Prevention (OSCPP) and outside parties with the Center for Environmental Health related to a request for a meeting with Jim Jones, Assistant Administrator for OCSPP, related to electronics certification programs under consideration by OCSPP. The communcations with outside parties have been released to the Plaintiff in full. Only the most recent message in the chain, which consists of discussions between senior EPA managers regarding how to respond to this outside inquiry and meeting request, has been partially redacted. Portions of the single paragraph text of this message have been withheld as deliberative under FOIA Exemption 5. The two redacted sentences qualify for protection because they are pre-decisional and internal to the Agency, consisting of internal advice and analysis of the inquiry. The two-page attachment is a summary of a meeting related to standards that EPEAT registered products must meet that was developed by EPA staff and has not been circulated outside the EPA. The attachment is withheld under FOIA's deliberative process privilege, as it contains internal advice and analysis prepared by Agency staff to inform Agency management of perpectives and analysis for use in developing Agency policy toward outreach and communication with NGO groups such as the Center for Environmental Health. It also contains selected information identified from the staff member at the meeting to provide to management. Disclosure of this material would have a chilling effect on the Agency's ability to have open and frank discussions that are necessary in developing policy and would potentially deprive Agency managers of the benefit of the opinions and analysis of their staff.

All segregable factual material in the withheld document, including all communications with third parties in the document, has been released to the Plaintiff. An attachment and portions of one email were withheld. Any withheld factual information is inextricably intertwined with the deliberative process.

EPA-50	**Subj:** February 29 State Associations Meeting	02/28/2012 06:18:27 PM	**Auth:** Sonia Altieri

Recipients

Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Tim Fontaine/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA

Attachments

Feb 2012 Agenda.docx
talking_points.docx
draft USDA action summaryV6.doc
AGENDA TOPICS RECEIVED.docx
participants and 2012 meeting dates.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification

This document consists of two email messages; 5 attachments are appended to the most recent email message from the EPA official, Sonia Altieri. All material has been released except one of the 5 attachments that is properly withheld in full under the deliberative process privilege of FOIA Exemption 5.

The single withheld document is a 2-page draft dated 2/14/12 and titled "Short List of Best Near-term Opportunities for Partnerships between USDA and Source Water Collaborative" The draft identifies potential partnerships between EPA and the USDA, describes potential impacts and considerations. This material is internal to the federal government and it is pre-decisional and deliberative. It qualifies for protection because it is a draft the disclosure of which would have a chilling effect on the possibility of open and frank discussions among federal agency personnel; its release could also lead to public confusion. All reasonably segregable material in this document has been released to the Plaintiff.

EPA-52	**Subj:** Workflow, March 5-16	03/02/2012 02:18:22 PM	**Auth:** Douglas Parsons

Recipients

OCSPP Workflow

Attachments

Workflow, March 5 - 16, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
This document is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.
All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

EPA-53	**Subj:** Re: NHSM petition process	03/06/2012 01:56:50 PM	**Auth:** Mathy Stanislaus

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
This document is an email string consisting of four messages, the originating email falls within EPA-193. See the description of that document below.

Of the remaining 3 email messages, two are released in full; the final - most recent - message is a communication from a senior Agency manager and other senior Agency officials. It provides opinion about possible future actions by outside parties that could require an EPA response. The email also provides opinion related to petitions concerning the EPA's non-hazardous secondary material rule. This material qualifies for protection under the deliberative process privilege of FOIA Exemption 5 because it is internal, predecisional and deliberative. It projects possibilities and options, recognizing uncertainty of future circumstances.

Release of the redacted portions of these emails would have a chilling effect on the frank and open discussions between senior managers and officials that is necessary to advance the development of policy and rulemaking decisions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the

Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches

All segregable material in this document has been released to the Plaintiff. Any remaining factual infomation in the redacted portions of the document is not reasonably segregable.

EPA-54	**Subj:** Fw: Tier 3	03/08/2012 01:25:17 PM	**Auth:** Michael Goo

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US; Bob Perciasepe/DC/USEPA/US; Bob Sussman/DC/USEPA/US; Scott Fulton/DC/USEPA/US

Attachments
EPA Tier 3 letter 2.17.2012.pdf
tier3timing memo.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
Document EPA-54 is an electronic mail communication from Michael Goo, Assistant Adminstrator for the Office of Policy, to EPA's senior management. The email describes policy issues of concern to EPA's management regarding a rule out of the Office of Air and Radation referred to as "Tier 3" and transmits EPA analysis, opinion, and feedback on these policy issues. This is an internal conversation that was not disclosed to any parties outside of EPA. This conversation is in part a response to a letter received by EPA from Global Automakers on the Tier 3 rule. The letter, representing a communication from an outside party on a proposed rulemaking, was released in full to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy regarind the Tier 3 rule and official responses to outside parties. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

The withheld information in the attachment is withheld under Exemption 5's deliberative process privilege and the attorney-client privilege. This attachment, called "Tier 3 memo," is a legal memoradum developed by Agency counsel using facts and information provided by Agency staff. Itis protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the Tier 3 rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

Any factual information contained in this communication is inextricably intertwined with deliberative content and protected attorney-client content and is not reasonably segregable. EPA segregated and released the communication from outside parties that was attached to this discussion.

EPA-55	**Subj:** Fw: Tier 3	03/08/2012 01:41:28 PM	**Auth:** Michael Goo

Recipients
"Alex Barron" <Barron.Alex@epamail.epa.gov>

Attachments
EPA Tier 3 letter 2.17.2012.pdf
tier3timing memo.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
Document EPA-55 is the "originating" email of EPA-54. This consists of a communication from Alex Barron, in EPA's Office of Policy, to Michael Goo, Assistant Adminstrator for the Office of Policy. The email describes policy issues of concern to EPA's management regarding a rule out of the Office of Air and Radation referred to as "Tier 3" and transmits EPA analysis, opinion, and feedback on these policy issues. This is an internal conversation that was not disclosed to any parties outside of EPA. This conversation is in part a response to a letter received by EPA from Global Automakers on the Tier 3 rule. The letter, representing a communication from an outside party on a proposed rulemaking, was released in full to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy regarind the Tier 3 rule and official responses to outside parties. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

The withheld information in the attachment is withheld under Exemption 5's deliberative process privilege and the attorney-client privilege. This attachment, called "Tier 3 memo," is a legal memoradum developed by Agency counsel using facts and information provided by Agency staff. Itis protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the Tier 3 rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

Any factual information contained in this communication is inextricably intertwined with deliberative content and protected attorney-client content and is not reasonably segregable. EPA segregated and released the communication from outside parties that was attached to this discussion.

EPA-56	**Subj:** For Your MTM Meeting Tomorrow with	03/08/2012 04:10:40 PM	**Auth:** Gregory Peck

	Enviros		

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA

Attachments
2012-03-08 Background - March 9 - Enviros and MTM.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
This document is an email message from Gregory Peck, Chief of Staff (OW), to senior EPA officials providing background briefing material to prepare for a meeting related to mountain top mining. The text of the email was released in full and the single 2-page attachment has been withheld; it is protected under Exemption 5 because it is an internal document that is both predecisional and deliberative.

The Agency staff created this document to inform management about issues related to Mountaintop Mining. The document reflects staff opinion on potential issues related to mountain top mining in order to prepare EPA management for a meeting with petitioners. The document discusses pending EPA activity that may arise and opinion on potential issues that may be raised. It does not represent an official EPA decision or policy nor was it circulated by the Agency outside the federal government. Release of this briefing/background material would chill the deliberative process by discouraging open, frank discussion on matters of policy between subordinates and superiors.

All segregable material in this document has been released. There is no additional segregable material that could be disclosed

EPA-57	**Subj:** Fw: URGENT: Human Subjects Testing Rule at OMB	03/09/2012 02:35:50 PM	**Auth:** William Jordan

Recipients
Jim Jones/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Leslye Fraser/DC/USEPA/US@EPA; Jonathan Fleuchaus/DC/USEPA/US@EPA; Angela Huskey/DC/USEPA/US@EPA; Kelly Sherman/DC/USEPA/US@EPA; Jim Downing/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
This document consists of 3 email messages with no attachments. Two emails were released in full. The only redactions are in the most recent message in the string is from a Senior Policy Adviser (OPPT, Office of Pesticides Program) to other Agency senior officials and to attorneys in OGC.

The withheld material qualifies for protection under FOIA Exemption 5 because it is internal to the EPA and it is predecisional and deliberative. The withheld text in this message summarizes and provides opinion on the status of pending rulemaking efforts related to human subject testing and the interests of an outside group on the rule. Disclosure of this information would have a chilling effect on the necessary frank and open discussions among EPA staff and officials who participate together in rulemaking and policy development. There is also the possibility of public confusion if this information were to be released.

All segregable material in this document has been released to the Plaintiff. Any factual information is inextricably intertwined with the deliberative material.

EPA-58	**Subj:** Fw: Acrylonitrile: Critical Scientific Integrity/Transparency Deficiencies in the IRIS and TSCA Programs Must Be Cured	03/09/2012 06:57:11 PM	**Auth:** Bob Sussman

Recipients
Jim Jones/DC/USEPA/US@EPA; Lek Kadeli/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Becki Clark/DC/USEPA/US@EPA; Ramona Trovato/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments
20120307 Attachments for AN Letter.pdf
20120308 Final AN letter to B Perciasepe.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
This document consists of two email messages, the most recent of which is from Bob Sussman, Senior Policy Counsel to the Administrator, to other agency officials. The two attachments have been released in full; only one sentence in the March 9, 2012 message from Bob Sussman to Jim Jones and other senior officials within the Agency, is redacted. That sentence qualifies for protection because it provides his opinion to other agency officials about the email and attachments provided by a third party concerning the Agency's review of acrylonitrile. Disclosure of the withheld material would have a chilling effect on the EPA's ability to have open and frank discussions related to information and questions provided by third parties on Agency action.

All segregable material has been released. The withheld sentence falls within the deliberative process privilege and any facts are inextricably intertwined.

EPA-59	**Subj:** Fw: Acrylonitrile: Critical Scientific Integrity/Transparency Deficiencies in the IRIS and TSCA Programs Must Be Cured	03/10/2012 04:26:51 PM	**Auth:** Jim Jones

Recipients
(b)(6) [redacted]

Attachments
20120307 Attachments for AN Letter.pdf
20120308 Final AN letter to B Perciasepe.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
A portion of EPA-59 contains a personal email address for Jim Jones, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Document EPA-59 reflects that Mr. Jones forwarded the communication in EPA-59 to his personal address from his blackberry. The individual owner of the email address has a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of this email address would not shed light on the performance of the employee's official duties. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The two attachments, along with all three email messages in this string, have been released; only a portion of one sentence in the March 9, 2012 message from Bob Sussman to Jim Jones and others within the Agency is redacted. Please see the entry for EPA-58 for the explanation of that redacted sentence.

EPA-60	**Subj:** ECOS summaries	03/15/2012 12:11:24 PM	**Auth:** Sean Conley

Recipients
Gregory Peck/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA

Attachments
ECOS issue summaries_OGWDW_03.15.12 final.docx

Exemption(s)
Release

Justification
Document EPA-60 was released to the Plaintiff in full.

EPA-61	**Subj:** Next Generation Compliance Overview for John Cruden ELI Meeting on Friday	03/15/2012 03:09:05 PM	**Auth:** David Hindin

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA; Lawrence Starfield/DC/USEPA/US@EPA; Linda Huffman/DC/USEPA/US@EPA; Dave Kling/DC/USEPA/US@EPA

Attachments
NGC Overview for ELI John Cruden on March 16.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-61 is an email message from David Hindin, Senior Policy Advisor for the Next Generation Compliance Program, to Cynthia Giles, Assistant Administrator of the Office of Enforcement and Compliance Assurance (OECA), copying other OECA senior management. The email pertains to preparing for a meeting with the U.S. Department of Justice pertaining to the Next Generation Compliance Overview. Portions of the email discussing a proposed idea for the meeting and asking for feedback on the idea were withheld. The attached document was released in full.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist preparing an agenda for an interagency meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the issues related to the interagency meeting.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about enforcement issues and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's thoughts on meeting topics. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-62	**Subj:** Fw: Concerns with EPA's Anticipated Approach on "Duty to Apply"	03/16/2012 01:42:21 PM	**Auth:** Ellen Gilinsky

Recipients
Nancy Stoner/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-62 is an email message from Ellen Gilinsky, Senior Policy Advisor in the Office of Water, to Nancy Stoner, Acting Assistant Administrator of the Office of Water. The email pertains to concerns related to EPA's proposed concentrated animal feeding operation (CAFO) rule. A portion of the email commenting on information from outside groups was withheld. The information from the outside groups was released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal communication which reflects the analyses, advice, and recommendations of EPA staff to managers, developed to assist managers to understand communications from outside groups and to decide how to approach a meeting with outside representatives. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. The withheld record is predecisional because it contains information selected by EPA staff to inform senior officials of the issues related to a proposed rulemaking.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when finalizing the Agency's proposed rule. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-63	**Subj:** Workflow, March 19 to March 30	03/16/2012 03:02:07 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, March 19 - 30, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-63 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in managing work loads. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow

assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-64	**Subj:** messages for tomorrow	03/20/2012 05:38:59 PM	**Auth:** Lisa Lund

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments
Main Messages for ECOS Compliance Committee Meeting.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-64 is an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator, and Steven Chester, OECA Deputy Assistant Administrator. The email pertains to preparing for a meeting with the Environmental Council of the States (ECOS) Compliance Committee pertaining to environmental enforcement issues. The email was released in full. The four page attachment contains a draft of proposed key messages and talking points that were in development. The attachment was withheld in full.

The withheld information in the email attachment is protected under Exemption 5's deliberative process privilege because it consists of internal communication which reflects the analyses, advice, and recommendations of EPA staff to managers, developed to assist managers with identifying and framing messages with outside States' groups. The withheld information does not represent an official Agency decision or policy and instead reflects proposed key messages and notes for managers to use that were still in development at the agency. The withheld record is predecisional because it contains information selected by EPA staff to inform senior officials of the issues related to enforcement issues, before communication to States' groups.

Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff about enforcement issues and approaches and may harm the Agency's decisionmaking by restricting the open discussion of issues and messages related to EPA's enforcement issues. It would also limit the ability of EPA management to speak freely about messages to communicate with outside groups. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-65	**Subj:** Fw: Quick turnaround request -- info for OCSPP before a 3:00 meeting	03/22/2012 11:53:20 AM	**Auth:** Becky Brooks

Recipients
Barry Breen/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Nancy Jones/R6/USEPA/US@EPA

Attachments
DSW and Wipes info for Reg Improvement Council Meeting w public 3-19-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Withhold attachment

Justification

Document EPA-65 is an email message from Becky Brooks, Special Assistant within EPA Office of Solid Waste and Emergency Response (OSWER), to Barry Breen, Principle Deputy Assistant Administrator for OSWER, and Lisa Feldt, Deputy Assistant Administrator for OSWER. The email pertains to obtaining information in preparation of a Regulatory Improvement Council meeting with the public. The email was released in full. The attached document was withheld in full.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to brief senior managers on two rulemakings -- definition of solid waste (DSW) and solvent-contaminated industrial wipes (wipes). The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the issues related to two rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of these two proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the DSW and wipes rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-66	**Subj:** Follow up from ECOS meeting	03/26/2012 07:26:18 PM	**Auth:** Lisa Lund

Recipients

giles-AA.cynthia@epa.gov; Steven Chester/DC/USEPA/US@EPA

Attachments

Follow up from ECOS meeting 3 26 12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-64 is an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator, and Steven Chester, OECA Deputy Assistant Administrator. The email transmits a one page word document containing notes taken by Lisa Lund on potential follow-up actions from a meeting with the Environmental Council of the States (ECOS) Compliance Committee. The email was released in full. The attachment was withheld in full.

The withheld information in the email attachment is protected under Exemption 5's deliberative process privilege because it consists of internal notes of one senior EPA manager, which were then shared with the head of her Office, in order to assist her manager in evaluating the outcomes of a discussion with ECOS, and determine the need for follow up related to several EPA activities discussed at the meeting with ECOS. The withheld information does not represent an official Agency decision or policy to embark on follow up activity, and instead reflects personal impressions, analysis and recommendations of one individual from a meeting with ECOS. The withheld record is predecisional because it contains information selected by EPA staff to inform the Assistant Administrator of the issues and outcomes related to enforcement activities, and to help plan for potential follow up activities if needed.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about enforcement issues and approaches and may harm the Agency's decisionmaking by restricting the open discussion of issues and messages related to EPA's enforcement activities. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for taking action, or which represent the position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-67	**Subj:** Re: Fw: ACIL Meeting	03/27/2012 08:20:02 AM	**Auth:** Gregory Carroll

Recipients
Mike Shapiro/DC/USEPA/US@EPA; Jan Matuszko/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Lynn Zipf/DC/USEPA/US@EPA; Robert Wood/DC/USEPA/US@EPA; Maria Gomez-Taylor/DC/USEPA/US@EPA; Dan Hautman/CI/USEPA/US@EPA; Judy Brisbin/CI/USEPA/US@EPA

Attachments
Third Party Accreditation_ACIL 032812.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-67 is an email string from Greg Carroll, Director of the EPA Technical Support Center in the Office of Ground Water and Drinking Water within the Office of Water (OW), to Mike Shapiro, Deputy Assistant Administrator for the OW, copying other OW senior management. The email pertains to preparing for a meeting at the American Council of Independent Laboratories (ACIL) on the topic of third party accreditation. Portions of the email were withheld. The attached document was withheld in full.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing and planning information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist with preparation for the ACIL meeting, including recommended responses to potential questions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on the Agency's position related to potential discussion topics at the ACIL meeting. The withheld records are predecisional because they contain information selected by EPA staff to prepare and inform senior officials of those OW-related topics prior to the meeting, and may not reflect the actual response, if any, to questions raise by ACIL.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation period and may harm the Agency's decisionmaking by chilling the open discussion of topical areas that may be discussed at the ACIL meeting. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed topics. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-68	**Subj:** Re: CEG & PSEG statements on EPA's GHG NSPS proposal	03/27/2012 03:15:18 PM	**Auth:** Michael Goo

Recipients
"Michael Bradley" <mbradley@mjbradley.com>

Attachments

Exemption(s)
Release

Justification

EPA-69	**Subj:** ECOS	03/29/2012 02:09:55 PM	**Auth:** Steven Chester

Recipients
Sarah Pallone/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA; Lisa Lund/DC/USEPA/US@EPA

Attachments
Summaries of Sessions at the ECOS Meeting March 19-21.docx

Exemption(s)
Release

Justification
Released in full, no harm

EPA-70	**Subj:** OCSPP Six-Month Policy Calendar - please send back by 5 pm TUESDAY	04/02/2012 03:53:44 PM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
OCSPP Six Month.calendar.4.2.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-70 is an email message from Niva Kramek, Special Assistant in EPA Office of Chemical Safety and Pollution Prevention (OCSPP) to the EPA staff members from EPA Office of Pesticides, Pollution, and Toxics, Office of Science Corrdination and Policy, and Office of General Counsel. The email provides the latest draft copy of the 6-month OCSPP policy calendar. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist senior managers on critical milestones within the 6-month policy calendar. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP policy milestones and activities.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various policy assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-71	**Subj:** Fw: what do you have that I could send to Elizabeth Yampiere at the NEJAC re WOUs?	04/02/2012 05:49:29 PM	**Auth:** David Evans

Recipients
"Nancy Stoner" <Stoner.Nancy@epamail.epa.gov>; "Damaris Christensen" <Christensen.Damaris@epamail.epa.gov>; "Donna Downing" <downing.donna@epa.gov>

Attachments
TPs- NEJAC.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-71 is an email message from David Evans, Director of the Wetlands Division within the Office of Water, to Nancy Stoner, Acting Assistant Administrator of the Office of Water. The email pertains to a request from Nancy Stoner requesting information related to the National Environmental Justice Environmental Council (NEJAC) regarding waters of the United States. A portion of the email chain was withheld. The attachment was released in full.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal communication which reflects the analyses, advice, and recommendations of EPA staff to managers, developed to assist a manager to provide information to members of the public. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. The withheld record is predecisional because it contains information selected by EPA staff to inform senior officials of information related to outreach material and reflections on that information.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff regarding issues related to environmental justice and waters of the U.S. and may harm the Agency's decisionmaking by restricting the open discussion of these issues. It would also limit the ability of EPA management to speak freely about potential concerns that they may have on related information. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-72	**Subj:** Re: Quarterly Meeting with OMB	04/09/2012 02:17:11 PM	**Auth:** Barnes Johnson

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Barbara Hostage/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Gerain Perry/DC/USEPA/US@EPA; James Woolford/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA; Suzanne Rudzinski/DC/USEPA/US@EPA; Thea Williams/DC/USEPA/US@EPA; Jennifer Wilbur/DC/USEPA/US@EPA; Shawna Bergman/DC/USEPA/US; Ellyn Fine/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA; Nancy Jones/R6/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Release-Redaction

Justification

Document EPA-72 is an email message from Barnes Johnson, Deputy Director of the Office of Superfund Remediation and Technology Innovation within the EPA Office of Solid Waste and Emergency Response (OSWER), to Mathy Stanislaus, Assistant Administrator for OSWER. The email pertains to a quarterly briefing meeting with the Office of Management and Budget (OMB) on issues related to OWSER's proposed rulemakings. The email was released in part.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal discussions on proposed rulemakings which reflects staff analyses, advice, and recommendations of a number of proposed rulemakings and managers' responses to that information. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers to prepare for a quarterly meeting with OMB on a number of OSWER proposed rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of a number of proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the related proposed rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-73	**Subj:** Re: Fwd: News Release: EPA Proposes Rule to Require Electronic Reporting for Chemical Information	04/13/2012 03:01:06 PM	**Auth:** Jim Jones

Recipients

Steve Owens (b)(6) [redacted]

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

A portion of this document contains a personal email address, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owner of the email address has a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of this email address would not shed light on the performance of the Agency's official duties or statutory mission. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The redacted personal email address is the only withheld information in EPA-73. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-74	**Subj:** Re: EPA Methane Emission Estmates - The Damage Continues	04/13/2012 06:40:26 PM	**Auth:** Gina McCarthy

Recipients

Sarah Dunham/DC/USEPA/US@EPA; Sarah Dunham/DC/USEPA/US; "Paul Gunning" <gunning.paul@epa.gov>; "Lorie Schmidt" <schmidt.lorie@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-74 is an email chain between Gina McCarthy, Assistant Administrator of EPA Office of Air and Radiation (OAR), and her senior managers Sarah Dunham, Director of EPA's Office of Atmospheric Programs; Lorie Schmidt, Deputy Director of OAR's Office of Policy and Review; and Pual Gunning, Director of the Climate Change Division. The email pertains to discussing Mr. William Whitsitt letter to White House staff, as well as OAR senior managers. The email was partially released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in discussing the communication from a member of the public sector regarding EPA methane estimates. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers and White House staff about how to respond to Mr. Whitsitt.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its managers on how to responde to a member of the public on issues related to EPA methane estimates and may harm the Agency's decisionmaking by restricting the open discussion of issues of this issue. It would also limit the ability of EPA management to speak freely about issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Portions of this document contain official email addresses belonging to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-75	**Subj:** Re: FW: EPA Methane Emission Estmates - The Damage Continues	04/14/2012 04:22:28 PM	**Auth:** "Zichal, Heather R."

Recipients
Gina McCarthy/DC/USEPA/US@EPA; "Keohane, Nathaniel"
(b)(6) [redacted]; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-75 is an email chain from Gina McCarthy, Assistant Administrator of EPA Office of Air and Radiation (OAR), to Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. The email pertains to discussing Mr. William Whitsitt letter to White House staff, as well as OAR senior managers. The email was partially released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations between EPA and the White House related to the communication from a member of the public sector regarding EPA methane estimates. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers and White House staff about how to respond to Mr. Whitsitt's letter.

Release would have a chilling effect on the Agency's ability to have open and frank discussions with other agencies on how to respond to a member of the public on issues related to EPA methane estimates and may harm the Agency's decisionmaking by restricting the open discussion of issues of this issue. It would also limit the ability of EPA and the White House to speak freely about issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Portions of this document contain official email addresses belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-76	**Subj:** Proposed NPDES Electronic Reporting Rule Communication plan	04/16/2012 10:43:37 PM	**Auth:** Lisa Lund

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA; Betsy Smidinger/DC/USEPA/US@EPA; Rochele Kadish/DC/USEPA/US@EPA

Attachments
ERule Communication and Outreach Plan State draft.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-76 is an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator, and Steven Chester, OECA Deputy Assistant Administrator. Two OECA staff members are cc'ed on the email. The email email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule, including EPA's communication plan related to this rule. The email was withheld in part. The draft communication and outreach plan was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and

instead reflects analysis and recommendations on policies still in development at the agency.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-77	**Subj:** Workflow, 4/23-5/4	04/20/2012 02:11:26 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, April 23-May4, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-77 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to another draft version of the workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in managing work loads. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-80	**Subj:** Re: NPDES rule	04/27/2012 02:58:41 PM	**Auth:** Lisa Lund

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; John Dombrowski/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-80 is an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator; Steven Chester, OECA Deputy Assistant Administrator; and John Dombrowski, OECA Director of Enforcement Targeting and Data Division. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule. The email was withheld in part.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management during the rule development process. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-81	**Subj:** Fw: Environmental Justice: Rodenticides	04/27/2012 03:21:24 PM	**Auth:** Niva Kramek

Recipients

Douglas Parsons/DC/USEPA/US; Sherry Sterling/DC/USEPA/US@EPA

Attachments

GARCIA042412.pdf
GARCIA042012ATTACHMENT.pdf

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification

Document EPA-81 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to Doug Parsons, Communications Director for OCSPP, and Sherry Sterling, Senior Adivsor for Performance Measures at the Office of Pesticde Programs. The email communication was partially released with the portion of the email that came to EPA from an outside party released in full. The attachment was released in full. A single line consisting of a staff response to an inquiry from a manager was redacted from EPA-81.

The withheld information in this email contains deliberative and predecisional opinion from a staff member that reflects internal discussions and potential approaches within EPA. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in responding to public inquiry about EPA's policies on environmental justice and rodenticides. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities on environmental justice and rodenticides.

With the exception of the redacted line, the remaining information in EPA-81 was segregated and released. To the extent that the withheld information contains

facts, the facts reflect Agency deliberations. The factual information contained therein is inextricably intertwined with the deliberative content regarding potential Agency approaches to rodenticides in this document.

EPA-82	**Subj:** Fw: NPDES rule	04/27/2012 04:27:14 PM	**Auth:** Cynthia Giles-AA

Recipients
Steven Chester/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-82 is a continuation of the email conversation in EPA-80, that originates in EPA-205. The new information / newest email in the chain that is represented in EPA-82 has been released. The remaining information is withheld as deliberative as described in EPA-80 and EPA-205.

Document EPA-205 is an email string consisting of two email messages memorializing communications between Cynthia Giles, Associate Administrator for EPA's Office of Enforcement and Compliance Assurance (OECA) and Lisa Lund in the EPA's OECA, copying other OECA staff members. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule. The email was partially released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a decision on how to move forward with a rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on a potential policy or agency action. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy and approaches to policymaking.

Document EPA-80, which was released with redactions, contains some very minor segregable information from this chain of communication such as signature block information and greetings. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-83	**Subj:** Next Environmental Stakeholder Brown Bag is Wed., May 2, 2012, 12:00 p.m.	04/30/2012 04:18:40 PM	**Auth:** Sonia Altieri

Recipients
Gregory Peck/DC/USEPA/US

Attachments
Environmental_May2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-83 transmits meeting information for a meeting with environmental stakeholders. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-83. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-84	**Subj:** EXPEDITED Submission to OMB - Formaldehyde Report to Congress (SAN 5591)	05/02/2012 12:20:58 PM	**Auth:** Angela Hofmann

Recipients

Philip Schwartz/DC/USEPA/US@EPA; Nicole Owens/DC/USEPA/US@EPA; Lesley Schaaff/DC/USEPA/US@EPA; Mariana Cubeddu/DC/USEPA/US@EPA; Shannon Kenny/DC/USEPA/US@EPA; Karen Thundiyil/DC/USEPA/US@EPA; Steve Anderson/DC/USEPA/US@EPA; Brian Grant/DC/USEPA/US@EPA; Leslye Fraser/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Lisa Verdonik/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Lynn Vendinello/DC/USEPA/US@EPA; Robert Courtnage/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA

Attachments

OMB Review_Formaldehyde Imp_2011-2012 Rpt2Congress_Report_2012-04-17.docx
OMB Review_Formaldehyde Imp_2011-2012 Rpt2Congress_Action Memo2OMB_SIGNED_2012-05-02.pdf
OMB Review_Formaldehyde Imp_2011-2012 Rpt2Congress_Action Memo2AX_2012-04-17.docx
OMB Review_Formaldehyde Imp_2011-2012 Rpt2Congress_CommStrat_2012-04-09.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-84 is an electronic transmission of a number of draft documents concerning the implementation of formaldehyde standards from Angela Hofmann, Director of Regulatory Coordination for Chemical Safety and Pollution Preventio, OCSPP, to EPA personnel. The electronic transmission is a package of draft documents to be reviewed prior to the transmission of a document to OMB. The attached documents are (1) a two page draft report to Congress named "OMB Review Formaldehyde IMP Congress Report dated 4/17/2012; (2) a three page signed Action Memorandum" requesting OMB review dated 5/2/2012; (3) a four page draft Action Memornandum seeking the Administrator's signature dated 4/17/2012 and (4) a six-page Draft Communications Plan dated 4/12/2009. Portions of the transmittal e-mail containing pre-decisional and deliberative documents concerning time-sensitivity of the review have also been redacted.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to comments on proposed EPA standards under the Toxic Substances Control Act (TSCA). The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed standard. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final decision.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document

EPA-85	**Subj:** Fw: Response to Frances Beinecke (NRDC) re human subjects -- 2	05/04/2012 10:32:17 AM	**Auth:** Louise Wise

	versions		

Recipients
Jim Jones/DC/USEPA/US@EPA

Attachments
ATTG8S97.pdf
ATTM0L79.docx
draft response - rule has cleared.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-85 is an e-mail message and three attached documents from Louise Wise, Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention, EPA to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, forwarding a letter received from NRDC and two draft responses. The draft responses are withheld in full as well as pre-decisional and deliberative language related to the drafts.

The withheld information in the email communication and in the two attachments is protected under Exemption 5's deliberative process privilege because it consists of internal discussion concerning the response to the letter which reflects the analyses, advice, and recommendations of staff to managers. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may chill the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately included in the U.S. Government's final response to this letter

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-86	**Subj:** OCSPP Six-Month Policy Calendar - please send back by 3 pm TUESDAY	05/07/2012 11:05:06 AM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
ocspp_six_month.calendar.2012-05-07.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-86 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding a ten-page draft 6-month policy calendar. The attached draft calendar is withheld in full. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in Document EPA-86 has been released to the Plaintiff. To the extent any of the redacted and withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-87	**Subj:** Next Industry Stakeholder is Wed., May 16, 2012, 9:00 a.m.	05/10/2012 12:30:38 PM	**Auth:** Sonia Altieri

Recipients
Gregory Peck/DC/USEPA/US

Attachments
Industry Stakeholder_May 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-87 transmits meeting information for a meeting with industry stakeholders. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-87. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-88	**Subj:** Re: Letter from Sen. Sessions re Coalbed Methane ELG	05/11/2012 02:11:12 PM	**Auth:** Robert Wood

Recipients
Jeff Lape/DC/USEPA/US@EPA; Greg Spraul/DC/USEPA/US@EPA; Elizabeth Skane/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Lynn Zipf/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; Jan Matuszko/DC/USEPA/US@EPA; Janet Goodwin/DC/USEPA/US@EPA

Attachments
incoming_sessions_cbm_05-10-12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification

Document EPA-88 is an email chain of three emails memorializing communications between Robert Wood, Acting Director, Engineering and Analysis Division, Office of Water, Jeffrey Lape, Deputy Director, Office of Science and Technology, Office of Water, and Greg Spraul, Congressional Liaison, Water, Pesticides and Toxics Team. The email chain discusses incoming questions from Senator Sessions re: the Coalbed Methane Effluent Limitation Guideline (ELG).

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in the documents has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-89	**Subj:** Re: Urgent: Update to Florida Nutrient Rule CD Extensions: Another discussion today with David Guest	05/14/2012 01:28:35 PM	**Auth:** Bob Sussman

Recipients

Peter Ford/DC/USEPA/US@EPA; Lee Schroer/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Betsy Behl/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA; Dana Thomas/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Evelyn Washington/DC/USEPA/US@EPA; Heidi Nalven/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; "Gwen Keyes Fleming" <keyesfleming.gwendolyn@epa.gov>; Marna McDermott/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA; Steven Neugeboren/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-89 is an email chain of three emails memorializing communications between Robert Sussman, Senior Policy Counsel to the Administrator, and attorneys in the Office of General Counsel concerning a meeting with David Guest, an Earthjustice attorney, concerning a consent decree related to the Florida Nutrient Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of

issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. All reasonably segregable factual information in this communication has been released to the Plaintiff.

Portions of the withheld documents are protected under Exemption 5's attorney-client privilege. The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding a meeting with an Earthjustice attorney related to a rulemaking This communication chain contains the opinions of attorneys and represents the legal questions raised by these letters and EPA's proposed response. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

All reasonably segregable material from Document EPA-89 has been segregated and released to Plaintiff. To the extent that the remaining, redacted material contains facts, those facts are inextricably intertwined with the deliberative and privileged discussion within this document and are not reasonably segregable. The release of any remaining, redacted information in this record would reveal deliberative and privileged information not subject to disclosure.

EPA-90	**Subj:** OCSPP Six-Month Policy Calendar - please send back by 3 pm TUESDAY	05/14/2012 05:15:44 PM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
ocspp_six_month.calendar.2012-05-14.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-90 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding a ten-page draft 6-month policy calendar. The cover email containing factual and administrative information was released to Plaintiff. The attached draft calendar is withheld in full. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to

speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material from EPA-90, including the transmittal email, has been released to the Plaintiff. To the extent that the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document and is not reasonably segregable.

EPA-91	**Subj:** New Stormwater Rule Congressional letter from the LA delegation	05/16/2012 01:56:43 PM	**Auth:** Greg Spraul

Recipients
Gregory Peck/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; Heidi Faller/DC/USEPA/US@EPA

Attachments
incoming_inhofe_crapo_stormwater_rule_402(p)_07-07-10.pdf
response_sepw_minority_sw_rule_4026_09-30-11.pdf
incoming_sepw_minority_sw_rule_4026_08-17-11.pdf
response_inhofe_crapo_stormwater_rule_402(p)_08-11-10.pdf
AL-10-001-1428 Response.docx
AL-11-001-4026 Response.docx
incoming_la_del_sw_rule_12-000-8561_05-11-12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-91 is an email communication between Greg Spraul, Congressional Liaison
Water, Pesticides, and Toxics Team, Office of Congressional Affairs, transmitting a letter from Senator James Imhofe concerning a rulemaking related to stormwater discharges as well as previous congressional correspondence on this issue.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of rereasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff.
To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.asons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-92	**Subj:** Re: Fw: OSCPP Hot Issues Tracker	05/16/2012 04:08:19 PM	**Auth:** Niva Kramek

Recipients
Sherry Sterling/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-92 is an email chain of nine emails memorializing communications between EPA personnel including Robert Sussman, Senior Policy Counsel to the Administrator, and Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) The first e-mail is from Niva Kramek, Special Assistant, Office of Chemical OCSPP, to EPA staff forwarding a "Hot issues" tracker. The tracker is not attached to this email chain.

The information redacted from this document contains predecional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-93	**Subj:** Workflow, May 21 to June 1	05/18/2012 03:06:28 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, May 21 to June 1, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-93 is an e-mail from Douglas Parsons, OCSPP Office of Chemical Safety & Pollution Prevention (OCSPP), to file transmitting a three-page document illustrating workflow from May 21 to June 1,2012. The attached workflow documents is withheld in full. This document was not shared with any outside parties. The workflow document lists, among other office activities, correspondence (including Congressional) deadlines and other events taking place in OCSPP with their proposed deadlines.

The withheld information in the workflow document contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts,

the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-94	**Subj:** OCSPP Six-Month Policy Calendar - please send back by 3 pm TUESDAY	05/21/2012 12:30:37 PM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
ocspp_six_month.calendar.2012-05-21.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-94 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding a eleven-page draft 6-month policy calendar. The attached draft calendar is withheld in full. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-95	**Subj:** Declined: PEER Conf. Call - (b)(6) passcode (b)(6)	05/21/2012 12:35:52 PM	**Auth:** Brenda Beverly

Recipients
Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Mary Wilkes/R4/USEPA/US@EPA; Mita Ghosh/R4/USEPA/US@EPA; Paul Schwartz/R4/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Steven Neugeboren/DC/USEPA/US@EPA

Attachments
ATTZURA0.docx
ATTTXPBB.pdf
ATT3EIVN.pdf
FLA DEP Gen Counsel letter May 2, 2011.pdf
Peer follow up letter May 20 2011.pdf
ATTEDWPT.pdf
ATT2V4TK.pdf
cong interim resp.PDF

final control response 1-19-12.pdf
Followup letter to FDEP on PEER-FCWN Petition April 27 2012.pdf

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction
Withhold attachment

Justification

Document EPA-95 is an electronic transmission of a document from Gwendolyn Keys Fleming, R4 to senior managers and attorneys in the Office of General Counsel's Water Law Office. The electronic transmission is a updated two-page briefing sheet on a petition from PEER. The attached document that was withheld is a five page briefing document for a call with Robert Sussman, Senior Policy Counsel to the Administrator, concerning Florida's NPDES program. The remaining attachments, which consist of information received from external parties, have been released to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to a petition from PEER related to the Clean Water Act. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to PEER's petition.

Portions of this record also contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The segregable material in this record been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-96	**Subj:** Fw: May 22 Community Faith Leaders Briefing, 12:00 - 1:00 p.m.	05/21/2012 09:43:26 PM	**Auth:** Sonia Altieri

Recipients

Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA

Attachments

seniorelligiousleadersBristonBayRunofShow5-22-12.xlsx
Biographies for Senior Religious Leaders.docx
Bristol Bay_Overview-Status_faith_5-18-12.docx
WOUS TPs Nancy mtg with faith communities 5.22.12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction
Withhold attachment

Justification

EPA-96 transmits an outline, a one-page briefing document and a three-page briefing document and three pages of talking points for a community faith leaders' briefing related to Bristol Bay. The briefing document has been withheld in its entirety. The other attachments and talking points have been released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document and talking points which reflect the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's presentation at a meeting related to the Clean Water Act. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's presentation at the briefing.

A portion of this email contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. All segregable material has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

All segregable material has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.asons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-98	**Subj:** Admin call with Gov Gregoire	05/22/2012 11:23:26 AM	**Auth:** Travis Loop

Recipients

Alisha Johnson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; John Senn/DC/USEPA/US@EPA

Attachments

Forest Roads FRN Fact Sheet 5-16-12.docx
External Q&As for Forest Roads FRN 5-16-12.docx
ROLL OUT Forest Roads 5.21.12.docx
DESK STATEMENT Logging Roads 5.11.12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

E-mail from Travis Loop to EPA staff transmitting four attachments to EPA staff related to a phone call with Governor Gregoire. The four documents are (1) a four-page fact sheet related to Forest Roads; (2) four pages of External Q&As for Forest Roads; (3) a two-page Roll Out plan for Forest Roads and a one-page desk statement related to Logging Roads. All of these attachments have been withheld in their entirety.

The withheld information is protected under Exemption 5's deliberative process privilege because the documents are internal predecisional briefing documents which reflect the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's presentation at a meeting related to the Clean Water Act. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank

discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's discussion during the call

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff.
To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.asons, rationales, and conclusions that were not in fact ultimately the grounds for the position of the EPA or the U.S. Government.

EPA-99	**Subj:** Fw: Updated OCSPP six month policy calendar -April 3	05/23/2012 08:24:20 AM	**Auth:** Sherry Sterling

Recipients
hofmann.angela@epa.gov

Attachments
ocspp_six_month.calendar.2012-05-22.docx
policy calendar template, as of may 21 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-99 is a chain of four e-mails forwarding an eleven-page draft 6-month policy calendar and revised policy calendar template. The attached draft calendar is withheld in full. This document was not shared with any outside parties. A portion of an e-mail from Jim Jones, Acting Assistant Administrator, OCDPP discussing the contents of the policy calendar has been redacted.

The withheld information in the draft calendar and template contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-100	**Subj:** Re: BNA Question on Nanopesticide Regulation	05/23/2012 05:46:28 PM	**Auth:** Jim Jones

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US; "Steve Nako" <Nako.Steve@epamail.epa.gov>; "Sherry Sterling" <Sterling.Sherry@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Documents are two e-mails between Jim Jones, Acting Assistant Administrator, EPA OCSPP, and Doug Parsons containing proposed langauge to be used to respond to a question from BNA.

The withheld language in the e-mails contains predecional and deliberative information related to nanopesticide regulation. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in responding to a reporter. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staffand may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's positions . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-101	**Subj:** Re: Any update on status of NHSM review from your end?	05/25/2012 06:47:35 AM	**Auth:** Lisa Feldt

Recipients
Suzanne Rudzinski/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA; "Becky Brooks" <Brooks.Becky@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-101 is a chain of three discussing a rule related to Non-Hazardous Secondary Materials (NHSM). Portions of these e-mails have been redacted as deliberative.

The withheld information in the draft contains predecisional and deliberative information related to proposed This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in Agency rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-102	**Subj:** Re: Any update on status of NHSM review from your end?	05/25/2012 06:49:42 AM	**Auth:** Lisa Feldt

Recipients
Suzanne Rudzinski/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA; "Becky Brooks" <Brooks.Becky@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-102 is a chain of four e-mails discussing Non-Hazardous Secondary Materials (NHSM) rule review. Portions of these e-mails have been redacted as deliberative.

The withheld information in the draft contains predecisional and deliberative information related to proposed This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in Agency rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-103	**Subj:** OCSPP Six-Month Policy Calendar - please send to Steve by 3 pm TUESDAY	05/25/2012 01:36:15 PM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
ocspp_six_month.calendar.2012-05-25.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-103 is an e-mail from Nina Kramek, Special Assistant, OCSPP forwarding an eleven-page draft 6-month policy calendar. The attached draft calendar is withheld in full. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-104	**Subj:** Re: Fw: EPA ECONOMISTS STRUGGLE TO ESTIMATE BENEFITS OF NPDES E-REPORTING RULE	05/27/2012 11:16:13 AM	**Auth:** John Dombrowski

Recipients

Cynthia Giles-AA/DC/USEPA/US@EPA; David Hindin/DC/USEPA/US@EPA; Betsy Smidinger/DC/USEPA/US@EPA; Lawrence Starfield/DC/USEPA/US@EPA; Lisa Lund/DC/USEPA/US@EPA; Lucy Reed/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-104 is an email message from John Dombrowski,Director of Enforcement Targeting and Data Division in EPA's Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator; Steven Chester, OECA Deputy Assistant Administrator; and copying other staff and senior managers in OECA. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule, including options for a response to public information that was released. The email was released in part and withheld in part.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management during the rule development process, including deliberations regarding communication about a rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government

All segregable material in this record has been released to the Plaintiff, including the forwarded news story that initiated the discussion of EPA's policy options for a response. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations about the response to the article and the rulemaking process. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-105	**Subj:** OMB NHSM Meetings	05/28/2012 10:41:09 PM	**Auth:** Suzanne Rudzinski

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Jim Berlow/DC/USEPA/US@EPA; Sandra Connors/DC/USEPA/US@EPA; Mark Baldwin/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA

Attachments
NC LDF gas ltr toTom Price staff.pdf

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-105 is an email communication from Suzanne Rudzinski, in EPA's Office of Solid Waste and Emergency Response to high-level managers such as Mathy Stanislaus, Assistant Administrator, Lisa Feldt, Deputy Assistant Administrator, and Barry Breen, Principal Deputy Assistant Administrator in EPA's Office of Solid Waste and Emergency Response (OSWER). The email is engaged in a discussion of issues and options that were developed internally by OSWER staff and Agency attorneys and that contain staff and attorney analysis of options and issues regarding potential agency actions, including issues raised by the North Carolia Department of Commerce, Energy Division and by Congressional members related to the American Recovery and Reinvestment Act and the "NHSM Rule."

The transmitted email was intended to brief senior management and to be used to inform agency decisions regarding the NHSM Rule, to develop policy related to the NHSM rule, and to inform discussions with outside parties such as North Carolina. This email was internal EPA briefing and analysis and was not shared with third parties outside EPA. The attached communication from a third party that was transmitted as part of this document was segregated and released to Plaintiff.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking policy options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgments, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the documents and in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation and internal briefing and analysis documents which reflect the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any reasonably segregable information from this email communication, including non-substantive information and communications from third parties, has been released to Plaintiff. There is no further reasonably segregable information that can be released to Plaintiff. Any factual information in the withheld attachments is inextricably intertwined with the deliberative content and is not reasonably segregable.

EPA-106	**Subj:** Re: Any comments on Electronic Reporting State Concerns Initial List	05/29/2012 06:25:30 PM	**Auth:** Lisa Lund

Recipients
David Hindin/DC/USEPA/US@EPA; Andrew Battin/DC/USEPA/US@EPA; David Nicholas/DC/USEPA/US@EPA; John Dombrowski/DC/USEPA/US@EPA; Lawrence Starfield/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-106 is an email communication between senior managers in EPA's Office of Enforcement and Compliance Assurance (OECA) (copying senior managers in EPA's Office of Environmental Information). The email is engaged in a substantive internal discussion of issues that were raised by states regarding the NPDES E-Reporting rule. This discussion of issues was prepared in order to brief EPA's managment and inform them of options to inform their decisionmaking regarding incorporating state concerns into EPA's final policy decisions and the presentation of those decisions to the public.

The withheld paragraphs in the email communication are protected under Exemption 5's deliberative process privilege because they represent is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options and considering state concerns as part of that option evaluation. The communication is pre-decisional because it relates to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any reasonably segregable information from this email communication, including non-substantive information and reasonably segregable factual information, has been released to Plaintiff. There is no further reasonably segregable information in the five redacted paragraphs that can be released to Plaintiff. Any factual information in the withheld paragraphs is inextricably intertwined with the deliberative content and is not reasonably segregable.

EPA-107	**Subj:** OWM Materials / For Nancy / ECOS June 6 Mtg	05/30/2012 04:22:59 PM	**Auth:** Heidi Faller

Recipients
Gregory Peck/DC/USEPA/US@EPA; Sarita Hoyt/DC/USEPA/US@EPA; Louis Eby/DC/USEPA/US@EPA; Connie Bosma/DC/USEPA/US@EPA; Brian Frazer/DC/USEPA/US@EPA; Deborah Nagle/DC/USEPA/US@EPA

Attachments
ECOS meeting 2012 CWAAP factsheet.docx
ECOS PQR & PQR SRF Integrated Reviews Factsheet.docx
eReporting factsheet for June 2012 ECOS meetingv2.docx
OWM_NS Talking Points_ECOS June 2012_CAFO_Logging Roads.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-107 is an email string, with the top email having been sent by Heidi Faller, a special assistant within the EPA Office of Water's Office of Wastewater

Management ("OWM"), forwarding four attachments, which are background briefing documents used to prepare for a meeting with leaders from the Environmental Council of the States ("ECOS"). Ms. Faller's email was sent to Gregory Peck, Chief of Staff within the Office of Water, and several other OWM employees. The attached four briefing documents were withheld in full. Part of an email created earlier in the chain was sent by Mr. Peck to several OW employees.

The briefing documents and redacted portion of the email's text discuss topics and assignments to be discussed during the meeting. The attachments and redacted email text are protected under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflect the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to the Clean Water Action Plan, among other issues. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

All segregable material has been released. The release of any remaining information would reveal deliberative information not subject to disclosure.

EPA-108	**Subj:** Re: Fw: OWM Materials / For Nancy / ECOS June 6 Mtg	05/31/2012 12:19:23 PM	**Auth:** Holly Galavotti

Recipients
Heidi Faller/DC/USEPA/US@EPA; Connie Bosma/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA

Attachments
SW Rule ECOS One-Pager 5.30.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-108 is an email string, with the top email having been sent by Holly Galavotti, a member of the Storm Water Team within EPA's Office of Water, to Heidi Faller, a special assistant within the EPA Office of Water's Office of Wastewater Management ("OWM"), copying Gregory Peck, Chief of Staff within the Office of Water and Connie Bosma, another OWM employee. Ms. Galavotti's email forwarded a one-page briefing memo that was withheld in full. Ms. Faller's email forwarded four attachments, which are background briefing documents used to prepare for a meeting with leaders from the Environmental Council of the States ("ECOS"). Ms. Faller's email was sent to Mr. Peck and several other OWM employees. Part of an email created earlier in the chain was sent by Mr. Peck to several OW employees and the majority of that email was withheld.

The briefing document and redacted portion of the email's text discuss topics and assignments to be discussed during the meeting. The attachments and redacted email text are protected under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflect the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to the Clean Water Action Plan, among other issues. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

All segregable material has therefore been released. The release of any remaining information would reveal deliberative information not subject to disclosure.

EPA-109	**Subj:** Re: compliance memo re state work group	06/01/2012 02:56:37 PM	**Auth:** Lisa Lund

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments
Alternative Compliance Strategies_ Paper for ECOS Work Group 5 31 12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-109 is an email string that includes an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator with Steven Chester, OECA Deputy Assistant Administrator copied. The email chain includes a memo concerning "alternative compliance strategies" that related to an upcoming meeting. The attachment was withheld in full, but the remainder of the email was released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal memo that reflects the analyses, advice, and deliberations of EPA staff and management. The memo was developed to assist in the decisionmaking process and represents the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-110	**Subj:** summary messages for ECOS meeting Wed	06/04/2012 05:51:31 PM	**Auth:** Lisa Lund

Recipients
giles-AA.cynthia@epa.gov; Steven Chester/DC/USEPA/US@EPA; huffman.linda@epa.gov; Shelly Dawson/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA; Sue Gilbertson/DC/USEPA/US@EPA

Attachments
Main Messages for ECOS Meeting 6 6 12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-110 is an email string that includes an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator and Steven Chester, OECA Deputy Assistant Administrator, copying other OECA employees Linda Huffman, Shelly Dawson and Sue Gilbertson. Anthony Raia from the Office of Congressional and Intergovernmental Relations was also copied. The email chain includes a memo concerning "main messages" for an upcoming meeting. The attachment was withheld in full, but the remainder of the email was released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal memo that reflects the analyses, advice, and deliberations of EPA staff and management. The memo was developed to assist in the decisionmaking process and represents the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's responses expressed during meetings with members of the public. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-111	**Subj:** Re: summary messages for ECOS meeting Wed	06/04/2012 06:47:23 PM	**Auth:** Lisa Lund

Recipients
Linda Huffman/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA; giles-AA.cynthia@epa.gov; Shelly Dawson/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA; Sue Gilbertson/DC/USEPA/US@EPA

Attachments
Main Messages for ECOS Meeting 6 6 12.docx
ATT0J8J4.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-111 is an email string that includes an email message from Lisa Lund, Director of the Office of Compliance within the Office of Enforcement and Compliance Assurance (OECA), to Cynthia Giles, OECA Assistant Administrator and Steven Chester, OECA Deputy Assistant Administrator, copying other OECA employees such as Linda Huffman, Shelly Dawson and Sue Gilbertson. Anthony Raia from the Office of Congressional and Intergovernmental Relations was also copied. The email chain includes a two drafts of the same memo concerning "main messages" for an upcoming meeting. The attachments were withheld in full, but the remainder of the email was released.

The withheld information is protected under Exemption 5's deliberative process privilege because they are drafts of internal memos that reflect the analyses, advice, and deliberations of EPA staff and management. The memos were developed to assist in the decisionmaking process and represents the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's responses expressed during meetings with members of the public. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-112	**Subj:** Fw: ADDITIONAL INPUT NEEDED == cbi language for approps rpt	06/05/2012 11:57:32 AM	**Auth:** Sherry Sterling

Recipients
Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara

Attachments
tech assist.approps lang.docx

Cunningham-HQ/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US; Barbara Cunningham-HQ/DC/USEPA/US

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-112 is an email chain transmitting draft guidance language for a technical assistance document related to EPA's CBI regulations. The attachment originates with Barbara A. Cunningham, a Deputy Director in EPA's Office of Chemical Safety and Pollution Prevention (OCSPP), and is transmitted up through the management chain in OSCPP, including to Jim Jones, Acting Assistant Administrator for OCSPP. The email chain contains comments, opinion, and analysis regarding the draft language, including potential issues raised by the draft language and suggestions for changes to be made before any language is final. The attachment contains comments and revisions from EPA staff suggesting changes to the draft language and addressing issues raised by the draft language.

The withheld attachment contains predecisional and deliberative draft information and comments developed as part of the process of developing final guidance language. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the development of EPA guidance. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's final guidance. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All reasonably segregable material in the communication has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document and embedded in the attached draft document.

EPA-113	**Subj:** Re: Draft HIT List	06/06/2012 08:07:33 AM	**Auth:** Sherry Sterling

Recipients

Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US; Kate Graf/DC/USEPA/US@EPA

Attachments

HIT sas edits.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-113 is an email between EPA staff within the Office of Chemical Safety & Pollution Prevention (OCSPP) that includes an attachment featuring a "Hot issues tracker" also known as a "HIT list", which has been withheld in full. The cover email has been segregated and released in full.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential

concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

The segregable material in this record been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-114	**Subj:** CDR -- Heads up	06/08/2012 01:01:42 PM	**Auth:** Sherry Sterling

Recipients
hofmann.angela@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-114 consists of two e-mail messages transmitting and commenting on an attached news article concerning a deadline related to chemical data reporting. The article was transmitted from Louise Wise, Deputy Assistant Administrator in EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to senior officials in OSCPP, and then forwarded with discussion and comment from Sherry Sterling in EPA's Office of Chemical Safety and Pollution Prevention to Angela Hofmann in OCSPP. The original email message from Louise Wise has been released in full, as has the news article. The portion of the forwarded email containing deliberative discussion and comment has been redacted and withheld.

The withheld information is protected under Exemption 5's deliberative process privilege because it consists of internal comments related to the article which reflect the analyses, advice, and recommendations of staff to managers. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's actions.

Any segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative and privileged discussion concerning this document and is not reasonably segregable.

EPA-115	**Subj:** Re: Draft WH Report on CDR	06/08/2012 01:08:00 PM	**Auth:** Sherry Sterling

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-115 is a chain of two emails between Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) and senior managers in OSCPP, transmitting a draft version of a one paragraph entry on the work of OCSPP related to Chemical Data Reporting for an internal Executive Branch report. This email transmits a draft version of the entry, which was intended for management review and comment before being used in a compiled report intended to inform senior managers as part of the Agency's decisionmaking process regarding rulemaking. The redacted information consists of

one paragraph within the email that contain the analysis, opinions, and advice of EPA staff to EPA leadership regarding policy issues and options. The one paragraph that has been redacted qualifies for protection under the deliberative process privilege of Exemption 5 because it is an intra-agency communication that relate to pre-decisional considerations concerning the creation of draft reports and formulation of agency policy. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to creation of such reports and could cause public confusion.

All reasonably segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information in this paragraph would reveal deliberative information not subject to disclosure.

EPA-116	**Subj:** Fw: Revised ISRI paper	06/08/2012 02:59:03 PM	**Auth:** Sherry Sterling

Recipients
Jim Jones/DC/USEPA/US@EPA; wise.louise@epa.gov; Jim Jones/DC/USEPA/US

Attachments
Recycled PCBs in ASR Plastic_06-08-12.OPPT.OGC.DAA.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-116 (related to Documents EPA-117, EPA-118, and EPA-218) is a forward of an email message from staff and lower-level managers in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) to higher level managers in OCSPP transmitting a two page Word document that contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. This email chain contains comments and revisions on the options paper, including input and revisions from EPA's Office of General Counsel regarding legal implications of different regulatory and policy options. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative and privileged discussion

concerning this document.

EPA-117	**Subj:** Fw: Revised ISRI paper	06/08/2012 03:01:15 PM	**Auth:** Louise Wise

Recipients
Jim Jones/DC/USEPA/US@EPA

Attachments
Recycled PCBs in ASR Plastic_06-08-12.OPPT.OGC.DAA.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-117 (related to Documents EPA-116, EPA-118, and EPA-218) is a transmission of the document described in EPA-116 from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Jim Jones, Acting Assistant Administrator in OCSPP. The email is transmitting a two page Word document that contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. This email chain contains comments and revisions on the options paper, including input and revisions from EPA's Office of General Counsel regarding legal implications of different regulatory and policy options. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the document and in the email communication is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative and privileged discussion concerning this document.

EPA-118	**Subj:** ISRI paper	06/08/2012 04:10:00 PM	**Auth:** Louise Wise

Recipients
Bob Sussman/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Tala

Attachments
Recycled PCBs in ASR Plastic_06-08-12.OPPT.OGC.DAA.docx

Henry/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Brian Grant/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-118 (related to Documents EPA-116, EPA-117, and EPA-218) is a transmission of the document described in EPA-116 from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Bob Sussman, Senior Policy Counsel for the Administrator. The email is transmitting a two page Word document that contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. The cover email has been released in full to Plaintiff. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the withheld document is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative and privileged discussion concerning this document.

EPA-119	**Subj:** By COB Wednesday: Review/update existing CAFO TPs for Nancy's dairy sustainability meeting on Friday	06/11/2012 09:55:39 AM	**Auth:** Matthew Klasen

Recipients

Heidi Faller/DC/USEPA/US@EPA; Louis Eby/DC/USEPA/US@EPA; Becky Mitschele/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; Deborah

Attachments

2012-06-11 CAFO TPs from ECOS for dairy roundtable.docx

Nagle/DC/USEPA/US@EPA; Brian Frazer/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-119 is an email that features communications between EPA personnel within the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed preparations for an upcoming meeting. The withheld attachments feature background information and talking points and are protected under Exemption 5's deliberative process privilege because they consist of selected issues and information to discuss during the meeting. The withheld attachments do not represent an official Agency decision or policy and instead reflect analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA staff to be addressed during the meeting. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider preparations for such meetings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-120	**Subj:** Docs for the American Sustainable Business Council Meeting	06/11/2012 10:11:46 AM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA

Attachments
WH participants list name-title-org.xlsx
WAVES Template 2012.xls
ASBC chemical sign on letter with signers .pdf
ASBC Jeanne Shaheen scanned.pdf
Safer Products - Safer Workplaces.docx
Green%20products%20for%20ASBC%20roundtable%20June%2012%202012[1].docx
american.sustainable bus council.tsca talkers.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Withhold attachment

Justification
Document EPA-120 is an email that features communications between EPA personnel within the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed preparations for an upcoming meeting. The email was released in full, as were 6 of the 7 attachments. The withheld attachment, "american.sustainable bus council.tsca talkers," features background information and talking points that were prepared by staff for the use of managers. This document is protected under Exemption 5's deliberative process privilege because it consists of selected issues and information to discuss during the meeting. The withheld attachments do not represent an official Agency decision or policy and instead reflect analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA staff to be addressed during the meeting. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider preparations for such meetings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the email and six of the seven attachments. To the extent that the withheld attachment contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-121	**Subj:** stormwater rule letter that alos takes some shots at the waters of the U.S. guidance	06/12/2012 08:40:29 AM	**Auth:** Greg Spraul

Recipients
Matthew Klasen/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; borum.denis@epa.gov

Attachments
response_sepw_minority_sw_rule_4026_09-30-11.pdf
Coffman 12-000-9652.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-121 is a chain of four e-mails transmitting and providing comments on three incoming Congressional letters as well as three previous responses on similar issues. Portions of the e-mails have been redacted and withheld, with other portions released. The e-mails were not shared with any outside parties. The two attached letters from Congress were released in full.

The withheld information in the email communication contains predecisional and deliberative information related to proposed responses to Congress. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by members of Congress. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of responses to Congress` and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA's responses to Congress.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-122	**Subj:** Fw: Need TPs on NSHM issue by 11	06/13/2012 12:07:39 PM	**Auth:** Shawna Bergman

Recipients
"Lisa Feldt" <Feldt.Lisa@epamail.epa.gov>

Attachments
ACC talking points on contained gas.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-122 is a chain of six e-mails transmitting draft talking points for a presentation to the American Chemistry Council. The draft talking points have been withheld in their entirety.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

All of Document EPA-122, except for the draft talking points, has been released. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-123	**Subj:** OCSPP Action Activity Summary and Update Reports for Monday, June 18, 2012	06/14/2012 07:41:16 PM	**Auth:** Angela Hofmann

Recipients

Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Kevin Keaney/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Emily Dougherty/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Mary Waller/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Debbie-E Thomas/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments

2012-06-18_OCSPP-Updates2AA.pdf
2012-06-18_OCSPP-UpcomingActionsRPT.xlsx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-123 is an e-mail from Angela Hofmann, Director of Regulatory Coordination for EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a four page .PDF document and an excel spreadsheet that were compiled for internal regulatory and policy planning purposes by OCSPP staff. The attached excel spreadsheet entitled "OSCPP-UpcomingActionsReport" is an internal report of the current status and projected potential policy

activities regarding Agency rulemakings, and the attached .PDF titled "OCSPP-Updates2AA" is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties.

The withheld information in the draft attachments contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative cover email transmitting this information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-124	**Subj:** NoA Overlap Mtg Today - points/talkers for the DAA	06/15/2012 07:25:07 AM	**Auth:** Angela Hofmann

Recipients
Louise Wise/DC/USEPA/US@EPA; Jay Ellenberger/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Scott Drewes/DC/USEPA/US@EPA; Mike Mendelsohn/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Keith Matthews/DC/USEPA/US@EPA

Attachments
2012-06-15_NoA Overlap_DAAtalkers.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-124 is an email communication from Angela Hofmann, Director of Regulatory Coordination for the Office of Chemical Safety and Pollution Prevention (OSCPP) to staff and senior managers within OCSPP, transmitting briefing materials in the form of "talking points" for a meeting between Agency personnel to discuss a potential interagency rulemaking initiative. The cover email transmitting the briefing information has been released in full. The draft talking points document, containing the advice, analysis, and recommendations of EPA staff to EPA managers on the proposed initiative, has been withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy decisions regarding rulemaking options. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA redacted and released the reasonably segregable information, including the transmitting email, from EPA-124. Any factual information contained in the withheld attachment is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information in the withheld document.

EPA-125	**Subj:** Re: Fw: Greenwire Inquiry on HS	06/15/2012 10:59:22 AM	**Auth:** Arvin Ganesan

Recipients
Jim Jones/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-125 is a string of two e-mails from Arvin Ganesan, Associate Adminstrator for Congressional and Intergovernmental Relations, to Jim Jones as well as Jim Jones's response, which transmits an e-mail from Douglas Parsons to Jim Jones. The email chain discusses EPA policy and decisionmaking regarding a Greenwire story concerning the human subjects rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

Document EPA-125, which was released with redactions, contains some segregable information from this chain of communication. This segregable information has been released. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

Some information previously withheld from EPA-125 was released in EPA-508 and EPA-509.

EPA-126	**Subj:** Workflow, June 18 - 29	06/15/2012 03:29:01 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, June 18 to 29, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-126 is an e-mail from Douglas Parsons, OCSPP Office of Chemical Safety & Pollution Prevention (OCSPP), to file transmitting a three-page document illustrating workflow from June 18 to June 29,2012. The attached workflow documents is withheld in full. This document was not shared with any outside parties. The workflow document lists, among other office activities, correspondence (including Congressional) deadlines and other events taking place in OCSPP with their proposed deadlines.

The withheld information in the workflow document contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA

management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-127	**Subj:** Re: Fw: ReCommunity Issue	06/18/2012 05:18:24 PM	**Auth:** Lisa Feldt

Recipients
Joseph Goffman/DC/USEPA/US@EPA; "Janet McCabe" <McCabe.Janet@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-127 is a chain of five e-mail communications, one from a staffer for Senator Debbie Stabenow, and the other four discussing its contents and potential response strategies. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for an Agency response to a Congressional inquiry regarding this rule. The email from the Congressional staffer to EPA was released in full. The withheld portions of the exchange are internal communications that were not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government in its response.

The reasonably segregable information from EPA-127 was segregated and released. Any additional factual information contained in the redacted portions of this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-128	**Subj:** Notes from the call with Susan Bodine and Tim Hunt today	06/18/2012 06:40:30 PM	**Auth:** Suzanne Rudzinski

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Jim Berlow/DC/USEPA/US@EPA; ORCR IO; Shawna Bergman/DC/USEPA/US@EPA; Ellyn Fine/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-128 is an email communication sent by Suzanne Rudzinski to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, as well as other Agency

personnel. The e-mail forwards notes of a telephone conversation and outlines key issues that were raised by the conversation. A portion of the e-mail discussing the conversation has been redacted.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

Document EPA-128, which was released with redactions, contains some segregable information from this chain of communication. That information has been segregated and released to Plaintiff. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-129	**Subj:** Re: Fw: Revised ACAA Talking Points	06/18/2012 10:51:15 PM	**Auth:** Suzanne Rudzinski

Recipients
Lisa Feldt/DC/USEPA/US@EPA

Attachments
CONTAINED GAS ISSUE PAPER 6 11 12 v 2.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-129 is a chain of three e-mails (1) sent by Suzanne Rudzinski to Elizabeth (Lisa), Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, (2) the response and (3) from George Hull, Office of Resource Conservation and Recovery, to Ms. Feldt transmitting talking points for a presentation to the American Coal Ash Association. The e-mails discuss issues raised by the talking points, forward notes of a telephone conversation, and outline key issues that were raised by the conversation. Portions of the e-mails and the talking points in their entirety have been withheld.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

EPA redacted and released the reasonably segregable information from EPA-129. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information in the redacted and withheld portions of the document.

EPA-130	**Subj:** Fw: SAC QFRs LAN 001-002, LEA 002	06/21/2012 06:58:31 AM	**Auth:** Sherry Sterling

Recipients
Steve Nako/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US

Attachments
QFR LEA 002 Sterling 3.OPPT Response - OPPT.docx
QFRs LEA 002 Sterling FINAL.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Release-Redaction
Withhold attachment

Justification

Document EPA-130 is a chain of twelve e-mails transmitting and providing comments on QFRs (Questions for the Record) prepared by Agency staff for Congressional testimony. Three draft versions of the QFRs have been withheld in full. This document was not shared with any outside parties.

The withheld information in the workflow document contains predecisional and deliberative information related to proposed responses to Congress. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by Senator Leahy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of Congressional testimony and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA's responses to Congress.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-131	**Subj:** Re: Fw: SAC QFRs LAN 001-002, LEA 002	06/21/2012 08:19:50 AM	**Auth:** Sherry Sterling

Recipients

Steve Nako/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US

Attachments

QFRs LEA 002 Sterling FINAL.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-131 is a chain of two e-mails transmitting and providing comments on QFRs (Questions for the Record) prepared by Agency staff for Congressional testimony. One draft version of the QFRs (two pages) has been withheld in full. This document was not shared with any outside parties.

The withheld information in the workflow document contains predecisional and deliberative information related to proposed responses to Congress. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by Senator Leahy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of Congressional testimony and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA's responses to Congress.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-132	**Subj:** Fw: GREEN BUILDING: Major overhaul of LEED rating system won't happen in	06/21/2012 10:16:32 AM	**Auth:** Sherry Sterling

	2012		

Recipients
Matt Bogoshian/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-132 consists of three e-mails messages transmitting and commenting on a news article concerning an overhaul of the LEED system. The article was transmitted from EPA staff to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention. The electronic transmission was than forwarded from Jim Jones to other EPA personnel. Portions of two e-mail transmissions containing the internal deliberative comments have been withheld in full. The article that was the subject of the discussion has been segregated for release.

The withheld information is protected under Exemption 5's deliberative process privilege because it consists of internal comments related to the article which reflect the analyses, advice, and recommendations of staff to managers. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's actions.

There is no additional factual information to segregate from this communication beyond what has been released to Plaintiff. Any additional factual information in the redacted portions of this document is is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

EPA-133	**Subj:** Fw: More detail on WH TSCA discussion with industry	06/22/2012 08:55:26 AM	**Auth:** Bob Sussman

Recipients
Jim Jones/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
WH reviewed this and accompanying from Bob P, release both in full.

EPA-134	**Subj:** Fw: FYI: InsideEPA - WH statements on TSCA fracking efforts	06/22/2012 09:43:43 AM	**Auth:** Douglas Parsons

Recipients
Sherry Sterling/DC/USEPA/US@EPA

Attachments
Inside EPA june22.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment

Release-Redaction

Justification

Document EPA-134 is a string of two e-mails from Peter Smith, Regulatory Coordination Staff, OCSPP to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, and Louise Wise, Deputy Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention transmitting an article from Inside EPA related to fracking. Portions of the e-mail discussing the article and possible responses to it have been withheld. This is an internal conversation that was not disclosed to any parties outside of EPA. The attached article that was the subject of the discussion has been released in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government concerning fracking.

All reasonably segregable information from this communication has been released to Plaintiff. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-135	**Subj:** Fw: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/22/2012 01:04:55 PM	**Auth:** Bob Sussman

Recipients

Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-135 is an email discussion between senior management at EPA, including Bob Sussman, Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-136	**Subj:** Re: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/22/2012 01:09:03 PM	**Auth:** Richard Windsor

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-136 is an email discussion between senior management at EPA, including Bob Sussman, Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-137	**Subj:** Workflow, June 26 to July 6	06/22/2012 02:15:57 PM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
June 25 to July 6, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-137 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in managing work loads. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in

fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-138	**Subj:** Re: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/22/2012 03:31:42 PM	**Auth:** Janet Woodka

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-138 (see also EPA-135 and EPA-136) is an email discussion between senior management at EPA, including Bob Sussman, Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-140	**Subj:** Re: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/23/2012 10:56:21 AM	**Auth:** Bob Sussman

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-140 (related to EPA-135, EPA-136, EPA-138, and EPA-139) is an email discussion between senior management at EPA, including Bob Sussman,

Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-141	**Subj:** Fw: Cong. Lowey (NY) Inquiry about EDSP Status	06/25/2012 01:16:46 PM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA

Attachments
Congresswoman Lowey.6.22.12.draft V1.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-141 is an email string and attached draft response to a Congressional inquiry. EPA-141 includes communications between EPA personnel within the Office of Congressional Affairs and the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed the collection of information requested by a congressional staffer, whose email is at the bottom of the string and released in full to Plaintiff as a communication from an outside party. The entirety of the email discussion was released with only the draft response to the Congressional inquiry withheld.

The withheld draft document is protected under Exemption 5's deliberative process privilege because they consist of internal preparations and draft language developed for managment approval for response to the congressional staffer. The withheld document does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA staff to prepare for the response to the staffer. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for responses to Congress and the public and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's preparation for such correspondences. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record, including the entire cover email, has been released to the Plaintiff. To the extent that the withheld draft response contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-142	**Subj:** Re: Fw: Cong. Lowey (NY) Inquiry about EDSP Status	06/25/2012 01:56:30 PM	**Auth:** Louise Wise

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
Congresswoman Lowey.6.22.12.draft V1.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
EPA-142 is a response from Louis Wise, Principal Deputy Administrator in EPA's Office of Chemical Safety and Pollution Prevention, to EPA-141.

Document EPA-142 is an email string and attached draft response to a Congressional inquiry. EPA-142 includes communications between EPA personnel within the Office of Congressional Affairs and the Office of Chemical Safety & Pollution Prevention (OCSPP), as they discussed the collection of information requested by a congressional staffer, whose email is at the bottom of the string and released in full to Plaintiff as a communication from an outside party. The entirety of the email discussion was released with only the draft response to the Congressional inquiry withheld.

The withheld draft document is protected under Exemption 5's deliberative process privilege because they consist of internal preparations and draft language developed for managment approval for response to the congressional staffer. The withheld document does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA staff to prepare for the response to the staffer. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they prepare for responses to Congress and the public and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's preparation for such correspondences. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record, including the entire cover email, has been released to the Plaintiff. To the extent that the withheld draft response contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-143	**Subj:** OCSPP Six-Month Policy Calendar - Please revise by Tuesday 3 pm 6/26	06/25/2012 04:12:12 PM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Brian Katz/DC/USEPA/US@EPA

Attachments
ocspp_six_month.calendar.2012-06-25.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-143 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding a twenty page Word document containing a draft 6-month policy calendar. The attached draft calendar is withheld in full. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the email communication in this record, but withheld one paragraph from the email communication that contains discussion of changes and developments in the calendar. These lines are internal briefing information that represents a pre-decisional discussion of the process for developing the OCSPP Policy Calendar, which includes a discussion of developing office priorities. Release of these 15 lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-144	**Subj:** Re: Use this version--Draft HIT List	06/27/2012 10:53:47 AM	**Auth:** Sherry Sterling

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US

Attachments
ATTMRYAA.docx
HIT List 27 June 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-144 is an email between EPA staff within the Office of Chemical Safety & Pollution Prevention (OCSPP) that includes an two attachments that are two versions (an earlier draft and a later draft) of a "Hot issues" tracker (also known as a "HIT list", which has been withheld in full.

The withheld attachments contain predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and proposed courses of action that were not in fact ultimately the grounds for EPA or U.S. Government action.

A line of the cover email has also been redacted and withheld under Exemption 5's deliberative process privilege. This line has been redacted because it represents changes and edits made to the "HIT List" as a result of internal discussions of program priorities. It does not represent a final Agency decision and is included to help formulate and add to the briefing document that is being developed to guide the Agency decision-making process. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's rulemaking policies and setting those policies.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-145	**Subj:** Resending - OCSPP Six Month Policy Calendar - meeting summary & updated version	06/28/2012 03:08:01 PM	**Auth:** Niva Kramek

Recipients

Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Brian Katz/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA

Attachments

OCSPP Policy Calendar, as of June 28, 2012.xlsx
OCSPP Six Month Policy Calendar - meeting summary 6-27 .docx
Diane Thompson Memo.docx
Cabinet Report and Policy Calendar Discussion.doc

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-145 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar and a two page Word Document attachment with a summary and notes of an internal meeting of OCSPP regarding the policy calendar. The attached draft calendar is withheld in full, as is the full write-up of the notes. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the three-page email communication in this record, but withheld approximately 15 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these 15 lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-146	**Subj:** EXPEDITED Administrator Signature Package: 2011-2012 Report to Congress - Formaldehyde Standards for Composite Wood Products Act (TSCA Title VI) (SAN 5591) - Deadline = Signature by July 7th (Fri, July 6th?)	06/28/2012 05:51:02 PM	**Auth:** Angela Hofmann

Recipients

Nathaniel Jutras/DC/USEPA/US@EPA; Nicole Owens/DC/USEPA/US@EPA; Lesley Schaaff/DC/USEPA/US@EPA; Mariana Cubeddu/DC/USEPA/US@EPA; Shannon Kenny/DC/USEPA/US@EPA; Karen Thundiyil/DC/USEPA/US@EPA; Steve Anderson/DC/USEPA/US@EPA; Brian Grant/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Lynn Vendinello/DC/USEPA/US@EPA; Robert Courtnage/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; MichaelE Scozzafava/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Kelley Smith/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA

Attachments

Formaldehyde Implementation_Rpt2Congress-2011-2012_A-memo-SIGNED_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_UPTON_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_INHOFE_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_BOXER_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_BOEHNER_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_BIDEN_2012-06-28.pdf
Formaldehyde Implementation_Rpt2Congress-2011-2012_WAXMAN_2012-06-28.pdf
Formaldehyde Imp_2011-2012 Rpt2Congress_CommStrat_2012-06-25.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-146 is an electronic transmission of a number of draft documents concerning the implementation of formaldehyde standards from Angela Hofmann, Director of Regulatory Coordination for Chemical Safety and Pollution Prevention, OCSPP, to EPA personnel. The electronic transmission is a package of draft documents to be reviewed prior to the transmission of a document to OMB. The attached documents are (1) a three page signed "Action Memorandum" on the report requesting OMB review of the report and marked "internal, deliberative; (2) six identical draft letters to members of Congress consitituting the report that were submitted for the Administrator's signature and (3) a four-page Draft Communications Plan related to the report. Two lines of the transmittal e-mail containing pre-decisional and deliberative discussions concerning time-sensitivity of the review have also been redacted. The remainder of the transmittal email has been released to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to

comments on proposed EPA standards under the Toxic Substances Control Act (TSCA). The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed standard. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final decision.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document. The withheld draft documents are not yet final as transmitted in this communication and are non-public, non-final versions of communications with Congress.

EPA-147	**Subj:** White House Weekly	07/02/2012 02:09:42 PM	**Auth:** Kate Graf

Recipients
Sherry Sterling/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA

Attachments
Draft WHW.7.2.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-147 is an e-mail from Kate Graf, Web Content Coordinator in EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a draft of a two page report that was under development for briefing EPA senior management on current policy issues under consideration at OSCPP. This report were compiled for internal Executive Branch regulatory and policy planning purposes by OCSPP staff. The attached document is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties.

The withheld information in the draft attachments and in the substantive comments in the email tranmission contain predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative portions of the cover email transmitting this information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-148	**Subj:** OCSPP Six Month Policy Calendar - Please Update by 9 AM July 10	07/05/2012 02:48:09 PM	**Auth:** Niva Kramek

Recipients
Mary Hanley/DC/USEPA/US@EPA; Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Priscilla

Attachments
OCSPP Policy Calendar, as of July 5, 2012.xlsx

Flattery/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Brian Katz/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-148 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the three-page email communication in this record, but withheld approximately 6 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-149	**Subj:** OCSPP Action Activity Summary and Update Reports for Monday, July 9, 2012	07/08/2012 03:15:27 PM	**Auth:** Angela Hofmann

Recipients

Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Kevin Keaney/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Emily

Attachments

2012-07-09_OCSPP-Updates2AA-MondayRpt.pdf
2012-07-09_OCSPP-UpcomingActionsRPT.xlsx

Dougherty/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Mary Waller/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Debbie-E Thomas/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-149 is an e-mail from Angela Hofmann, Director of Regulatory Coordination for EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a four page .PDF document and an excel spreadsheet that were compiled for internal regulatory and policy planning purposes by OCSPP staff. The attached excel spreadsheet entitled "OSCPP-UpcomingActionsReport" is an internal report of the current status and projected potential policy activities regarding Agency rulemakings, and the attached .PDF titled "OCSPP-Updates2AA" is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties.

The withheld information in the draft attachments contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative cover email transmitting this information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-150	**Subj:** Re: Fw: Lautenberg Leads Bipartisan Group of 26 Senators in Calling for Reform of Toxic Chemicals Law	07/09/2012 06:24:56 PM	**Auth:** Maria Doa

Recipients

Jim Jones/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA

Attachments

extract from PBDE EA.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-150 features three e-mails and two attached documents. The most recent email is from Maria Doa, Director of the Chemical Control Division within EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to Jim Jones, Acting Assistant Administrator for OCSPP, copying several other OCSPP personnel and Sven-Erik Kaiser of EPA's Office of Congressional and Intergovernmental Relations. Ms. Doa's email forwards a draft exerpt of an analysis of a proposed rule amendment, which is withheld in full. Ms. Doa's email to Mr. Jones contains additional deliberative analysis relating to regulated flame retardant chemicals. Ms. Doa's email responds to Mr. Jones preceding email, which requests information and deliberative analysis and is also withheld in part.

The withheld information in both emails and the attachment is protected under Exemption 5's deliberative process privilege because it consists of internal discussion concerning the proposed regulation of flame retardant chemicals. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may chill the open discussion of issues and approaches when developing a proposed rule relating to flame retardant chemicals. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately included in the U.S. Government's final response to this letter

All segregable material in the withheld documents has been released to the Plaintiff, including the email from an outside party, which was released in full. To the extent any of the redacted adn withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-151	**Subj:** NACo's Proposed Resolutions	07/10/2012 10:17:23 AM	**Auth:** Jack Bowles

Recipients
Don Zinger/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Caroline Ahearn/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Shawna Bergman/DC/USEPA/US@EPA; Becky Cook-Shyovitz/DC/USEPA/US@EPA

Attachments
2012 NACo Annual Conference Resolutions.docx

Exemption(s)
Release

Justification
Document EPA-151 is an email string, with the top email having been sent by Jack Bowles, Director of State & Local Relations within EPA's Office of Congressional and Intergovernmental Relations, forwarding an attachment to EPA employees within the Office of Water, Office of Enforcement & Compliance Assurance, Office of Chemical Safety & Pollution Prevention and the Office of Solid Waste & Emergency Response. The attached briefing document, drafted as background to prepare for an upcoming public meeting before the National Association of Counties, was withheld in full. A portion of Mr. Bowles' email, which summarizes some of the deliberative material within the briefing document was withheld.

The briefing document and redacted portion of the email's text discuss topics and assignments to potentially be discussed during the meeting. The attachment and redacted email text are protected under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflect the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to the Clean Water Action Plan, among other issues. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed courses of action. Factual information in these

documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

All segregable material has been released. The release of any remaining information would reveal deliberative information not subject to disclosure.

EPA-152	**Subj:** Next Environmental Stakeholder Brown Bag is Wed., July 11, 2012, 12:00 p.m.	07/10/2012 03:53:38 PM	**Auth:** Sonia Altieri

Recipients
Gregory Peck/DC/USEPA/US

Attachments
Environmental_July 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-152 transmits meeting information for a meeting with environmental stakeholders. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-152. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-153	**Subj:** Re: Fw: Invitation: Hold - Ron Nichols of LADWP - 316b NODA (Jul 11 09:00 AM EDT in ARN 3309)	07/11/2012 06:26:31 AM	**Auth:** Jeff Lape

Recipients
Robert Wood/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Paul Shriner/DC/USEPA/US@EPA; Lisa Biddle/DC/USEPA/US@EPA; Julie Hewitt/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Robin Kime/DC/USEPA/US@EPA; MichaelE Scozzafava/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
Released in full, no harm

EPA-154	**Subj:** LEED	07/11/2012 07:54:42 AM	**Auth:** Barbara Cunningham-HQ

Recipients
Jim Jones/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Priscilla

Attachments
Material Resource Credits for Jim- LEED 2012 Draft.docx

Flattery/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
Document EPA-154 is an email from Barbara Cunningham, Deputy Office Director for Managment and Pollution Prevention in EPA's Office of Chemical Safety and Pollution Prevention to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, copying other EPA employees in EPA's Office of Chemical Safety and Pollution Prevention transmitting a compilation of publicly available material with internal deliberative comment for the purposes of informing and advising senior managers on a potential response to a concern from an outside group regarding an EPA rulemaking. Portions of the e-mail discussing the compiled material has withheld. The compilation of material has been released in full. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government concerning fracking.

All segregable factual information, including the attachment containing publicly available informatoin, has been released to the Plaintiff. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-155	**Subj:** Please update: OCSPP Six Month Policy Calendar - changes due 9 AM July 17	07/12/2012 10:27:14 AM	**Auth:** Niva Kramek

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Brian Katz/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA

Attachments
OCSPP Policy Calendar, as of July 12, 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-155 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not

shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA released the cover email in EPA-155 transmitting the Policy Calendar document to the Plaintiff.

All segregable material in the record, such as the transmittal email, been released to the Plaintiff. To the extent that the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-156	**Subj:** NYT response	07/13/2012 01:21:05 PM	**Auth:** Kate Graf

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA

Attachments
Citrus Greening _ New York Times Questions - Noon 8-13 - IO approved.docx

Exemption(s)
Release

Justification
Released in Full, no harm

EPA-157	**Subj:** OCSPP Six Month Policy Report - July 18	07/18/2012 09:52:11 AM	**Auth:** Niva Kramek

Recipients
Mary Hanley/DC/USEPA/US@EPA; OCSPP Six Month Policy

Attachments
OCSPP Policy Calendar, as of July 18, 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-157 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to Mary Hanley of the Office of Chemical Safety and Pollution Prevention, forwarding an excel spreadsheet with a draft policy six-month calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not shared with any outside parties.

The withheld information in the draft calendar and the accompanying email message contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release

would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the record, including a portion of the transmittal email, been released to the Plaintiff. To the extent that the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document

EPA-158	**Subj:** Re: Senator Inquiry - CAFO Rule Meeting Tomorrow?	07/18/2012 05:25:30 PM	**Auth:** Denis Borum

Recipients

Ken Kopocis/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; "gilinsky ellen" <gilinsky.ellen@epa.gov>; Jeffrey Corbin/CBP/USEPA/US@EPA; Lawrence Elworth/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-158 is an email chain represents a communication between EPA employees (staff and managers) in EPA's Office of Water and EPA's Office of Congressional and Intergovernmental Relations related to the formulation of EPA's official response to Congress regarding a "CAFO" rule. The email chain includes EPA staff opinion and analysis related to a Congressional inquiry about a meeting on this topic. The email exchange is discussing policy options and decisions to address issues raised by the Congressional inquiry.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating EPA's public policy related to EPA's response to this inquiry. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking and that were not part of the EPA's official response.

The reasonably segregable information contained within this communication has been released to Plaintiff. To the extent that the redacted portions of email communication contains factual information, that factual information is inextricably intertwined with the deliberative content and discussion, including the presentation of information and analysis of information. Segregation of this information would not be possible without the release of protected deliberative content.

EPA-159	**Subj:** Fw: Status of Article---USA Today	07/18/2012 05:48:01 PM	**Auth:** Douglas Parsons

Recipients

"Jim Jones" <Jones.Jim@epamail.epa.gov>; "Marty Monell" <Monell.Marty@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-159 is a string of e-mails originating with a communication from Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention, to a USA Today reporter inquiring about a story related to "C.Diff" and the reporter's response to the inquiry. Mr. Parsons then transmitted a comment on the exchange, including analysis and advice, to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, and other senior officials in EPA's Office of Chemical Safety and Pollution Prevention. The internal portion of the e-mail discussing the article and possible responses to it have been withheld. This is an internal conversation that was not disclosed to any parties outside of EPA. The communication with the outside reporter has been released to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government concerning fracking.

The redacted information does not contain reasonably segregable factual information. The segregable portions of the email chain, including the external communications, have been released. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-160	**Subj:** OCSPP Six Month Policy Calendar - Please Update by NOON on MONDAY July 23	07/19/2012 09:40:35 AM	**Auth:** Niva Kramek

Recipients

OCSPP Six Month Policy

Attachments

OCSPP Policy Calendar, as of July 19, 2012.xlsx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-160 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an Excel spreadsheet that contained a draft 6-month policy calendar. The attached draft calendar is withheld in full. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-161	**Subj:** Fw: Updated: DRAFT NNC Congressional Briefing Docs	07/20/2012 09:41:36 AM	**Auth:** Allison Wise

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Denis Borum/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Martha Brock/R4/USEPA/US@EPA; Brandi Jenkins/R4/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Donald Maddox/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA

Attachments
NNC Congressional Letters & Responses.pdf
NNC Congressional Staffer Briefing_July 23, 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification
Document EPA-161 is an email chain consisting of four emails and two attachments that represent a communication between EPA employees (staff and managers) in EPA's Office of Water and EPA Region 4 related to the formulation of EPA's official response to Congress regarding a numeric criteria rule for Florida. The email chain includes a summary of notes that includes EPA staff opinion and analysis from a meeting with the Florida Congressional delegation on the criteria rule. The email communication originates with Allison Rainey Wise, Director, Congressional and Intergovernmental Relations, EPA Region 4, and incorporates communications with managers and staff in EPA's Office of Water and EPA's Region 4 Office related to the Congressional briefing, potential follow-up activities from the briefing, and discussing policy options and decisions to address issues raised by the Congressional briefing. The portions of this record containing information received from third parties have been released to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating EPA's public policy related to Florida DEP and the Florida Congressional delegation on the criteria rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking and that were not part of the EPA's official response.

The reasonably segregable information in EPA-161 has been released. There is no additional reasonably segregable factual information contained in this communication. To the extent that this email communication contains factual information, that factual information is inextricably intertwined with the deliberative content and discussion, including the presentation of information and analysis of information. Segregation of this information would not be possible without the release of protected deliberative content.

EPA-162	**Subj:** Fw: NYT response	07/20/2012 02:03:51 PM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Sherry

Attachments
Citrus Greening _ New York Times Questions - Noon 8-13 - IO

Sterling/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA

approved.docx

Exemption(s)
Release

Justification
Released in full, no harm

EPA-163	**Subj:** OCSPP Action Activity Summary and Update Reports for Monday, July 23, 2012	07/23/2012 08:30:26 AM	**Auth:** Angela Hofmann

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Kevin Keaney/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Emily Dougherty/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Mary Waller/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Debbie-E Thomas/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
2012-07-23_OCSPP-Updates2AA-MondayRpt.docx
2012-07-23_OCSPP-UpcomingActionsRPT_Final.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-163 is an e-mail from Angela Hofmann, Director of Regulatory Coordination for EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a two page Word document and an excel spreadsheet that were compiled for internal regulatory and policy planning purposes by OCSPP staff. The attached excel spreadsheet entitled "OSCPP-UpcomingActionsReport" is an internal report of the current status and projected potential policy activities regarding Agency rulemakings, and the attached .PDF titled "OCSPP-Updates2AA" is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties.

The withheld information in the draft attachments contains predecisional and deliberative information related to proposed actions in OCSPP. This information is

protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative cover email transmitting this information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-164	**Subj:** Fw: Request for a meeting with Honorable Mr. Jim Jones on 158W	07/24/2012 08:35:15 AM	**Auth:** Sherry Sterling

Recipients
hofmann.angela@epa.gov

Attachments
Proposed Agenda for 158W Meering.doc

Exemption(s)
Release

Justification
Released in full, no harm

EPA-165	**Subj:** OCSPP Six Month Policy Calendar - July 24, 2012	07/24/2012 12:57:25 PM	**Auth:** Niva Kramek

Recipients
Mary Hanley/DC/USEPA/US@EPA; OCSPP Six Month Policy

Attachments
OCSPP Policy Calendar, as of July 24, 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-165 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. This document was not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released the non-substantive administrative discussion contained in the email communication in this record, but withheld approximately 35 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these redacted lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-166	**Subj:** *Confidential: Fw: Fw: Confidential Re: COGA and TSCA	07/25/2012 08:56:43 AM	**Auth:** Sherry Sterling

Recipients
Kramek.niva@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-166 is an email string of multiple communications, with the first email having been sent by Jim Jones, Associate Adminstrator of the Office of Chemical Safety & Pollution Prevention, to Jim Martin, Regional Administrator in EPA Region 8. The email communication transmits internal briefing information from employees in Region 8 and in OSCPP that were developed for an internal management meeting and briefing and to inform managment decisionmaking related to EPA's potential policy actions with regard to the Toxic Substances Control Act (TSCA). Portions of the email were released, while the deliberative portions were redacted.

The briefing information in the redacted portion of the email text discusses topics and assignments to potentially be discussed during the upcoming meeting mentioned in the released portion of the email. The redacted email text is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information that reflect the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to TSCA policy, among other issues. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed courses of action. Factual information in the redacted portion of this information is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

All segregable material has been released. The release of any remaining information in the redacted portions of the email would reveal deliberative information not subject to disclosure.

EPA-167	**Subj:** Please update - OCSPP Six Month Policy Calendar - by Monday NOON	07/26/2012 11:30:15 AM	**Auth:** Niva Kramek

Recipients
OCSPP Six Month Policy

Attachments
OCSPP Policy Calendar, as of July 26, 2012.xlsx
OCSPP White House Report - deadlines.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-167 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar and a one page Word Document attachment with a summary and notes summarizing particular dates and individuals for reports and outreach that correspond with the Policy Calendar. The attached draft calendar is withheld in full, as is the write-up of the notes. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the three-page email communication in this record, but withheld approximately 10 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-168	**Subj:** OCSPP Six Month Policy Calendar - July 31	07/31/2012 11:38:06 AM	**Auth:** Niva Kramek

Recipients

Mary Hanley/DC/USEPA/US@EPA; OCSPP Six Month Policy

Attachments

OCSPP Policy Calendar, as of July 30, 2012-v2.xlsx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-168 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency

decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released the non-substantive administrative discussion contained in the email communication in this record, but withheld approximately 35 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these redacted lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-169	**Subj:** Fw: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 03:56:20 PM	**Auth:** Cynthia Giles-AA

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-169 (related to EPA-238 and EPA-239) is an email chain of four emails memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A very small amount of non-substantive information, including email subject lines and signature blocks from this exchange, was released in EPA-169. The remaining information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-170	**Subj:** OCSPP Six Month Policy Calendar - August 2 - Please update by NOON on	08/02/2012 09:46:08 AM	**Auth:** Niva Kramek

	Monday		

Recipients
OCSPP Six Month Policy

Attachments
OCSPP Policy Calendar, as of August 2, 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-170 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the three-page email communication in this record, but withheld approximately 2 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" document. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-171	**Subj:** Fw: SAC QFR for Jim's Review	08/02/2012 12:29:05 PM	**Auth:** Sherry Sterling

Recipients
Kramek.niva@epa.gov

Attachments
SAC QFR.Landrieu 001-002.OPPT per OMB comments.8-2-12.changes.docx
SAC QFR.Landrieu 001-002.OPPT per OMB comments.8-2-12.clean.docx
QFRLandrieu Sterling comments.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

EPA-171 contains a chain of two emails transmitting and providing comments on QFRs (Questions for the Record) prepared by Agency staff for Congressional testimony. In EPA-171, the three draft versions of the QFRs have been withheld in full. These withheld documents were not shared with any outside parties. The cover email in EPA-171, providing comments and context for the withheld information, was released to the plaintiff in full.

The withheld draft QFR documents contain predecisional and deliberative information related to proposed responses to Congress. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by Senator Landrieu to EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of Congressional testimony and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA's responses to Congress.

All segregable material in this document has been released to the Plaintiff. To the extent that the withheld drafts of the QFRs contain factual information, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-172	**Subj:** Workflow, August 6-17	08/03/2012 11:08:33 AM	**Auth:** Douglas Parsons

Recipients
OCSPP Workflow

Attachments
Workflow, Aug 6 to 17.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-172 is an email message from Douglas Parsons, Communications Director for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) to the OCSPP Workflow recipients, which include senior managers. The email pertains to workflow of communications-related assignments in OSCPP. The email attachment was withheld in full. The email was released in full.

The withheld information in this email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in managing work loads. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA staff to inform senior officials of the various OCSPP workflow assignments and outstanding issues.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they work through the various workflow assignments and may harm the Agency's decisionmaking by restricting the open discussion of issues and approaches when formulating the Agency's response to comments on these assignments. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with these assignments' proposed course of actions. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-173	Subj: Courtesy Copy for AL-12-001-3331	08/10/2012 02:15:25 PM	Auth: Diane Jones-Coleman

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA

Attachments
AL-12-001-3331 Jason Altmire et al.pdf

Exemption(s)
Release

Justification
WH Reviewed, Release in full

EPA-174	Subj: Re: ISRI Materials	08/13/2012 05:30:59 PM	Auth: Bob Sussman

Recipients
Louise Wise/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA

Attachments
ATTD023T.docx
ISRI Proposal of 08-03-12_Summary of EPA Changes_08-10-12.docx
ATTA6VWM.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-174 (related to Document EPA-242) is a transmission of documents from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Bob Sussman, Senior Policy Counsel for the Adminstrator, and a response from Mr. Sussman to the transmission. The email is transmitting two Word documents that were developed internally by OCSPP and that contain staff analysis options and issues regarding potential agency actions related to PCBs, including potential responses to a document sent by ISRI, an outside party. This email chain contains comments and revisions on the transmitted papers. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation and discussions with outside parties related to the Agency's potential approaches to PCBs. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA. The attached communication from a third party that was transmitted as part of this document was segregated and released to Plaintiff.

The withheld information in the documents and in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation and internal briefing and analysis documents which reflect the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any reasonably segregable information from this email communication, including non-substantive information and communications from third parties, has been released to Plaintiff. There is no further reasonably segregable information that can be released to Plaintiff. Any factual information in the withheld attachments is inextricably intertwined with the deliberative content and is not reasonably segregable.

EPA-175	Subj: OCSPP Six Month Policy Calendar -	08/16/2012 10:18:13 AM	Auth: Niva Kramek

	updates due noon on Monday		

Recipients
OCSPP Six Month Policy

Attachments
OCSPP Policy Calendar, as of August 16, 2012.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-175 is an e-mail from Niva Kramek, Special Assistant, Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff forwarding an excel spreadsheet with a draft 6-month policy calendar representing the draft priorities and internal timelines of policy decisions in OSCPP. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecisional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released most of the three-page email communication in this record, but withheld approximately 7 lines from the email communication that contained particular office bullet points of additions and changes to the "Policy Calendar" documents. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email, reflecting facutal and administrative information, were released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-176	**Subj:** AL-12-001-3650 (Ben Nelson, et al)	08/16/2012 03:33:52 PM	**Auth:** Diane Jones-Coleman

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA

Attachments
AL12-001-3650.pdf

Exemption(s)
Release

Justification
WH Reviewed, Release in Full

EPA-177	**Subj:** Fw: AL-12-001-3650 (Ben Nelson, et al)	08/16/2012 03:46:03 PM	**Auth:** Diane Jones-Coleman

Recipients
Gregory Peck/DC/USEPA/US@EPA

Attachments
AL12-001-3650.pdf

Exemption(s)
Release

Justification
WH Reviewed, Release in Full

EPA-178	**Subj:** Read-out and Follow-Up From the White House Tribal Nations Conference	01/05/2012 04:43:36 PM	**Auth:** Elle Beard

Recipients
Assistant Administrators; DAA

Attachments
WHTNC 2011_ReadOut&FollowUpActions.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-178 is an email communication from the office of Michelle DePass, Assistant Administrator for the Office of International and Tribal Affairs (OITA) to EPA Assistant Administrators. This email communication and its attachment consist of a summary of issues and action items for EPA to consider as a result of the White House Tribal Nations Conference on December 2, 2011. The email contains an attachment with compiled issues and items for EPA to follow-up on and review, including staff notes and analysis of the Tribal Nations Conference. This transmitting email also contains the issues and follow-up items from the attachment pasted into the email body for ease of review. This communication memorializes previous outreach to the Tribal Nations Council regarding EPA proposed rules and discusses potential third party / public issues with these proposed rules. This communication did not include any outside parties and has not been shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision and official Agency response to outside concerns and inquiries regarding EPA policy decisions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA in responding to public inquiry. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. Any factual information in this email communication is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-179	**Subj:** Materials for CWA 316 (b) Options Update Pre-Brief	01/09/2012 05:24:42 PM	**Auth:** Lynn Zipf

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; MaryEllen Levine/DC/USEPA/US@EPA; Steven Neugeboren/DC/USEPA/US@EPA; Marcus Zobrist/DC/USEPA/US@EPA; Deborah Nagle/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Phil Oshida/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Kendra Forde/DC/USEPA/US@EPA; Robert Wood/DC/USEPA/US@EPA

Attachments
ATTKVCJF.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-179 is an electronic transmission of a document from Lynn Zipf, Acting Deputy Director of the Engineering and Analysis Division of the Office of Science and Technology in the Office of Water to senior managers in the Office of Water and attorneys in the Office of General Counsel's Water Law Office. The electronic transmission is a signature block only and contains no substantive information to segregate. The attached document, named "Section 316 OS discussion 01052011.docx" is a five page briefing document for the Office of Water regarding a proposed rule and response to external comments on the proposed rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to comments on a proposed rule under the Clean Water Act. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to public comments. Factual information contained in this briefing document is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-180	**Subj:** Re: Conversation with Peter T	01/10/2012 01:58:47 PM	**Auth:** Lisa Feldt

Recipients
Matt Straus/DC/USEPA/US@EPA; Suzanne Rudzinski/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA; Jim Berlow/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-180 is an email chain of two emails memorializing communications between Matt Straus, an EPA employee, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response. The CC-ed individuals on the email chain are EPA employees. The email chain discusses EPA policy and decisionmaking regarding various potential avenues for rulemakings related to solid waste manure combustion, as well as other proposed rules. This email discusses a proposed meeting with USDA regarding these rules, and discussed EPA's position, policy, and strategy in preparation for that meeting.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's official policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-181	**Subj:** Fw: Denying Petition to Cancel Fumigant Iodomethane	01/10/2012 04:26:41 PM	**Auth:** Jim Jones

Recipients

Attachments

Bob Sussman/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US

Desk Statement for Iodomethane 1 10 12.docx
Iodomethane Fact sheet for web 01 10 12.docx
Iodomethane-Communication-Strategy-01-10-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-181 is a forward of a message and three attached documents from Douglas Parsons, an EPA employee, to other EPA employees in EPA's Office of the Administrator, copying EPA's senior management (including Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, and Lousie Wise, Deputy Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention). The electronic transmission was than forwarded from Jim Jones to Bob Sussman, Senior Policy Counsel for the Administrator. The attached 3 documents were also withheld in full. The documents consist of a draft "desk statement" for the Office of the Administrator, a draft (including redlined edits) of a "fact sheet" to be prepared for a final version to be posted to EPA's website, and a draft "communication strategy" document, marked "internal deliberative" which proposed outreach activities and messages related to EPA's decisionmaking. These documents relate to a planned EPA action to deny a petition from Earthjustice and others to cancel the fumigant iodomethane, and relate to EPA's strategy for communicating the decision to various stakeholders, including outside parties. These documents memorialize proposed communications with outside parties, but were not themselves shared with any outside parties.

The withheld information in the email communication and in the three attachments is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to a petition to cancel the registration of a fumigant. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed rule. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to this petition. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

EPA-182	**Subj:** Fw: SBREFA PANELS	01/18/2012 07:20:39 PM	**Auth:** Nancy Stoner

Recipients
Cynthia Dougherty/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-182 is an email chain of two emails memorializing communications between Micheal Goo, Associate Administrator for the Office of Policy, Nancy Stoner, Acting Assistant Adminstrator for the Office of Water, Bob Perciasepe, Deputy Adminstrator, and Bob Sussman, Senior Policy Counsel for the Administrator. The originating email is from Michael Goo to Bob Perciasepe, Bob Sussman, and Nancy Stoner. This email was then forwarded to Cynthia Dougherty, an EPA employee, with comments and inquiries from Ms. Stoner requesting additional information from lower-level individuals to assist with the decision-making process. This email discusses whether EPA should prepare to convene Small Business Advocacy Review (SBAR) Panels for three proposed rules in the Office of Water. This communication memorializes previous outreach to small business representatives regarding these rules and discusses the schedule of the proposed rules. This communication did not include any outside parties and has not been shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision. These communications were developed to assist in the decisionmaking process and

represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. Any factual information in this email communication is inextricably intertwined with deliberative content related to EPA's plans for outreach as part of these rulemakings, and is not reasonably segregable.

EPA-183	**Subj:** Re: Draft Upton Response on CDR	01/20/2012 05:04:23 PM	**Auth:** Jim Jones

Recipients
Priscilla Flattery/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US; Niva Kramek/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA

Attachments
Upton.draft 1.20.pf.docx
Upton.Responses.Enclosure.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-183 is a chain of two emails containing the electronic transmission of two draft documents from Priscilla Flattery, Chief of Staff in EPA's Office of Pollution Prevention and Toxics to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, copying Wendy Cleland-Hamnett, the Director of the Office of Pollution Prevention and Toxics, and Niva Kramek, a staff member and assistant to Mr. Jones, related to EPA's response to a letter from Rep. Fred Upton regarding EPA's Chemical Data Reporting (CDR) Rule. The electronic transmission contains a request for comments and suggestions, and the reply contains comments, suggestions, and questions from Mr. Jones to Ms. Flattery regarding the attached draft documents (a draft 2 page letter and a draft 1 page enclosure responding to questions). These documents were characterized as drafts in the transmitting communication and were not shared outside EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the development of EPA's official response to a Congressional inquiry on a proposed rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency, including drafts of official communications that are not yet final. Release would have a chilling effect on the Agency's ability to have open and frank discussions regarding the Agency's official response to Congressional inquiries and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to inquiries. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to public comments. The two attachments are internal drafts of EPA's official response for internal review and comment and do not represent the final decision of the agency. Any factual information contained in these drafts and in the communication string is inextricably intertwined with the deliberative content, including the selection of factual information for presentation in EPA's final response, and is not reasonably segregable.

EPA-184	**Subj:** Re: for discussion - draft strategy for what happens in november	01/22/2012 09:57:15 PM	**Auth:** Michael Goo

Recipients
Shannon Kenny/DC/USEPA/US@EPA; Alex Barron/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-184 is an email chain of two emails memorializing communications between Shannon Kenny, Acting Principal Deputy Assistant Adminstrator for the Office of Policy and Michael Goo, Assistant Administrator in the Office of Policy, copying Alex Barron, Senior Advisor in the Office of Policy. This email exchange contains preparations for a meeting to discuss EPA policy and strategic options related to rulemakings across the agency and a substantive discussion of those policy and strategic options. This is an internal briefing communication within the agency and was not shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating policy options for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and management during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's official policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. There is no reasonably segregable factual information in this policy briefing document.

EPA-185	**Subj:** Re: Fw: Date For Issuance of NHSM Rule	01/26/2012 07:51:12 AM	**Auth:** Lisa Feldt

Recipients
Matt Straus/DC/USEPA/US@EPA; Matt Straus/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-185 is an email chain memorializing communications between staff attorneys in EPA's Office of General Counsel, Solid Waste and Emergency Response Law Office, to Matt Straus and other EPA employees in EPA's Office of Solid Waste and Emergency Response which was then forwarded for comment to senior managers including Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response; Barry Breen, Principal Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response; and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator in EPA's Office of Solid Waste and Emergency Response, copying staff members Shawna Bergman, Becky Brooks, and Nancy Jones in the Office of Solid Waste and Emergency Response. Lisa Feldt replied to the forwarded message with comments and questions on the communication. The communication in Document EPA-185 is related to EPA's consideration of a rule known as the NHSM Rule, and contains recommendations for EPA's management regarding the timing of the rulemaking.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding timing of a rulemaking. This communication chain contains the opinions of attorneys and represents legal questions relating to rulemaking procedures. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter - issues of timing within the rulemaking process - for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the proposed rulemaking. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of the rule. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the development of EPA's official position and policy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions regarding the Agency's policy decisions and could chill

open and frank communication between EPA management and staff, including free discussion of issues and recommendations. Any factual information contained in these drafts and in the communication string is inextricably intertwined with the deliberative content and is not reasonably segregable.

EPA-186	**Subj:** Fw: Quick Turnaround: Administrator's Conference Call with American Sustainable Business Council - 4:00 PM Tuesday, January 31, 2012	01/31/2012 09:27:37 AM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA

Attachments
Current Questions for EPA Admin with assignments.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-186 is an email chain of two emails and one attachment (1 page Word document) consisting of an inquiry from Karen L. Martin, Special Assistant in EPA's Office of the Administrator, to EPA staff in the Office of Solid Waste and Emergency Management and EPA staff in the Office of Chemical Safety and Pollution Prevention seeking information for an internal briefing of the Administrator before a conference call with Amercian Sustainable Business Council. The originating email from Karen L. Martin contains an attachment with compiled questions that EPA staff thought the Administrator could be asked at on the conference call. The email transmission requests information to assist in formulating a response, which is then forwarded from Douglas Parsons to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, and Lousie Wise, Deputy Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, with a draft briefing statement and response to a question for their review and comment. This communication memorializes previous outreach to the Sustainable Business Council regarding EPA proposed rules and discusses potential third party / public issues with these proposed rules. This communication did not include any outside parties and has not been shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision and official Agency response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA in responding to public inquiry. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. Any factual information in this email communication is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-187	**Subj:** Re: Fw: Denial Incoming Letters	02/09/2012 10:15:14 PM	**Auth:** Suzanne Rudzinski

Recipients
Matt Straus/DC/USEPA/US@EPA; "Jim Berlow" <berlow.jim@epa.gov>; "Alan Carpien" <carpien.alan@epa.gov>; "Lisa Feldt" <feldt.lisa@epa.gov>; "John Michaud" <michaud.john@epa.gov>; "Suzanne Rudzinski" <rudzinski.suzanne@epa.gov>; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Withhold in full

Justification

Document EPA-187 is an email chain consisting of six emails that represent a communication between attorneys in EPA's Office of General Counsel and clients in EPA's Office of Air and Office of Solid Waste and Emergency Reponse related to two letters received by EPA (one from an industry representative and one from a member of Congress) and EPA's proposed response to these letters. The letters that are the subject of the communication were removed as attachments from the discussion by John Michaud in EPA's Office of General Counsel at an earlier stage in the conversation than the final transmission, and so are not attached to the email communication EPA-187 contributed by Shawna Bergman in EPA's Office of Solid Waste and Emergency Response. The letters referred to in this document are attached to Document EPA-40 and were released in response to this request.

The electronic communication originates with Jean Walker, Policy and Communications Staff in EPA's Office of Air Quality Planning and Standards, who then forwarded the letters to William (Bill) Harnett, Associate Director of Program Integration and International Air Quality Issues. Mr. Harnett then forwarded the letters to Wendy Blake, a staff attorney with the Air and Radiation Law Office, Office of General Counsel, and Susmita Dubey, a staff attorney with the Air and Radiation Law Office, Office of General Counsel. Ms. Dubey than forwarded the letters with an inquiry seeking legal advice on response to Alan Carpien, a staff attorney in EPA's Solid Waste and Emergency Response Law Office, and John Michaud, Deputy Associate General Counsel with EPA's Solid Waste and Emergency Response Law Office in the Office of General Counsel. In order to advise the agency on the response to these letters, EPA staff attorneys then communicated their questions regarding these letters to program staff in the Office of Resource Conservation and Recovery in EPA's Office of Solid Waste and Emergency Response (OSWER). These OSWER staff members then consulted with Peter Tsirigotis, Director, Senior Policies and Programs Division in the Office of Air to receive additional information. This information was then forwarded to Mr. Carpien and Mr. Michaud in the Solid Waste and Emergency Response Law Office, and to senior managers in the EPA's Office of Solid Waste and Emergency Response, including Suzanne Rudinski, Director of the Office of Resource Conservation and Recovery in OSWER, Mathy Stanislaus, Assistant Administrator for OSWER and Elisabeth (Lisa) Feldt, Deputy Assistant Administrator for OSWER. Ms. Rudinski then communicated her advice and a query to EPA staff regarding EPA's response to these letters.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding the responses to letters from outside industry groups and from members of Congress related to specific EPA rules. This communication chain contains the opinions of attorneys and represents the legal questions raised by these letters and EPA's proposed response. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. This communication was kept confidential and only circulated to those with a need to know in the Agency. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

EPA-188	**Subj:** Fw: Draft response to extension request -- URGENT	02/10/2012 01:40:06 PM	**Auth:** Matt Straus

Recipients

Mathy Stanislaus/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Suzanne Rudzinski/DC/USEPA/US@EPA; Jim Berlow/DC/USEPA/US@EPA; Shawna Bergman/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA; Nancy Jones/R6/USEPA/US@EPA; Colleen Keltz/DC/USEPA/US@EPA; Mark Baldwin/DC/USEPA/US@EPA

Attachments

extension denial 2-10-12.docx

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-188 is an email chain of four emails that include a draft Microsoft Word document (one page) consisting of a draft letter responding to a letter from industry representatives requesting an extension of the comment period on various EPA rulemakings (this letter was referenced in EPA-187). These emails represent a communication between attorneys in EPA's Office of General Counsel and clients in EPA's Office of Air and Office of Solid Waste and Emergency Reponse related to a letter received by EPA (one from an industry representative) and EPA's proposed response to this letter.

The email communication originates with Susmita Dubey, a staff attorney in EPA's Air and Radiation Law Office, Office of General Counsel, and incorporates communications with clients in EPA's Office of Air and Office of Solid Waste and Emergency Response. The attachment consists of a draft letter with suggested edits in "redline-strikeout." The draft letter was attached for review and discussion among the Agency staff and Agency attorneys in the email chain.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding the formulation of EPA's response to the industry letter regarding EPA rulemakings. This communication chain contains the opinions of attorneys and represents the legal questions raised by these letters and EPA's proposed response to the industry representative. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

EPA-189	**Subj:** Fw: Draft response to industry comment period extension request for major source boilers/ CISWI/ NHSM rules	02/10/2012 03:34:52 PM	**Auth:** Matt Straus

Recipients

"Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Barry Breen" <breen.barry@epa.gov>; "Lisa Feldt" <feldt.lisa@epa.gov>; "Suzanne Rudzinski" <rudzinski.suzanne@epa.gov>; "Jim Berlow" <berlow.jim@epa.gov>; "Shawna Bergman" <bergman.shawna@epa.gov>; "Becky Brooks" <brooks.becky@epa.gov>; "Nancy Jones" <jones.nancy@epa.gov>; "Colleen Keltz" <keltz.colleen@epa.gov>; "Mark Baldwin" <baldwin.mark@epa.gov>

Attachments

extension denial 2-10-12.docx

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-189 is an email chain of four emails with a draft Microsoft Word document (one page) consisting of a draft letter responding to a letter from industry representatives requesting an extension of the comment period on various EPA rulemakings (see EPA-187 and EPA-188). These emails represent a communication between attorneys in EPA's Office of General Counsel and clients in EPA's Office of Air and Office of Solid Waste and Emergency Reponse related to a letter received by EPA (one from an industry representative) and EPA's proposed response to this letter. This email communication originates with Susmita Dubey, a staff attorney in EPA's Air and Radiation Law Office, Office of General Counsel, and incorporates communications with clients in EPA's Office of Air and Office of Solid Waste and Emergency Response. The attachment consists of a draft letter with comments and questions for internal review noted as "comments" in the draft. The draft letter was attached for review and discussion among the Agency staff and Agency attorneys in the email chain.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding the formulation of EPA's response to the industry letter regarding EPA rulemakings. This communication chain contains the opinions of attorneys and represents the legal questions raised by these letters and EPA's proposed response to the industry representative. The withheld records or portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

EPA-190	**Subj:** Fw: Letter from R4 to FDEP	02/22/2012 02:45:16 PM	**Auth:** Ellen Gilinsky

Recipients
Nancy Stoner/DC/USEPA/US

Attachments
letter to FDEP re NNC submittal.Feb 22 2012 jdg edits.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-190 is an email chain consisting of nine emails and one attached Microsoft Word Document (1 page) that represent a communication between attorneys in EPA's Office of General Counsel and clients in EPA's Office of Water related to the formulation of EPA's official response to the Florida Department of the Environment (FDEP) regarding information sent by FDEP related to a numeric criteria rule for Florida. The email communication originates with Peter Z. Ford, a staff attorney in EPA's Water Law Office, Office of General Counsel, and incorporates communications with clients in EPA's Office of Water and EPA's Region 4 Office related to the drafting of the official response letter and EPA's rulemaking. The attachment consists of a draft letter with suggested edits in "redline-strikeout." The draft letter was attached for review and discussion among the Agency staff and Agency attorneys in the email chain.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding the formulation of EPA's response to FDEP regarding this rulemaking. This communication chain contains the opinions of attorneys and represents the legal questions raised by this letters and EPA's proposed response to FDEP. The withheld records or

portions of records comprise of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's response to these letters regarding various rulemakings, for which the client office sought legal advice. The records contain facts divulged by the clients to their attorneys. All segregable material in this category has been released. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

_____

EPA-191	**Subj:** Synopsis of NAS "Review of EPA's Economic Analysis of Final Water Quality Standards in Florida"	03/01/2012 06:12:55 PM	**Auth:** Julie Hewitt

Recipients

Bob Sussman/DC/USEPA/US@EPA; Corey Buffo/DC/USEPA/US@EPA; Denis Borum/DC/USEPA/US@EPA; Edward Ohanian/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Evelyn Washington/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Julie Hewitt/DC/USEPA/US@EPA; Karen Milam/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; MichaelE Scozzafava/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Ann Campbell/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA; Jim Hanlon/DC/USEPA/US@EPA; Joanne Benante/R4/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Gary Russo/DC/USEPA/US@EPA; Lisa Larimer/DC/USEPA/US@EPA; Erica Fleisig/DC/USEPA/US@EPA; Donald Maddox/DC/USEPA/US@EPA

Attachments

Synopsis of NAS Review for Bob S.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-191 is an electronic transmission of an attached document (3 page Word document) consisting of a briefing paper prepared by EPA staff in EPA's Office of Water for Bob Sussman, Senior Policy Council for the Administrator, regarding the National Academy of Sciences (NAS) review of the rulemaking for Florida water quality standards. The email communication originates with Julie Hewitt in EPA's Office of Science and Technology, Office of Water, and was circulated to EPA senior management in Office of Water, and EPA Region 4, as well as to Mr. Sussman. The email transmission very briefly describes the contents of the attachment. The attachment contains the opinions, advice, and recommendations of Office of Water staff as a briefing document for a meeting with Mr. Sussman and the National Academy of Sciences. The attachment includes staff analysis of an NAS report on EPA's proposed rule, options for potential questions and potential responses, and discussion and advice on EPA policy positions for the use of senior managers when formulating EPA's final policy. This communication did not include any outside parties and has not been shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision and official Agency response to a report on an Agency rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA in responding to a report. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. Any factual information in this email communication is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-192	**Subj:** Re: draft Fracking note for participating AAs/RAs	03/02/2012 06:47:49 AM	**Auth:** Sherry Sterling

Recipients
Angela Hofmann/DC/USEPA/US@EPA; Angela Hofmann/DC/USEPA/US; Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA

Attachments
HF EG-OS Meeting Briefing Slide Deck 2-7-12 Rev 7.pptx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-192 is an email chain of two emails, originating with the electronic transmission of a powerpoint slide deck (13 slides) as an attachment to an email, and an email response. The email attaching the powerpoint slide deck is from Angela Hofmann in EPA's Office of Chemical Safety and Pollution Prevention, to Jim Jones, Acting Assistant Administrator for the Office of Chemical and Pollution Prevention (OCSPP) and other staff and managers in OCSPP. The originating email is a draft of an email communication that was proposed to be sent from Mr. Jones to Assistant Administrators and Deputy Assistant Adminstrators inviting them to a briefing session on hydraulic fracturing. The attachment consists of the slides that would be used in the briefing and memorialize a petition for a rulemaking under TSCA Section 21 related to hydraulic fracturing (fracking). The responsive email from Sherry Sterling in OCSPP contains suggestions and questions related to the draft communication and briefing slides. The email chain and slides were withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the EPA's policy options selection process related to the petition for TSCA rulemaking on hydraulic fracturing. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy approaches. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's activity. Factual information contained in this briefing document is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-193	**Subj:** NHSM petition process	03/05/2012 09:12:15 PM	**Auth:** Arvin Ganesan

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Withhold in full

Justification

Document EPA-193 is an email communication sent by Arvin Ganesan, Associate Adminstrator for Congressional and Intergovernmental Relations, to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, and copying Ginal McCarthy, Assistant Administrator for the Office of Air and Radiation. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for an Agency response to a Congressional inquiry regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

Document EPA-53, which was released with redactions, contains some segregable information from this chain of communication. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-194	**Subj:** Re: NHSM petition process	03/05/2012 10:50:04 PM	**Auth:** Mathy Stanislaus

Recipients

Arvin Ganesan/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-194 is a response to Document EPA-193, and is a continuation of a conversation between Arvin Ganesan, Associate Adminstrator for Congressional and Intergovernmental Relations, to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, copying Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for an Agency response to a Congressional inquiry regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-195	**Subj:** Re: NHSM petition process	03/06/2012 12:55:18 PM	**Auth:** Arvin Ganesan

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-195 is a response to Document EPA-194, and is a continuation of a conversation between Arvin Ganesan, Associate Adminstrator for Congressional and Intergovernmental Relations, to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, copying Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for an Agency response to a Congressional inquiry regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-196	**Subj:** Re: NHSM petition process	03/06/2012 01:39:00 PM	**Auth:** Arvin Ganesan

Recipients
Lisa Feldt/DC/USEPA/US@EPA; mccarthy.gina@epa.gov; Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-196 contains responses to EPA-194 and 195, and constitutes the chain of emails that consists of a conversation between Arvin Ganesan, Associate Adminstrator for Congressional and Intergovernmental Relations, to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, copying Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for an Agency response to a Congressional inquiry regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this

communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-197	**Subj:** memo on tier 3 to LPJ etc	03/07/2012 10:27:51 AM	**Auth:** Michael Goo

Recipients
Alex Barron/DC/USEPA/US@EPA; Alex Barron/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-197 is an electronic mail communication from Michael Goo, Assistant Adminstrator for the Office of Policy, to Alex Barron, an EPA employee in the Office of Policy. The email describes policy issues of concern to EPA's management regarding a rule out of the Office of Air and Radation referred to as "Tier 3" and requests EPA staff analysis, opinion, and feedback on these policy issues. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-198	**Subj:** Re: CCR	03/20/2012 03:03:43 PM	**Auth:** Michael Goo

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-198 is a response from Michael Goo in EPA's Office of Policy to other EPA employees in the Office of Policy to Mathy Stanslaus, Assistant Administrator in EPA's Office of Solid Waste and Emergency Response regarding the document transmitted in EPA-199 and EPA-201. The transmitted document was removed from the exchange before the response was sent. The transmittal message contains a description of the originally transmitted document and an analysis of policy issues raised by the document and related internal policy discussions surrounding the selection of a policy option for a rulemaking known as the "CCR Rule." The response email raises a potential issue with the document's file name. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents the results and outcome of communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal

matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

EPA-199	**Subj:** Fw: CCR	03/21/2012 12:29:36 PM	**Auth:** Michael Goo

Recipients
barron.alex@epa.gov; kenny.shannon@epa.gov; "Lesley Schaaff" <Schaaff.Lesley@epamail.epa.gov>

Attachments
ccrudpate%20administrator%203-19-12[1].docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-199 (related to Document EPA-198 and EPA-201) is a forward of an email message transmitting a three page Word document from Mathy Stanslaus, Assistant Administrator in EPA's Office of Solid Waste and Emergency Response to senior agency officials and the agency's General Counsel. This document was then forwarded by Michael Goo in EPA's Office of Policy to other EPA employees in the Office of Policy. The transmittal message contains a description of the transmitted document and an analysis of policy issues raised by the document and related internal policy discussions surrounding the selection of a policy option for a rulemaking known as the "CCR Rule." The transmitted document consists of internal analysis by EPA staff and EPA attorneys of the legal and policy issues potentially raised by the CCR rule and contains legal advice and discussion of options related to the rule as well as policy advice and analysis from EPA staff. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA.

The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

EPA-200	**Subj:** 8:30---ACI Meeting Request	03/26/2012 02:47:35 PM	**Auth:** Douglas Parsons

Recipients
Niva Kramek/DC/USEPA/US@EPA; Harriett Haymon/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
16 March 2012 Friday Forum Attendee List.docx
ACI.meeting request..docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-200 transmits information regarding a meeting between EPA and outside stakeholders. Portions of the attached documents contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-200 is the personal email addresses of outside parties. All segregable material, which includes the entire cover email and the remainder of the attachments, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-201	**Subj:** Fw: CCR	03/27/2012 11:27:36 AM	**Auth:** Michael Goo

Recipients
"Robin Jenkins" <Jenkins.Robin@epamail.epa.gov>; "Charlotte Bertrand" <Bertrand.Charlotte@epamail.epa.gov>; "Paul Balserak" <Balserak.Paul@epamail.epa.gov>; mcgartland.al@epa.gov

Attachments
ccrudpate%20administrator%203-19-12[1].docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-201 (related to Document EPA-198 and EPA 199) is a forward of an email message transmitting a three page Word document from Mathy Stanslaus, Assistant Administrator in EPA's Office of Solid Waste and Emergency Response to senior agency officials and the agency's General Counsel. This document was then forwarded by Michael Goo in EPA's Office of Policy to other EPA employees in the Office of Policy and the Office of Solid Waste and Emergency Response. The transmittal message contains a description of the transmitted document and an analysis of policy issues raised by the document and related internal policy discussions surrounding the selection of a policy option for a rulemaking known as the "CCR Rule." The transmitted document consists of internal analysis by EPA staff and EPA attorneys of the legal and policy issues potentially raised by the CCR rule and contains legal advice and discussion of options related to the rule as well as policy advice and analysis from EPA staff. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

EPA-202	**Subj:** Re: 316(b) policy mtg?	03/28/2012 06:08:50 AM	**Auth:** Michael Goo

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification

Document EPA-202 is a chain of six email messages, orginating with the White House Council on Environmental Quality and transmitted to Michael Goo, Assistant Administrator for EPA's Office of Policy and Bob Perciasepe, Deputy Adminstrator, and contains discussion of a meeting request regarding a rulemaking known by the term "316(b)". The message was then sent by Bob Perciasepe to Bob Sussman, Senior Policy Coucil for the Adminstrator and Scott Fulton, General Counsel, copying Diane Thompson, Chief of Staff in the Office of the Administrator. The email chain requests the advice of legal counsel and contains a discussion among EPA senior leadership about legal and policy issues raised by the rulemaking and opinion and analysis of the rulemaking and the request, including legal analysis of potential legal results of policy decisions.

The withheld information consisting of internal communications between Agency staff and Agency counsel is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the 316(b) rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of

legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

In addition, the records reflect discussions among EPA and the White House. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an intra-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

Portions of this document contain official email addresses belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

There is no reasonably segregable information contained in EPA-202 to release. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations and confidential legal advice. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative and privileged discussion concerning this document.

EPA-203	**Subj:** Administrator Meeting quick notes	04/02/2012 04:02:00 PM	**Auth:** Louise Wise

Recipients

Jim Jones/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Angela Hofmann/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; Michael OReilly/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-203 is an electronic mail communication from Louise Wise, Principal Deputy Assistant Adminstrator for the Office of Chemical Safety and Pollution Prevention to other EPA employees in the Office of Chemical Safety and Pollution Prevention. This email communication contains her notes of the issues discussed, including proposed policy decisions that were not yet final or approved by the Agency and that were not the final position of the Agency. The email communication

summarizes and describes ongoing EPA activites for EPA's management to consider as a result of a meeting between EPA senior management and EPA staff. The email communication was compiled and distributed to inform EPA managers and to provide staff analysis, opinion, and feedback on rules and actions under development in the Agency. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating official policy decisions and official Agency response to outside concerns and inquiries regarding EPA policy decisions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA in responding to public inquiry. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. Any factual information in this email communication is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-204	**Subj:** Re: Comm Strat Message for Final Part 158W Rule (Antimicrobials)	04/24/2012 07:36:02 AM	**Auth:** Sherry Sterling

Recipients
Carlton Kempter/DC/USEPA/US@EPA; Carlton Kempter/DC/USEPA/US

Attachments
AD.158W Rule.011.Comm Strat.12-21-11 clean draft.docx
AD.158W Rule.014.OPP Update.12-22-11 AD draft.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-204 is a conversation between Carlton Kempter, Senior Advisor in the Anti-Microbials Division of the Office of Pesticide Programs, to Sherry Sterling, a senior advisor in the immediate office of the Office of Chemical Safety and Pesticides Programs. The initiating email transmitted two draft documents -- a five page draft "Communication Strategy" document and a one page draft communications piece related to a rulemaking known as the "158W Rule." The documents are from a subordinate to a superior, and the transmitting email requests feedback, analysis, and comments, which are provided in the response communication. These documents are predecisional, internal review drafts for review and strategy purposes, and relate to EPA's strategy for communicating a decision to various stakeholders, including outside parties. These documents memorialize proposed communications with outside parties, but were not themselves shared with any outside parties.

The withheld information in the email communication and in the two attachments is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's communications strategy, public policy, and outreach regarding a proposed rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public stance on issues and public positions. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to this petition. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

EPA-205	**Subj:** Re: NPDES rule	04/27/2012 02:45:18 PM	**Auth:** Lisa Lund

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; John Dombrowski/DC/USEPA/US@EPA; Steven

Attachments

Chester/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-205 is an email string consisting of two email messages memorializing communications between Cynthia Giles, Associate Administrator for EPA's Office of Enforcement and Compliance Assurance and Lisa Lund in the EPA's Office of Enforcement and Compliance Assurance, copying other EPA employees in the Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a decision on how to move forward with a rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on a potential policy or agency action. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy and approaches to policymaking.

Document EPA-80, which was released with redactions, contains some very minor segregable information from this chain of communication such as signature block information and greetings. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-206	**Subj:** Fw: OSCPP Hot Issues Tracker	05/14/2012 01:56:38 PM	**Auth:** Jim Jones

Recipients
"Wendy Cleland-Hamnett" <Cleland-Hamnett.Wendy@epamail.epa.gov>; "Louise Wise" <Wise.Louise@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-206 is an email chain of five emails memorializing communications between EPA personnel including EPA Administrator Lisa Jackson, Robert Sussman, Senior Policy Counsel to the Administrator, and Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) The first e-mail is from Jim Jones, Acting Assistant Administrator in OCSPP EPA staff forwarding a "Hot issues" tracker. The tracker is not attached to this email chain.

The information redacted from this document contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-207	**Subj:** Re: OSCPP Hot Issues Tracker	05/16/2012 07:57:40 AM	**Auth:** Jim Jones

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-207 is an email chain of memorializing communications between EPA personnel including Robert Sussman, Senior Policy Counsel to the Administrator, and Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) The first e-mail is from Jim Jones, Acting Assistant Administrator in OCSPP EPA staff forwarding a "Hot issues" tracker. The tracker is not attached to this email chain.

The information redacted from this document contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document...

EPA-208	**Subj:** Re: OSCPP Hot Issues Tracker	05/16/2012 01:07:45 PM	**Auth:** Jim Jones

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-208 is an email chain of seven emails memorializing communications between EPA personnel including Robert Sussman, Senior Policy Counsel to the Administrator, and Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP), copying EPA staff in OCSPP. The first e-mail is from Jim Jones, Acting Assistant Administrator in OCSPP EPA staff forwarding a "Hot issues" tracker. The tracker is not attached to this email chain.

The information redacted from this document contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to

speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

Some non-substantive information (such as signature block information) was relased in EPA-92. EPA-92 contained this discussion in redacted form as an earlier part of an email chain, with a later, administrative discussion between staff segregated and released.

EPA-209	**Subj:** Re: Fw: boilers and NHSM	05/22/2012 11:07:33 AM	**Auth:** Matt Straus

Recipients

Lisa Feldt/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-209 is an email chain from an EPA employee, Matt Straus, in the Office of Solid Waste and Emergency Response (OSWER) to Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Respons, copying Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for the development of Agency policy and strategy regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official actions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-210	**Subj:** BNA Question on Nanopesticide Regulation	05/23/2012 05:26:03 PM	**Auth:** Douglas Parsons

Recipients

"Jim Jones" <Jones.Jim@epamail.epa.gov>; "Sherry Sterling" <Sterling.Sherry@epamail.epa.gov>; "Steve Nako" <Nako.Steve@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-210 is the originating email that is contained within EPA-100. This information is a query from Douglas Parsons in EPA OSCPP to Jim Jones, Acting Assistant Administrator, EPA OCSPP, containing proposed langauge to be used to respond to a question from a media inquiry from Bloomberg BNA.

The withheld language in the e-mails contains predecional and deliberative information related to nanopesticide regulation. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in responding to a reporter. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's positions and public responses. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff with the partial release of EPA-100. There is no futher reasonably segregable information to be released from this record. To the extent any of thewithheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion in this document.

EPA-211	**Subj:** Re: boilers and NHSM	05/24/2012 02:40:33 PM	**Auth:** Arvin Ganesan

Recipients
Lisa Feldt/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; "Gina McCarthy" <mccarthy.gina@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-211, related to EPA-209 is an email chain from Arvin Ganesan, Associate Administrator for Congressional and Intergovernmental Relations, Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Respons, copying Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, Bob Sussman, Senior Policy Council to the Administrator, and Gina McCarthy, Associate Administrator for the Office of Air and Radiation. The email chain discusses EPA policy and decisionmaking regarding the NHSM rule and requests information for the development of Agency policy and strategy regarding this rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official actions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is not reasonably segregable from the deliberative content.

EPA-212	**Subj:** Re: Npdes rule	05/26/2012 01:17:47 PM	**Auth:** Al McGartland

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; "Michael Goo" <Goo.Michael@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-212 is an email chain of four emails memorializing communications between Micheal Goo, Associate Administrator for the Office of Policy, Al McGartland, Director of the National Center for Environmental Economics, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule, including EPA's public response to a news story related to this rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-213	**Subj:** OST reponse Re: By Noon Wednesday (5/30): Updates needed for June 6 ECOS meeting	05/30/2012 01:28:13 PM	**Auth:** Elizabeth Skane

Recipients

Gregory Peck/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA

Attachments

316b proposal.ECOS update.May 30 2012.ppt
Dental Amalgam Talking Points for ECOS 05.30.12jm.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-213 is a email string consisting of two emails and two attachments, with the originating email having been sent by Gregory Peck, Chief of Staff in EPA's Office of Water, and response email from Elizabeth Skane, Acting Special Assistant in the Office of Science and Technology in the Office of Water that included two attachments. The attachments (one set of power point slides and one word document) are background briefing documents on two Agency proposed rules, known as "316(b)" and "dental amalgam" that were used to prepare for a meeting with leaders from the Environmental Council of the States ("ECOS"). Ms. Skane's email was sent to Gregory Peck, Chief of Staff within the Office of Water, and several other OWM employees. The attached two briefing documents and the trasmitting emails containing substantive comments, staff opinion, recommendations and policy updates were withheld in full.

The briefing documents and the email text discuss topics and assignments to be discussed during the ECOS meeting. The attachments and withheld email text are protected under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflects the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to two Office of Water proposed rules. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

There is no reasonably segregable information in this exchange that could be released. To the extent that the email communication and attachments contain factual information, that factual information is inextricably intertwined with the deliberative content and cannot be released without disclosing protected deliberations not subject to disclosure.

EPA-214	**Subj:** Re: OST reponse Re: By Noon Wednesday (5/30): Updates needed for June 6 ECOS meeting	05/30/2012 01:29:46 PM	**Auth:** Gregory Peck

Recipients
Elizabeth Skane/DC/USEPA/US@EPA; Elizabeth Skane/DC/USEPA/US; Matthew Klasen/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-214 is a response to EPA-213 from Gregory Peck to Elizabeth Skane. EPA-214 is a email string consisting of three emails and two attachments, with the originating email having been sent by Gregory Peck, Chief of Staff in EPA's Office of Water, and response email from Elizabeth Skane, Acting Special Assistant in the Office of Science and Technology in the Office of Water that included two attachments. The attachments (one set of power point slides and one word document) are background briefing documents on two Agency proposed rules, known as "316(b)" and "dental amalgam" that were used to prepare for a meeting with leaders from the Environmental Council of the States ("ECOS"). Ms. Skane's email was sent to Gregory Peck, Chief of Staff within the Office of Water, and several other OWM employees. The attached two briefing documents and the trasmitting emails containing substantive comments, staff opinion, recommendations and policy updates were withheld in full.

The briefing documents and the email text discuss topics and assignments to be discussed during the ECOS meeting. The attachments and withheld email text are protected under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflects the analyses, advice, and recommendations of staff to managers, developed to assist EPA policy in regard to two Office of Water proposed rules. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

There is no reasonably segregable information in this exchange that could be released. To the extent that the email communication and attachments contain factual information, that factual information is inextricably intertwined with the deliberative content and cannot be released without disclosing protected deliberations not subject to disclosure.

EPA-215	**Subj:** Re: summary messages for ECOS meeting Wed	06/04/2012 06:05:21 PM	**Auth:** Linda Huffman

Recipients
Lisa Lund/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA; giles-AA.cynthia@epa.gov; Shelly Dawson/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA; Sue Gilbertson/DC/USEPA/US@EPA

Attachments
Main Messages for ECOS Meeting 6 6 12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-215 is a chain of two emails transmitting a two-page Word document containing draft talking points, briefing information, and suggested

discussion information for a presentation to the Executive Council of the States (ECOS). The document is titled "Main Messages". The draft talking points and internal briefing information have been withheld in their entirety. The email transmitting the talking points document and the response to the email have been segregated from the deliberative attachment and released to Plaintiff.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal briefing document for use by Agency managers which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments of staff, including advice for managers as to the recommended policy stance of EPA. The withheld information does not represent an official Agency decision or policy and instead reflects the product of a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches, including approaches to public communcations and public policy announcements. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on an issue or rule.

All of Document EPA-215, except for the draft talking points, has been released. Any factual information contained in the withheld document is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-216	**Subj:** Fw: ISRI Background	06/08/2012 10:33:09 AM	**Auth:** Sherry Sterling

Recipients
wise.louise@epa.gov

Attachments
Development of a Recycled PCBs Use Authorization_5.23.2012_OD Review 2.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-216 (related to Documents EPA-116, EPA-117, EPA-118, EPA-217, and EPA-218) is a transmission of the document described in EPA-116 from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Jim Jones, Acting Assistant Administrator in OCSPP. The email is transmitting a two page Word document that contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. The cover email in EPA-216 does not contain any deliberative content, and therefore was segregated and released to Plaintiff. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the document is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made.

These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

EPA-217	**Subj:** Re: Fw: ISRI Background -- NEW INFO	06/08/2012 11:37:51 AM	**Auth:** Louise Wise

Recipients
Sherry Sterling/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA

Attachments
Development of a Recycled PCBs Use Authorization_5.23.2012_OD Review 2.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-217 (related to Documents EPA-116, EPA-117, EPA-118, and EPA-218) is a transmission of the document described in EPA-116 from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Jim Jones, Acting Assistant Administrator in OCSPP. The email is transmitting a two page Word document that contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. This email chain contains comments and revisions on the options paper, including input and revisions from EPA's Office of General Counsel regarding legal implications of different regulatory and policy options. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the document and in the email communication is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject. There is no reasonably segregable information that can be released to Plaintiff. Any factual information in this email communication is inextricably intertwined with the deliberative content.

EPA-218	**Subj:** Fw: Revised ISRI paper	06/08/2012 03:24:32 PM	**Auth:** Louise Wise

Recipients
Jim Jones/DC/USEPA/US@EPA

Attachments
Recycled PCBs in ASR Plastic_06-08-12.OPPT.OGC.DAA.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-218 (related to Documents EPA-116, EPA-117, and EPA-110) is a transmission of the document described in EPA-116 from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Jim Jones, Acting Assistant Administrator in OCSPP. The email is transmitting a cut and pasted version of the a two page document described in EPA-116 for ease of reading on a Blackberry. The email is withheld in full because the text of the email is the same as the document that was withheld in full as an attachment to EPA-116, EPA-117, and EPA-118. The withheld document contains staff analysis and attorney analysis of options and issues regarding potential agency actions related to PCBs. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information in the transmitted document is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to a potential rulemaking or other EPA action. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking and non-rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regarding PCBs, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information in the document and in the email communication is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

EPA-219	**Subj:** Fw: NHSM One-pager	06/08/2012 04:23:19 PM	**Auth:** Ellyn Fine

Recipients
Lisa Feldt/DC/USEPA/US@EPA

Attachments
summary of final rule changes 6-5-12.docx
summary of final rule changes attachment 6-5-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-219 is an email exhange between staff in EPA's Office of Solid Waste and Emergency Response (OSWER) that includes two Microsoft Word document attachments that are named "summary of final rule changes" and that are intended as internal briefing documents on changes made to the NHSM rule.

The withheld communications and attachments contain predecisional and deliberative communications related to future proposed actions in OSWER. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities and to inform managers of the internal opinions, analysis, and advice of their staff with regard to this rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

This document contains no reasonably segregable factual information. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-220	**Subj:** Fw: CDR Issue	06/11/2012 12:44:40 PM	**Auth:** Jim Jones

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-220 is a chain of two emails that originates with an email communication from Jim Jones, Assistant Administrator in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) to Administrator Lisa Jackson and Bob Sussman, Senior Policy Counsel for the Administrator, containing analysis, recommendations, and advice regarding Chemical Data Reporting compliance deadlines. The email communication was then sent by Mr. Jones to Arvin Ganesan, Associate Administrator for Congressional and Intergovernmental Relations, with additional analysis, recommendations, and advice for senior policymaking officials to make a policy decision regarding CDR compliance deadlines. The withheld information qualifies for protection under the deliberative process privilege of Exemption 5 because it is an intra-agency communication that relates to pre-decisional considerations concerning the formulation of agency policy related to CDR compliance. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to policy decisions, and could chill the ability of superiors to receive and consider advice when coming to policy decisions. Finally, release could cause public confusion by presenting reasons and rationales for policy actions that were not in fact the agency's final reasons or policies.

This communication contains no reasonably segregable factual information that can be released. To the extent that there is factual information contained in this communication, that factual information is inextricably intertwined with the deliberative content.

EPA-221	**Subj:** QA on CDR	06/11/2012 01:15:36 PM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA

Attachments
Rollout.CDR.6.11.2.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-221 is an electronic transmission of a draft Word document as an attachment from Douglas Parsons, an employee in EPA's Office of Pollution Prevention and Toxics to Jim Jones, Acting Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, Louise Wise, Deputy Assistant Adminstrator for OCSPP, and Sherry Sterling, a senior manager in OCSPP. The electronic transmission contains a request for comments and suggestions on the draft "Q & A" document as well as a draft response to a potential question on EPA's Chemical Data Reporting action. The attached document contains internal briefing material, including proposed timelines, advice, and staff analysis of potential Agency actions and positions with regard to CDR reporting. These documents were developed internally by OCSPP staff to inform Agency decisionmakers and assist them in reaching final policy decisions. These documents were characterized as drafts in the transmitting communication and were not shared outside EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the development of EPA's official response to potential public inquiry on a proposed action. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency, including drafts of official communications that are not yet final. Release would have a chilling effect on the Agency's ability to have open and frank discussions regarding the Agency's policy activities, including the Agency's official responses to inquiries and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policies and responses to inquiries regarding those policies Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final response to public comments.

Any factual information contained in the draft document and in the email communication string is inextricably intertwined with the deliberative content, including the selection of factual information for presentation in EPA's final response, and is not reasonably segregable.

EPA-222	**Subj:** Re: FYI: Congressional Meeting with DEP re: FNNC	06/12/2012 11:15:45 AM	**Auth:** Ellen Gilinsky

Recipients

Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-222 is an email chain consisting of six emails that represent a communication between EPA employees (staff and managers) in EPA's Office of Water and EPA Region 4 related to the formulation of EPA's official response to Congress regarding a numeric criteria rule for Florida. The email chain includes a summary of notes that include EPA staff opinion and analysis from a meeting with the Florida Congressional delegation on the criteria rule. The email communication originates with Allison Rainey Wise, Director, Congressional and Intergovernmental Relations, EPA Region 4, and incorporates communications with managers and staff in EPA's Office of Water and EPA's Region 4 Office related to the Congressional briefing, potential follow-up activities from the briefing, and discussing policy options and decisions to address issues raised by the Congressional briefing.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating EPA's public policy related to Florida DEP and the Florida Congressional delegation on the criteria rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking and that were not part of the EPA's official response.

There is no reasonably segregable factual information contained in this communication. To the extent that this email communication contains factual information, that factual information is inextricably intertwined with the deliberative content and discussion, including the presentation of information and analysis of information. Segregation of this information would not be possible without the release of protected deliberative content.

EPA-223	**Subj:** Re: OCSPP Six-Month Policy Calendar - please send me your changes by 3 pm Tomorrow (6/12)	06/12/2012 02:22:17 PM	**Auth:** Angela Hofmann

Recipients
Steve Nako/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA

Attachments
2012-06-12afh_ocspp_six_month.calendar.2012-06-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-223 is an e-mail from Angela Hofmann, Director of Regulatory Coordination in EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff that contains her comments and analysis of an attached 15-page version of the OCSPP Policy Calendar. The version of the policy calendar withheld in EPA-223 contains substantial edits and changes in track changes with comments and analysis. The cover email to EPA-223 also contains substantive suggestions, changes, revisions, and analysis of the Policy Calendar, and was therefore withheld under Exemption 5's deliberative process privilbe. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

The email communication is also withheld in full because it contains internal discussion of the substantive changes to the Policy Calendar. This communication contains internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of this email would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document. Therefore there is no reasonably segregable factual information in this document.

EPA-224	**Subj:** Re: SAC QFRs LAN 001-002, LEA 002	06/20/2012 11:34:26 AM	**Auth:** Sherry Sterling

Recipients

Attachments

Sherry Sterling/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US

QFR LEA 002 Sterling 3.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-224 is related to EPA-130 and EPA-131, and is a portion of a long chain of e-mails transmitting and providing comments on attached QFRs (Questions for the Record) prepared by Agency staff for Congressional testimony. In EPA-224, the third draft version of the QFRs have been withheld in full. This document was not shared with any outside parties. The cover email in EPA-224 was mostly released, with two lines withheld that contained substantive comments from EPA managment to EPA staff about suggested revisions to the draft QFR responses.

The withheld information in the draft QFR document and in the suggestions for revision contains predecisional and deliberative information related to proposed responses to Congress. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by Senator Leahy to EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of Congressional testimony and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA's responses to Congress.

All segregable material in this document has been released to the Plaintiff. To the extent that the withheld drafts of the QFRs contain factual information, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-227	**Subj:** Re: Draft WH Entry on Formaldehyde	06/26/2012 09:21:31 AM	**Auth:** Douglas Parsons

Recipients

Sherry Sterling/DC/USEPA/US@EPA; "Kate Graf" <Graf.Kate@epamail.epa.gov>; "Niva Kramek" <Kramek.Niva@epamail.epa.gov>

Attachments

Report to Congress on Formaldehyde in Composite Wood Products.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-227 consists of three email transmissions between Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) and other employees in OCSPP that contains a one page attachment (the text of which is also copied into the body of an email) of a draft of a "Report to Congress" on formaldehyde in composite wood products and comments and analysis of that draft. The withheld information includes the draft report as both the body of an email and as an attachment, comments and revisions to the draft, and an update of the draft for internal management review. This draft information was not shared with any parties outside EPA.

The withheld information in the draft Report to Congress and in the comments on the draft is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of the Agency's official policy response to Congress. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of the Agency's public responses and may harm the Agency's decisionmaking by chilling the open discussion of issues and

approaches when formulating the Agency's proposed responses to Congress. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

The withheld documents and communications do not contain any reasonably segregable factual information subject to release. Any factual information contained therein is inextricably intertwined with the deliberative discussion and recommendation as part of the draft report.

EPA-228	**Subj:** Re: Draft WH Entry on Formaldehyde	06/26/2012 10:26:29 AM	**Auth:** Sherry Sterling

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US

Attachments
Report to Congress on Formaldehyde in Composite Wood Products.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-228 is a continuation of the email chain in EPA-227, containing a response from Sherry Sterling to Douglas Parsons regarding the draft Report to Congress on formaldehyde in composite wood products. EPA-228 consists of four email transmissions between Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) and other employees in OCSPP that contains a one page attachment (the text of which is also copied into the body of an email) of a draft of a "Report to Congress" on formaldehyde in composite wood products and comments and analysis of that draft. The withheld information includes the draft report as both the body of an email and as an attachment, comments and revisions to the draft, and an update of the draft for internal management review. This draft information was not shared with any parties outside EPA.

The withheld information in the draft Report to Congress and in the comments on the draft is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of the Agency's official policy response to Congress. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of the Agency's public responses and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed responses to Congress. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

The withheld documents and communications do not contain any reasonably segregable factual information subject to release. Any factual information contained therein is inextricably intertwined with the deliberative discussion and recommendation as part of the draft report.

EPA-229	**Subj:** Re: Draft C.diff Fact sheet	06/27/2012 06:24:47 PM	**Auth:** Joan Harrigan-Farrelly

Recipients
Sherry Sterling/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Emily Mitchell/DC/USEPA/US@EPA; Tajah Blackburn/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; Jennifer Mclain/DC/USEPA/US@EPA; Claire Gesalman/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Jack Housenger/DC/USEPA/US@EPA; Susan Lewis/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA

Attachments
AD.C. difficile Fact Sheet for Jim Jones.003.EMitchell.draft.6-27-12.Jhf.docx
AD.C. difficile USA Today Questions.004.Answers.Combined draft.6-27-12.clean.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-229 is an email chain and two attachments containing information from Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) and other employees in OCSPP that was then sent to senior managers in OCSPP containing internal briefing information and draft public responses on a rulemaking known as the "158W Rule." EPA-229 consists of three email transmissions, the final email of which contains two documents: a Word Document consisting of a draft of answers to a USA today reporter on the rulemaking and a "Fact Sheet" that consists of internal briefing information compiled and provided by OSCPP staff to OSCPP management to give background information and context on the work that had been done so far on the rule. This information is predecisional because it was used to provide staff advice, analysis, and suggestions on eventual Agency policy decisions with regard to this rulemaking, including policy decisions on official statements and public outreach. The email communications provide internal EPA comments and suggestions on improvements to the draft attachments. This draft information was not shared with any parties outside EPA.

The withheld information in the draft answer to the reporter, in the draft "fact sheet" and in the comments on the draft materials is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of the Agency's official policy responses. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of the Agency's public responses and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed responses to Congress. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

The withheld documents and communications do not contain any reasonably segregable factual information subject to release. Any factual information contained therein, including the selection of factual information for presentation, is inextricably intertwined with the deliberative discussion and recommendation as part of the draft documents and is not subject to release.

EPA-231	**Subj:** Fw: China	07/12/2012 01:01:52 PM	**Auth:** Louise Wise

Recipients

Jim Jones/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-231 (related to EPA-232 and EPA-233) is a string of email communications between Louise Wise, Deputy Assistant Administrator in OSCPP, Jim Jones, Acting Assistant Administrator, EPA OCSPP, and Michael Stahl in EPA's Office of International and Tribal Affairs. The email discussion relates to industry concerns regarding EPA's chemical rules that are promulgated under TSCA and Chinese manufacturing. The email communication contains internal questions, analysis, and policy discussions that do not represent a final policy decision by the EPA or the United States government.

The withheld e-mails contain predecisional and deliberative information related to potential international outreach and potential, but not final, regulation. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of EPA employees, developed to assist in formulating Agency policy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staffand may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's positions. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

To the extent that the withheld communications contain facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion that is contained in this document.

EPA-232	**Subj:** Fw: China	07/12/2012 01:03:02 PM	**Auth:** Louise Wise

Recipients
Sherry Sterling/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-232 (related to EPA-231 and EPA-233) is a string of email communications between Louise Wise, Deputy Assistant Administrator in OSCPP, Jim Jones, Acting Assistant Administrator, EPA OCSPP, other EPA employees in OCSPP, and Michael Stahl in EPA's Office of International and Tribal Affairs. The email discussion relates to industry concerns regarding EPA's chemical rules that are promulgated under TSCA and Chinese manufacturing. The email communication contains internal questions, analysis, and policy discussions that do not represent a final policy decision by the EPA or the United States government.

The withheld e-mails contain predecisional and deliberative information related to potential international outreach and potential, but not final, regulation. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of EPA employees, developed to assist in formulating Agency policy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staffand may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's positions. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

To the extent that the withheld communications contain facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion that is contained in this document.

EPA-233	**Subj:** Re: China	07/12/2012 06:21:42 PM	**Auth:** Jim Jones

Recipients
Louise Wise/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-233 (related to EPA-231 and EPA-232) is a string of email communications between Louise Wise, Deputy Assistant Administrator in OSCPP, Jim Jones, Acting Assistant Administrator, EPA OCSPP, other EPA employees in OCSPP, and Michael Stahl in EPA's Office of International and Tribal Affairs. The email discussion relates to industry concerns regarding EPA's chemical rules that are promulgated under TSCA and Chinese manufacturing. The email communication contains internal questions, analysis, and policy discussions that do not represent a final policy decision by the EPA or the United States government.

The withheld e-mails contain predecisional and deliberative information related to potential international outreach and potential, but not final, regulation. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of EPA employees, developed to assist in formulating Agency policy. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staffand may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's positions. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed

course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

To the extent that the withheld communications contain facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion that is contained in this document.

EPA-234	**Subj:** Talking points for Fl delegation meeting on July 23	07/19/2012 11:29:43 AM	**Auth:** Elizabeth Southerland

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Evelyn Washington/DC/USEPA/US@EPA; Elizabeth Skane/DC/USEPA/US@EPA; Kendra Forde/DC/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA

Attachments
Talking Points for Fla Cong Delegation_7.18.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-234 is an email chain consisting of an email communication transmitting a "talking points" document that was prepared by EPA employees in EPA's Office of Water and EPA Region 4 related to the formulation of EPA's official response to Congress regarding a numeric criteria rule for Florida. The email transmits an internal briefing "talking points" document that includes EPA staff opinion and analysis to prepare policymakers for a meeting with the Florida Congressional delegation on the criteria rule. This information was developed for EPA's internal preparation and was not shared or distributed outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating EPA's public policy related to Florida DEP and the Florida Congressional delegation on the criteria rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking and that were not part of the EPA's official response.

There is no reasonably segregable factual information contained in this communication. To the extent that this email communication contains factual information, that factual information is inextricably intertwined with the deliberative content and discussion, including the presentation of information and analysis of information. Segregation of this information would not be possible without the release of protected deliberative content.

EPA-235	**Subj:** Status Update	07/19/2012 03:45:39 PM	**Auth:** Matt Straus

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Shawna Bergman/DC/USEPA/US@EPA; Ellyn Fine/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification

Document EPA-235 is an email from Matt Straus, an EPA employee in the Office of Solid Waste and Emergency Response to Mathy Stanislaus, Assistant Administrator of the Office of Solid Waste and Emergency Response, Barry Breen, Principal Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response, and Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER), as well as other Agency personnel in OSWER. This email communication contains a briefing and status update as to the status of various rules, discussions, and actions that were currently under development within OSWER, including staff analysis and policy recommendations regarding further suggested actions in the rulemaking process.

The information withheld in this document contains predecional and deliberative communications related to future proposed actions in OSWER. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities . It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

There is no reasonably segregable information in this communication. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

Portions of this document also contain personal medical information, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual whose medical information is recorded has a significant personal privacy interest in the information. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains medical information belonging to a particular individual. Public disclosure of this information would not shed light on the performance of the employee's official duties. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure. The release of the remaining information would reveal personal privacy information not subject to disclosure.

EPA-236	**Subj:** Re: ELG Option selection and its interface with CCR	07/25/2012 10:07:25 PM	**Auth:** Michael Goo

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-236 falls within EPA-558. See the entry for EPA-558.

EPA-237	**Subj:** Re: ELG Option selection and its	07/26/2012 08:46:48 AM	**Auth:** Michael Goo

	interface with CCR		

Recipients

Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification

Document EPA-237 is a continuation of the discussion in EPA-236, and continues the chain of email messages, orginating with Mathy Stanislaus, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response (OSWER) and transmitted to Michael Goo, Assistant Administrator for EPA's Office of Policy and Bob Perciasepe, Deputy Adminstrator, and contains discussion of high level policy options for a rulemaking known as the "CCR Rule". The email exchange contains discussion between Administrator Lisa Jackson, Deputy Administrator Bob Perciasepe, Senior Policy Counsel for the Administrator Bob Sussman and General Counsel Scott Fulton, related to the legal and policy implications of various policy and rulemaking options with regard to the CCR rule. The email chain contains EPA senior management requesting and receiving the advice of legal counsel and contains a discussion among EPA senior leadership about legal and policy issues raised by the rulemaking and opinion and analysis of the rulemaking, including legal analysis of potential legal results of policy decisions.

The withheld information consisting of internal communications between Agency staff and Agency counsel is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

In addition, the records reflect discussions among senior EPA managers about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an intra-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

Portions of this document also contain personal information about an individual's vacation, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual whose vacation information is recorded has a significant personal privacy interest in the information. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains vacation information belonging to a particular individual. Public disclosure of this information would not shed light on the performance of the employee's official duties. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure. All segregable material has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-238	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 10:56:28 AM	**Auth:** Bob Sussman

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-238 (related to EPA-169 and EPA-239) is an email chain of four emails memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A very small amount of non-substantive information, including email subject lines and signature blocks from this exchange, was released in EPA-169. The remaining information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-239	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 04:09:43 PM	**Auth:** Bob Sussman

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-239 (related to EPA-169 and EPA-238) is an email chain of six emails memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A very small amount of non-substantive information, including email subject lines and signature blocks from this exchange, was released in EPA-169. The remaining information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-240	**Subj:** BPIA response - to be signed Friday by Jim	08/02/2012 04:56:43 PM	**Auth:** Niva Kramek

Recipients

Sherry Sterling/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Louise Washington-Mayronne/DC/USEPA/US@EPA

Attachments

BPIA Draft Response to ltr dtd 7-16-12 ds 7 31-ngk updated.docx
Routing and Transmittal Slip, OPP to OCSPP, April 30 2012.dotx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-240 consists of an email transmission from Niva Kramek, Special Assistant in the Office of Chemical Safety and Pollution Prevention (OCSPP) to Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) and other employees in OCSPP transmitting a draft of a letter to the Biopesticide Industry Alliance (BPIA) regarding potential pesticide regulatory and policy actions. The withheld information also includes a "routing slip" provided for Agency management to comment and/or sign off on draft letters. The transmitting email contains the comments and analysis of Niva Kramek of the letter and the discussion of the internal procedures required for the letter to be approved by Agency management.

The withheld information in this draft letter and in the transmitting communication is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of official correspondence from the Agency to outside parties. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on stances and issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of the Agency's public responses and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action and the public representations of those courses of action.

This communication and attachment do not contain any reasonably segregable factual information. Any factual information contained therein is inextricably

intertwined with the deliberative discussion and draft letter and cannot be reasonably segregated.

EPA-241	**Subj:** Fw: lead hazard standards	08/03/2012 10:45:59 AM	**Auth:** Louise Wise

Recipients
"Jim Jones" <Jones.Jim@epamail.epa.gov>

Attachments
AA memo_Lead Haz Std_NPRM_Early Guidance_SIGNED2011-10-12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-241 is an electronic transmission of an internal "early guidance memo" and a draft internal write-up of a proposed agency "action development" process for the consideration of a rulemaking related to lead standards. This transmission originated from Peter Smith, Regulatory Coordination Staff for EPA's Office of Chemical Safety and Pollution Prevention (OCSPP), and was sent from Mr. Smith to Louise Wise, Deputy Assistant Administrator for OCSPP, who then forwarded the message further to Jim Jones, Acting Assistant Administrator for OSCSPP, with a substantive comment on the proposed Action Development plan. This electronic transmission is a package of draft documents to be reviewed prior to the formation of a workgroup to explore rulemaking options. The attached document is a four page "early guidance Memorandum" initiating the workgroup and the regulatory development process. The transmittal communication and the attachment have both been marked as "draft, deliberative."

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal predecisional briefing document which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the rulemaking process and the development of EPA's response to comments on proposed EPA standards on lead. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's response to comments on a proposed standard. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government's final decision.

There is no reasonably segregable information that can be provided to Plaintiff. To the extent that the transmission contains factual information, this information is inextricably intertwined with the deliberative discussion concerning this document. Release of the information within this document would disclose the protected deliberative information regarding the Agency's rulemaking process contained in the document.

EPA-242	**Subj:** ISRI Materials	08/13/2012 05:20:21 PM	**Auth:** Louise Wise

Recipients
Bob Sussman/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
ATTD023T.docx
ATTA6VWM.pdf
ISRI Proposal of 08-03-12_Summary of EPA Changes_08-10-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-242 is the originating email transmitting three documents (one of which was released) from Louise Wise, Principal Deputy Assistant Administrator in OCSPP to Bob Sussman, Senior Policy Counsel for the Adminstrator, that was described in EPA-174.

The email is transmitting two Word documents that were developed internally by OCSPP and that contain staff analysis options and issues regarding potential agency actions related to PCBs, including potential responses to a document sent by ISRI, an outside party. This email chain contains comments and revisions on the transmitted papers. The transmitted document was intended to brief senior management and to be used to inform agency decisions regarding PCB regulation and discussions with outside parties related to the Agency's potential approaches to PCBs. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA. The attached communication from a third party that was transmitted as part of this document was segregated and released to Plaintiff.

The withheld information in the 2 withheld documents and in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation and internal briefing and analysis documents which reflect the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this subject.

Any reasonably segregable information from this email communication, including non-substantive information and communications from third parties, has been released to Plaintiff. Attachment 3 (ISRI's proposal) was released with EPA-174. The other two attachments have been withheld. Entire communication withheld and was redacted from EPA-174, with a follow-up from Mr. Sussman released in EPA-174. There is no further reasonably segregable information that can be released to Plaintiff. Any factual information in the withheld attachments is inextricably intertwined with the deliberative content and is not reasonably segregable.

EPA-244	**Subj:** Re: FL NNC: Revised response to Secretary Vinyard Letter	08/16/2012 12:47:36 PM	**Auth:** Joanne Benante

Recipients
Ellen Gilinsky/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US; Donald Maddox/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; MichaelE Scozzafava/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA

Attachments
61 day response letter short version 8_16_2012 at 1245 pm.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-244 is an email chain consisting of five emails and one attached Microsoft Word Document (1 page) that represent a communication between EPA employees (staff and managers) in EPA's Office of Water and EPA Region 4 related to the formulation of EPA's official response to the Florida Department of the Environment (FDEP) regarding information sent by FDEP related to a numeric criteria rule for Florida. The email communication originates with Jim Giattana, Director, Water Management Division, EPA Region 4, and incorporates communications with clients in EPA's Office of Water and EPA's Region 4 Office related to the drafting of the official response letter and EPA's rulemaking. The attachment consists of a draft letter with suggested edits in "redline-strikeout." The draft letter was attached to the communication for review and discussion among the Agency staff and managers in the email chain. The email chain contains opinion, comments, and advice on the draft letter.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in formulating a public response to Florida DEP on the criteria rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not

represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking and that were not part of the EPA's official response.

EPA-245	**Subj:** Feedback from OMB on Electronic Reporting Rule	08/16/2012 07:23:19 PM	**Auth:** Bob Sussman

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-245 is an email memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-246	**Subj:** Re: Feedback from OMB on Electronic Reporting Rule	08/17/2012 06:19:43 AM	**Auth:** Bob Sussman

Recipients
Steven Chester/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-246 contains two responses to EPA-245, and is an email chain memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES

E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-247	**Subj:** Re: Fw: Doug - quick question	01/10/2012 04:24:46 PM	**Auth:** Jim Jones

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US; Louise Wise/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Teresa Green/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-247 contains email communications between EPA and Senate staff members and between EPA staff members to arrange a discussion on a proposed rulemaking.

A portion of this email contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

The only information withheld from EPA-247 is the conference information. All segregable material, which includes the remainder of the document and the communications from Senate staff members, has been released to Plaintiff. The release of the remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-248	**Subj:** Next Industry Stakeholder Coffee is Wed., January 18, 2012, 9:00 - 10:30 a.m.	01/17/2012 08:05:25 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis

Attachments
Industry Stakeholder_Jan 2012 Agenda.docx
Jan 18_Sustainability for OW.pptx

Loop/DC/USEPA/US@EPA; Ron Hoffer/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA

NRC Sust 4-pgr.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-248 transmits meeting information for a meeting with industry stakeholders. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-248. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-249	**Subj:** Fw: November 2011 "Monthly Briefing"	02/06/2012 06:05:55 PM	**Auth:** Martha Workman

Recipients

Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-249 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-249 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-250	**Subj:** RE: November 2011 "Monthly Briefing"	02/06/2012 06:09:02 PM	**Auth:** Martha Workman

Recipients

"Dan Keppen" (b)(6) [redacted] Gregory Peck/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-250 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-250 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-251	**Subj:** Re: November 2011 "Monthly Briefing"	02/06/2012 06:26:01 PM	**Auth:** Martha Workman

Recipients

Gregory Peck/DC/USEPA/US@EPA; "Matt Klasen" <klasen.matthew@epa.gov>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-251 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-251 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure..

EPA-252	**Subj:** Re: November 2011 "Monthly Briefing"	02/07/2012 04:04:08 PM	**Auth:** Martha Workman

Recipients

Gregory Peck/DC/USEPA/US@EPA; "Matt Klasen" <klasen.matthew@epa.gov>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-252 contains email communications between EPA and outside parties and between EPA staff members. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the Agency's official duties or statutory mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-252 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the

document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-253	**Subj:** Fw: Questions for the FFA Clean Water Act Panel	02/20/2012 03:53:54 PM	**Auth:** Nancy Stoner

Recipients
"Travis Loop" <Loop.Travis@epamail.epa.gov>; "Mahri Monson" <Monson.Mahri@epamail.epa.gov>; David Evans/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-253 contains email communications between EPA and outside parties. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-253 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure..

EPA-254	**Subj:** Re: Conf problems	02/23/2012 10:31:59 AM	**Auth:** Nancy Stoner

Recipients
"Dan Keppen" <d(b)(6)[redacted]>; "'Gary Sawyers'" <gsawyers@sawyerslaw.com>; "Ben Grumbles" <bgrumbles@cleanwateramericaalliance.org>; "'Tom Donnelly'" <tdonnelly@nwra.org>; "'Pat O'Toole'" (b)(6)[redacted]

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-254 contains email communications between EPA and outside parties. Portions of this document contain personal email addresses, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses have a significant personal privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these email addresses would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The only information withheld from EPA-254 is the personal email addresses of outside parties. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-255	**Subj:** Information Update - Description has changed: State Associations Meeting	02/27/2012 05:57:11 PM	**Auth:** Martha Workman

Recipients
adunn@acwa-us.org; Anthony Humphries/DC/USEPA/US@EPA; Benita Best-Wong/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA; edward.hallock@state.de.us; Ellen Gilinsky/DC/USEPA/US@EPA; Jamie_Crawford@deq.state.ms.us; Jeff Lape/CBP/USEPA/US@EPA; jill.jonas@wisconsin.gov; Jim Hanlon/DC/USEPA/US@EPA; joslee@pa.gov; jtaft@asdwa.org; Justin.Johnson@state.vt.us; Ken Kopocis/DC/USEPA/US@EPA; kevin.frederick@wyo.gov; lgarrigan@ecos.org; Louise Kitamura/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; MARKS@adeq.state.ar.us; Mike Shapiro/DC/USEPA/US@EPA; mike.baker@epa.state.oh.us; mpaque@gwpc.org; Phil Oshida/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; sarah.pillsbury@des.nh.gov; sbrown@ecos.org; Sonia Altieri/DC/USEPA/US@EPA; steve.gunderson@state.co.us; Tim Fontaine/DC/USEPA/US@EPA; wbaker@utah.gov; John Senn/DC/USEPA/US@EPA

Attachments
Feb 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-255 transmits meeting information for a meeting with state associations on environmental issues and rulemaking. Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-255. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure..

EPA-256	**Subj:** Confirmed: State Associations Meeting (Feb 29 01:00 PM EST in 3223 EPA East)	02/27/2012 06:03:49 PM	**Auth:** Martha Workman

Recipients
adunn@acwa-us.org; Anthony Humphries/DC/USEPA/US@EPA; Benita Best-Wong/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA; edward.hallock@state.de.us; Ellen Gilinsky/DC/USEPA/US@EPA; Jamie_Crawford@deq.state.ms.us; Jeff Lape/CBP/USEPA/US@EPA; jill.jonas@wisconsin.gov; Jim Hanlon/DC/USEPA/US@EPA; joslee@pa.gov; jtaft@asdwa.org; Justin.Johnson@state.vt.us; Ken Kopocis/DC/USEPA/US@EPA; kevin.frederick@wyo.gov; lgarrigan@ecos.org; Louise Kitamura/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; MARKS@adeq.state.ar.us; Mike Shapiro/DC/USEPA/US@EPA; mike.baker@epa.state.oh.us; mpaque@gwpc.org; Phil Oshida/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; sarah.pillsbury@des.nh.gov; sbrown@ecos.org; Sonia Altieri/DC/USEPA/US@EPA; steve.gunderson@state.co.us; Tim Fontaine/DC/USEPA/US@EPA; wbaker@utah.gov; John Senn/DC/USEPA/US@EPA

Attachments
Feb 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-256 transmits meeting information for a meeting with state associations on environmental issues and rulemaking. Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-256. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-257	**Subj:** Information Update - Location has changed: State Associations Meeting	02/29/2012 12:28:31 PM	**Auth:** Martha Workman

Recipients
adunn@acwa-us.org; Anthony Humphries/DC/USEPA/US@EPA; Benita Best-Wong/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA; edward.hallock@state.de.us; Ellen Gilinsky/DC/USEPA/US@EPA; Jamie_Crawford@deq.state.ms.us; Jeff Lape/CBP/USEPA/US@EPA; jill.jonas@wisconsin.gov; Jim Hanlon/DC/USEPA/US@EPA; joslee@pa.gov; jtaft@asdwa.org; Justin.Johnson@state.vt.us; Ken Kopocis/DC/USEPA/US@EPA; kevin.frederick@wyo.gov; lgarrigan@ecos.org; Louise Kitamura/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; MARKS@adeq.state.ar.us; Mike Shapiro/DC/USEPA/US@EPA; mike.baker@epa.state.oh.us; mpaque@gwpc.org; Phil Oshida/DC/USEPA/US@EPA; Randy Hill/DC/USEPA/US@EPA; sarah.pillsbury@des.nh.gov; sbrown@ecos.org; Sonia Altieri/DC/USEPA/US@EPA; steve.gunderson@state.co.us; Tim Fontaine/DC/USEPA/US@EPA; wbaker@utah.gov; John Senn/DC/USEPA/US@EPA

Attachments
Feb 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-257 transmits meeting information for a meeting with state associations on environmental issues and rulemaking. Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-257. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-258	**Subj:** Next Industry Stakeholder is Wed., May 16, 2012, 9:00 a.m.	05/14/2012 12:31:17 PM	**Auth:** Sonia Altieri

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA

Attachments
Industry Stakeholder_May 2012 Agenda.docx
TP for 5_16 Inustry Stakeholders.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-258 transmits meeting information for a meeting with industry stakeholders. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-258. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-259	**Subj:** State Associations Meeting	05/24/2012 04:13:40 PM	**Auth:** Martha Workman

Recipients

Attachments
Feb 2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-259 transmits meeting information for a meeting with state associations on environmental issues and rulemaking. Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-259. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-260	**Subj:** Next Agriculture Stakeholder Coffee - June 6, 2012, 9:00 a.m.	06/04/2012 03:55:06 PM	**Auth:** Sonia Altieri

Recipients
Ken Kopocis/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Mike

Attachments
Agriculture Stakeholders Coffee June6 2012.docx

Shapiro/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-260 transmits meeting information for a coffee meeting with external agricultural stakeholders. Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-260. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-261	**Subj:** July 11th Environmental Stakeholder Meeting	07/10/2012 09:46:05 PM	**Auth:** Sonia Altieri

Recipients

Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA

Attachments

Environmental_July 2012 Agenda.docx

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-261 transmits meeting information for a meeting with environmental stakeholders. Portions of the email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-261. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-262	**Subj:** Next Industry Stakeholder is Wed., July 18, 2012, 9:00 a.m.	07/17/2012 09:06:45 PM	**Auth:** Sonia Altieri

Recipients

Attachments

Ken Kopocis/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA

industry stakeholder_july 2012 agenda.docx
annotated_industry stakeholder_july 2012 agenda-3.docx

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-262 transmits meeting information for a meeting with industry stakeholders on environmental issues and rulemaking. Portions of the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-262. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure..

EPA-263	**Subj:** Supplemental Report: Week of July 30, 2012	07/27/2012 12:02:14 PM	**Auth:** Noha Gaber

Recipients

Jim Jones/DC/USEPA/US

Attachments

LPJ Report 30Jul12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-263 is an e-mail from Noha Gaber, Special Assistant, Office of the Administrator, transmitting a Word Document titled "Supplemental Report" to EPA's senior management. This "supplemental report" provides EPA senior managers an overview of current activities within headquarters offices and the Regions. This particular version of the supplemental report also memorializes a meeting with Congress on an advance notice of proposed rulemaking from EPA's Offfice of Chemical Safety and Pollution Prevention. The email transmission was released to Plaintiff in its entirety. The attachment was also released, with a single paragraph discussing a potential Regional enforcment activity in Region 10 redacted.

The withheld information in the draft calendar contains predecional and deliberative information related to a proposed Regional action. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the development of program priorities, but did not represent a final decision or action. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the development of potential enforcement actions and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

In addition, EPA released the entire email tranmission and the majority of the attachment in this record, withholding only the lines from the attachment that contained particular proposed, pre-decisional, non-final actions that were designated as proposed. These lines are internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of these lines would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and

approaches when formulating the Agency's proposed actions and activities. The remaining portions of the record, reflecting facutal and administrative information (including the information regarding the planned meeting with Congress regarding the OCSPP rule), was released to Plaintiff.

All segregable material in the Exemption 5 withheld documents have been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion

EPA-264	**Subj:** AP: As the election nears, new rules are facing delays	07/30/2012 03:13:14 PM	**Auth:** Alisha Johnson

Recipients
"Andra Belknap" <Belknap.Andra@epamail.epa.gov>; "David Bloomgren" <Bloomgren.David@epamail.epa.gov>; "Bicky Corman" <Corman.Bicky@epamail.epa.gov>; "Robert Delp" <Delp.Robert@epamail.epa.gov>; Fulton.Scott@epamail.epa.gov; Ganesan.Arvin@epamail.epa.gov; Garbow.Avi@epamail.epa.gov; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>; "Michael Goo" <Goo.Michael@epamail.epa.gov>; Lozano.Jose@epamail.epa.gov; McCarthy.Gina@epamail.epa.gov; "Michael Moats" <Moats.Michael@epamail.epa.gov>; O'Hara.James@epamail.epa.gov; Pallone.Sarah@epamail.epa.gov; Perciasepe.Bob@epamail.epa.gov; Thompson.Diane@epamail.epa.gov; Vaught.Laura@epamail.epa.gov; Windsor.Richard@epamail.epa.gov

Attachments

Exemption(s)
Release

Justification
Document EPA-264 was released.

EPA-265	**Subj:** Re: 8:30 ---QFRs	08/20/2012 03:24:44 PM	**Auth:** Douglas Parsons

Recipients
Steve Nako/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
Kaiser-EPA QFRs.docx
OCSPP Press Inquiry.PCP report.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-265 consists of an email transmission from Douglas Parsons, an EPA employee in EPA's Office of Chemical Safety and Pollution Prevention (OSCPP) to other employees in OCSPP providing information for an 8:30 briefing meeting. The email communication was released in full. The email also contained two word document attachments. The first attachment, consisting of "QFRs" (questions for the record) from Senator Richard Durbin to EPA, was released to the Plaintiff in full as an outside communication. The second attachment, containing a summary of questions from a reporter with Chemical and Pesticide Policy News, was released except for two lines which were redacted and withheld under FOIA Exemption 5's deliberative process privilege. The redacted two lines consist of staff recommendations to management regarding answers to the press inquiry, and are not the final responses of the Agency.

The withheld information in the redacted two lines is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the preparation of responses to questions posed by a reporter to EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in

development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the preparation of the Agency's public responses and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All segregable material in this document has been released to the Plaintiff. The withheld two lines consist of a staff recommendation and do not contain any reasonably segregable factual information subject to release. Any factual information contained therein is inextricably intertwined with the deliberative discussion and recommendation.

EPA-267	**Subj:** Re: FW: EPA Methane Emission Estmates - The Damage Continues	04/14/2012 07:05:40 PM	**Auth:** Gina McCarthy

Recipients

"Nathaniel Keohane" <(b)(6)[redacted]

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-267 (related to EPA-74 and EPA-75) is an email chain from Gina McCarthy, Assistant Administrator of EPA Office of Air and Radiation (OAR), to Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. The email pertains to discussing Mr. William Whitsit's letter to White House staff, as well as OAR senior managers. The email was partially released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations between EPA and the White House related to the communication from a member of the public sector regarding EPA methane estimates. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers and White House staff about how to respond to Mr. Whitsitt's letter.

Release would have a chilling effect on the Agency's ability to have open and frank discussions with other agencies on how to responde to a member of the public on issues related to EPA methane estimates and may harm the Agency's decisionmaking by restricting the open discussion of issues of this issue. It would also limit the ability of EPA and the White House to speak freely about issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Portions of this document contain official email addresses belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-268	**Subj:** FW: EPA Methane Emission Estmates - The Damage Continues	05/29/2012 05:12:26 PM	**Auth:** "Zichal, Heather R."

Recipients
Gina McCarthy/DC/USEPA/US@EPA

Attachments
Env - GHG - EPA Methane Emissions Estimates - EDF Study... (E&E 4-10-12).pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-268 is a continuation of EPA-267 (related to EPA-74 and EPA-75) and is an email chain from Gina McCarthy, Assistant Administrator of EPA Office of Air and Radiation (OAR), to Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. The email pertains to discussing Mr. William Whitsitt letter to White House staff, as well as OAR senior managers. The email was partially released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations between EPA and the White House related to the communication from a member of the public sector regarding EPA methane estimates. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers and White House staff about how to respond to Mr. Whitsitt's letter.

Release would have a chilling effect on the Agency's ability to have open and frank discussions with other agencies on how to responde to a member of the public on issues related to EPA methane estimates and may harm the Agency's decisionmaking by restricting the open discussion of issues of this issue. It would also limit the ability of EPA and the White House to speak freely about issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Portions of this document contain official email addresses belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff, including the external communication. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-269	**Subj:** Re: Fw: timing	07/02/2012 08:48:47 AM	**Auth:** Gina McCarthy

Recipients
Margo Oge/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy

Release-Redaction

Justification

Document EPA-269 is an email chain that contains discussions among EPA and the White House and EPA's senior managers in the Office of Air and Radiation regarding an external communication about an EPA action that was received by the White House and sent to EPA. The external communication was released to Plaintiff. The internal and intra-agency discussions were redacted and withheld.

The redacted information is deliberative because it contains discussions, advice, opinions, and recommendations from EPA employees related to EPA's public responses to inquires regarding rulemaking developments. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

Portions of this document contain personal cell phone numbers, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the cell phone numbers have a significant personal privacy interest in preventing unsolicited phone calls and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of these phone numbers would not shed light on the performance of the employees' official duties. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

Portions of this document contain official email addresses belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in the redacted and withheld information has been released to the Plaintiff, as has the external communication. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-270	**Subj:** Next Agriculture Stakeholder Coffee - August 1, 2012, 9:00 a.m.	07/31/2012 05:13:23 PM	**Auth:** Sonia Altieri

Recipients

Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA

Attachments

Agriculture Stakeholders Coffee Aug 2012.docx
Ag Stakeholder TPs - WOUS & CAFOs 7-31-12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy

Release attachment
Release-Redaction
Withhold attachment

Justification

EPA-270 transmits meeting information for a coffee meeting with agriculture stakeholders. Portions of this email and one of the email's attachments contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA also withheld one of the attachments from EPA-270, an internal "talking points" document, under Exemption 5's deliberative process privilege. This document contains staff evaluation of potential concerns that may be raised at the meeting and advises as to potential responses. The withheld information is protected under Exemption 5's deliberative process privilege because it is internally developed briefing material provided by staff to managers which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches.

All reasonably segregable material, which in this case includes the remainder of the email and the released attachments, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure. To the extent that the withheld document contains factual information, those facts are inextricably intertwined with the deliberative content and are not reasonably segregable.

EPA-271	**Subj:** Environmental Stakeholder Meeting, Wednesday, May 2, 12:00 p.m.	05/01/2012 11:53:07 AM	**Auth:** Sonia Altieri

Recipients

Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Travis Loop/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA

Attachments

Environmental_May2012 Agenda.docx

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-271 transmits meeting information for a "brown bag" with environmental stakeholders, Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-271. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-272	**Subj:** Information Update - Description has changed: Brown Bag w/ Environmental Stakeholders	05/01/2012 05:04:56 PM	**Auth:** Martha Workman

Recipients
Agnes Ortiz/DC/USEPA/US@EPA; Amy Dewey/DC/USEPA/US@EPA; Andrew Sawyers/DC/USEPA/US@EPA; Bob Rose/DC/USEPA/US@EPA; Cara Lalley/DC/USEPA/US@EPA; Cynthia Dougherty/DC/USEPA/US@EPA; Daniel Malloy/DC/USEPA/US@EPA; Darren Reid/DC/USEPA/US@EPA; Denise Keehner/DC/USEPA/US@EPA; Elaine Wilson/DC/USEPA/US@EPA; Elizabeth Southerland/DC/USEPA/US@EPA; Ephraim King/DC/USEPA/US@EPA; Gregory Peck/DC/USEPA/US@EPA; Jim Hanlon/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Lashion Pratt/DC/USEPA/US@EPA; Leslie Cronkhite/DC/USEPA/US@EPA; Lynn Zipf/DC/USEPA/US@EPA; Macara Lousberg/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA; Martha Segall/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Mindy Eisenberg/DC/USEPA/US@EPA; NatalieRoy@cwn.org; Pamela Barfield/RTP/USEPA/US@EPA; Pamela Barr/DC/USEPA/US@EPA; Paula Mason/DC/USEPA/US@EPA; Peter Shanaghan/DC/USEPA/US@EPA; Roberta Parry/DC/USEPA/US@EPA; Sharon Frey/DC/USEPA/US@EPA; Sonia Altieri/DC/USEPA/US@EPA; Steven Neugeboren/DC/USEPA/US@EPA; Teresa Hill/DC/USEPA/US@EPA; Thomas Carpenter/DC/USEPA/US@EPA; Tom Wall/DC/USEPA/US@EPA; Tomeka Nelson/DC/USEPA/US@EPA; Travis Loop/CBP/USEPA/US@EPA; Veronica Blette/DC/USEPA/US@EPA; Crystal Penman/DC/USEPA/US@EPA

Attachments
Environmental_May2012 Agenda.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-272 transmits meeting information for a "brown bag" with environmental stakeholders, Portions of this email and the email's attachment contain an EPA conference call phone number and access code and are withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. There is little to no public interest in having access to this phone number and access code. Furthermore, the withheld information does not shed light on EPA's performance of its statutory duties. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The conference call number and access code are the only withheld information in EPA-272. All segregable material, which in this case includes the remainder of the email and attachment, has been released. The release of any remaining information would reveal personal privacy information not subject to disclosure.

EPA-273	**Subj:** OW Hot Issues	07/11/2012 07:51:32 PM	**Auth:** Nancy Stoner

Recipients
Richard Windsor/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments
OW Hot Issues July 11.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-273 is an email between Nancy Stoner, Assistant Administrator for EPA's Office of Water and EPA Administrator Lisa Jackson, CC-ing senior leaders in EPA's Office of the Administrator, transmitting an Office of Water "Hot issues" document. The cover email has been released, and the attached "Hot Issues" document has been withheld in full.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OW. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

The email transmitting the internal deliberative document was segregated and relased in full. To the extent that the withheld document contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-278	**Subj:** New OMB Directive - Consider Cumulative Costs of Rules on Business	03/22/2012 01:47:04 PM	**Auth:** Angela Hofmann

Recipients

Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; David Widawsky/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Cody Rice/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Jack Housenger/DC/USEPA/US@EPA; Timothy Kiely/DC/USEPA/US@EPA; Mary Manibusan/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Lisa Verdonik/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Kathryn Boyle/DC/USEPA/US@EPA

Attachments

2012-03-20_OMBmemo_Cumulative-Effects.pdf

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification

Document EPA-278 is an e-mail from Angela Hoffman, Director of Regulatory Coordination, EPA Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OSCPP forwarding a communication from OMB directing Agencies to consider the cumulative costs of rules on business. The attached OMB directive was released in full to plaintiff. The transmittal email was released with three lines withheld. The withheld lines contain discussion of EPA's and OSCPP's proposed next steps in evaluating and complying with this directive.

These three redacted lines are protected under FOIA's deliberative process privilege because they constitute internal briefing information that represents a pre-decisional discussion of the process for incorporating the new OMB guidance into OCSPP rulmaking activities, which includes a discussion of developing office priorities. Release of these 3 lines would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. The remaining portions of the email and the entire attachment were released to Plaintiff.

All segregable material in the communication has been released to the Plaintiff. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-279	**Subj:** Fw: comments on EPA's forthcoming stormwater rule	05/01/2012 02:03:21 AM	**Auth:** Nancy Stoner

Recipients
"Martha Workman" <Workman.Martha@epamail.epa.gov>

Attachments
Policy Integrity Letter on Stormwater Rule.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
EPA-279 is an electronic transmission of a letter from an outside party that was sent to EPA and others in the Executive Branch. Portions of this document contain official email addresses belonging to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

These email addresses are the only information withheld from EPA-280. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosur

EPA-280	**Subj:** Fw: comments on EPA's forthcoming stormwater rule	05/01/2012 02:05:40 AM	**Auth:** Nancy Stoner

Recipients
jodefey@americanrivers.org; jdevine@nrdc.org

Attachments
Policy Integrity Letter on Stormwater Rule.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification

EPA-280 is an electronic transmission of a letter from an outside party that was sent to EPA and others in the Executive Branch. Portions of this document contain official email addresses belonging to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

These email addresses are the only information withheld from EPA-280. All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal personal privacy information not subject to disclosure.

EPA-281	**Subj:** Follow-Up to Deputy Administrator's November 30 Meeting with Small Businesses	01/04/2012 05:13:51 PM	**Auth:** Jeanettel Brown

Recipients

hostage.barbara@epa.gov; mccabe.janet@epa.gov; wise.louise@epa.gov; goo.michael@epa.gov; stoner.nancy@epa.gov; shapiro.mike@epa.gov; Paul Anastas/DC/USEPA/US@EPA; rogers.joanb@epa.gov; suber.angela@epa.gov; cristofaro.alexander@epa.gov; wiggins.lanelle@epa.gov; holmes.carol@epa.gov; updike.beverly@epa.gov; doa.maria@epa.gov; kramek.niva@epa.gov; farrar.wanda@epa.gov; eagles.tom@epa.gov; evalenko.sandy@epa.gov; smith.peterj@epa.gov; hofmann.angela@epa.gov; Kraus.Gerard@epa.gov; Fegley.Robert@epa.gov; perry.gerain@epa.gov; Hilosky.Nick@epa.gov; Skane.Elizabeth@epa.gov; Kevin Teichman/DC/USEPA/US@EPA; Kadeli.Lek@epa.gov; ghanta.venu@epa.gov; campbell.ann@epa.gov; martin.karenl@epa.gov; Charles Imohiosen/DC/USEPA/US@EPA; shaw.nina@epa.gov; patrick.kimberly@epa.gov; Paula Zampieri/DC/USEPA/US@EPA; Lester Facey/DC/USEPA/US@EPA

Attachments

Air Permitting Reforms Recommendations.pdf
Nov 30 2011 DA Meeting Attendee List Updated Dec 1 2011.docx
Nov 30 2011 DA Meeting Summary.docx
TCEQ.pdf
TOPICS-QUESTIONS for Nov 30 Deputy Administrators Meeting with Small Businesses.doc

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Redact in attachment
Release-Redaction

Justification

EPA-281 transmits follow-up items from meeting with Deputy Administrator Bob Perciasepe and small business representatives. The email contains five attachments. The email was released in full. Two of the five attachments were partially redacted under Exemption 5 and 6.

Exemption 5

One of the attachments, a "Meeting Summary" document relating to a Nov. 30, 2011 EPA Deputy Administrator Meeting with Small Businesses includes five instances of "Action Items" redacted and withheld under Exemption 5's deliberative process privilege because they consist of internal briefing information that reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the process and the development of EPA's response to small business stakeholders present at the meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff concerning evolving stakeholder issues and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when

formulating the Agency's response to such issues.

Exemption 6
Portions of attachments to this email contain personal email addresses and a cell phone number, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual owners of the email addresses and cell phone number have a significant personal privacy interest in preventing unsolicited emails, phone calls and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. One of the attachments also contains redacted personal information about an individual's religious affiliation. Public disclosure of these email addresses would not shed light on the performance of EPA employees official duties or EPA's official mission. In each instance, the harm to the individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

All segregable material has been released. The text of the email was released in full. All attachments have been released with portions of some attachments withheld pursuant to Ex. 6 as described above. Additonally, approximately five sentences from a six page attachment were redacted pursuant to Ex. 5 for the reasons described above. The release of any remaining, redacted information would reveal personal privacy or deliberative information not subject to disclosure and any facts are inextricably intertwined with the deliberative material.

EPA-282	**Subj:** Re: WOUS press events in Colorado	01/06/2012 07:47:32 AM	**Auth:** Richard Windsor

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-282 is the same document as EPA-4. Please the entry for EPA-4.

EPA-283	**Subj:** FDEP Numeric Nutrient Criteria: Question from Drew --RESPONSE REQUESTED	01/12/2012 03:00:24 PM	**Auth:** Lee Schroer

Recipients
Bob Sussman/DC/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Ellen Gilinsky/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Gail Mitchell/R4/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Peter Ford/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-283 falls within EPA-12. See the entry for EPA-12.

EPA-284	**Subj:** Re: FDEP Numeric Nutrient Criteria: Question from Drew --RESPONSE REQUESTED	01/12/2012 03:13:57 PM	**Auth:** Ellen Gilinsky

Recipients
Lee Schroer/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA; Gail Mitchell/R4/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Peter Ford/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-284 falls within EPA-12. See the entry for EPA-12.

EPA-285	**Subj:** Re: FDEP Numeric Nutrient Criteria: Question from Drew --RESPONSE REQUESTED	01/12/2012 04:51:12 PM	**Auth:** Bob Sussman

Recipients
Ellen Gilinsky/DC/USEPA/US@EPA; Lee Schroer/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Carol Baschon/R4/USEPA/US@EPA; Gail Mitchell/R4/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; Jeff Lape/DC/USEPA/US@EPA; Jim Giattina/R4/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Peter Ford/DC/USEPA/US@EPA; Sara Hisel-McCoy/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Stan Meiburg/R4/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-285 is an email string with the most recent email written by Bob Sussman in response to other management level officials within the Office of Water and attorneys within the Officer of General Counsel. All emails but the most recent email from Bob Sussman fall within EPA-12. The email string was withheld in part.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a response to the Florida Department of Environmental Protection's (FDEP) questions on numerical nutrient criteria rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA senior managers and their attorneys in developing a response to FDEP's questions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by

chilling the open discussion of issues and approaches when formulating the Agency's response to FDEP's questions on issues related to its numeric nutrient criteria. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The withheld information on the second page of the email is protected under Exemption 5's attorney-client privilege because it represents legal advice provided to EPA program office personnel by an EPA Office of General Counsel attorney that relates to the interaction between state law and specific EPA rules. This communication chain contains the opinions and questions of an EPA attorney. The withheld portion comprises of communications between an EPA attorney and his clients relating to a legal matter. This information was not shared beyond those individuals with a need to know to maintain the confidentiality of the attorney-client relationship. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning EPA's prospective action in regard to its treatment of state agency proposals and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going consideration of these proposal as they relate to EPA rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal deliberative or attorney-client information not subject to disclosure. Any factual information in the withheld portion of the draft materials is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-286	**Subj:** Fw: Settlements Discussions: Refineries NSPS (toxics and ghgs) and Power Plant GHG NSPS	01/18/2012 09:19:46 AM	**Auth:** Michael Goo

Recipients
"Richard Windsor" <Windsor.Richard@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The most recent email was released in full. The withheld portion of EPA-286 falls within EPA-17. See the entry for EPA-17 for the withheld portion.

EPA-287	**Subj:** Fw: Daily Reading File: January 19, 2012	01/24/2012 11:36:00 AM	**Auth:** Richard Windsor

Recipients
Ken Kopocis/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US

Attachments
Daily Reading File.1.19.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-287 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-288	**Subj:** Fw: Date For Issuance of NHSM Rule	01/25/2012 07:56:43 PM	**Auth:** Matt Straus

Recipients
"Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>; "Barry Breen" <breen.barry@epa.gov>; "Lisa Feldt" <feldt.lisa@epa.gov>; "Shawna Bergman" <bergman.shawna@epa.gov>; "Becky Brooks" <brooks.becky@epa.gov>; "Nancy Jones" <jones.nancy@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-288 is an email chain that is included fully within document EPA-185. See entry for EPA-185.

EPA-289	**Subj:** Fw: GHG	01/27/2012 09:45:32 AM	**Auth:** Diane Thompson

Recipients
Brendan Gilfillan/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-289 falls within EPA-290. See the entry for EPA-290.

EPA-290	**Subj:** Re: Fw: GHG	01/27/2012 09:51:14 AM	**Auth:** Brendan Gilfillan

Recipients
Diane Thompson/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Betsaida Alcantara/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-290 is an email chain that initially forwards communications between staff members of the Executive Office of the President and corresponding commentary to EPA Chief of Staff Diane Thompson, who in turn forwarded the communications and her own questions to EPA senior management. The email was partially released.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations between EPA and the White House related to formulation of rules pertaining to greenhouse gas emissions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld portions are predecisional because they contain information selected by EPA managers and White House staff about how to respond to media inquiries relating to prospective greenhouse gas emissions regulation.

Release would have a chilling effect on the Agency's ability to have open and frank discussions internally and with other federal agencies on how to respond to media inquiries about greenhouse gas emissions regulation. It would also limit the ability of EPA and the White House to speak freely about such issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A portion of this document contains an official email addresses belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-291	**Subj:** from national journal	01/27/2012 10:52:14 AM	**Auth:** Arvin Ganesan

Recipients

Richard Windsor/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Release

Justification

Document EPA-291 was released in full

EPA-292	**Subj:** Re: from national journal	01/27/2012 10:55:23 AM	**Auth:** Richard Windsor

Recipients

Arvin Ganesan/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Release

Justification
Document EPA-292 was released in full.

EPA-293	**Subj:** Re: from national journal	01/27/2012 10:57:41 AM	**Auth:** Arvin Ganesan

Recipients
Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
Document EPA-293 was released in full.

EPA-294	**Subj:** Re: GHG	01/30/2012 01:10:33 PM	**Auth:** Diane Thompson

Recipients
"Michael Boots" <(b)(6)[redacted]

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-294 is an email chain that initially forwards communications between staff members of the Executive Office of the President and corresponding commentary to EPA Chief of Staff Diane Thompson, who later responds with the most recent email.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations between EPA and the White House related to formulation of rules pertaining to greenhouse gas emissions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis on issues still in development at the Agency. The withheld portions are predecisional because they contain information selected by EPA managers and White House staff about how to respond to media inquiries relating to prospective greenhouse gas emissions regulation.

Release would have a chilling effect on the Agency's ability to have open and frank discussions internally and with other federal agencies on how to respond to media inquiries about greenhouse gas emissions regulation. It would also limit the ability of EPA and the White House to speak freely about such issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with

the deliberative discussion concerning this document.

EPA-295	Subj: PM 2.5	02/13/2012 07:26:34 AM	Auth: Bob Perciasepe

Recipients

"Zichal, Heather R." (b)(6) "Gary Guzy" <(b)(6) >

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-295 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to anindividual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-295.

EPA-296	Subj: Re: PM 2.5	02/13/2012 08:28:42 AM	Auth: "Guzy, Gary S."

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-296 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in an email signature block and the official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President’s staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase “personnel and medical files and similar files.” The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner’s name so there is no confusion as to who received or sent the email communications.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting

Administrator's cell phone number. Therefore, the harm to an individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number and EOP email address were the only withheld portions of EPA-296.

EPA-297	**Subj:** Re: PM 2.5	02/13/2012 08:32:35 AM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-297 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in an email signature block and the official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to an individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number and EOP email address were the only withheld portions of EPA-297.

EPA-298	**Subj:** RE: PM 2.5	02/13/2012 09:53:06 AM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-298 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in an email signature block and the official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and

harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to an individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number and EOP email address were the only withheld portions of EPA-298.

EPA-299	**Subj:** RE: PM 2.5	02/13/2012 10:06:51 AM	**Auth:** Bob Perciasepe

Recipients
"Zichal, Heather R." <(b)(6)[redacted]

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-299 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in two email signature blocks and the official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to an individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number and EOP email address were the only withheld portions of EPA-299.

EPA-301	**Subj:** RE: PM 2.5	02/13/2012 11:44:06 AM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-301 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in two email signature blocks and the official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to an individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number and EOP email address were the only withheld portions of EPA-301.

EPA-302	**Subj:** Re: Outline for Admin	02/13/2012 12:55:07 PM	**Auth:** Bob Sussman

Recipients
Michael Goo/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-302 is an email chain between Bob Perciasepe, EPA Deputy Administrator; Bob Sussman, Senior Policy Counsel to the Administrator; and Michael Goo, Assistant Adminstrator for the Office of Policy. The email pertains to an upcoming meeting and briefing for former EPA Administrator Lisa Jackson in regard to proposed rulemakings and corresponding interaction with the Office of Management & Budget in regard to the proposed rulemakings.

The withheld information in the email chain is protected under Exemption 5's deliberative process privilege because it consists of internal discussions on proposed rulemakings, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld records are predecisional because they contain information selected by EPA managers to prepare for a meeting with Ms. Jackson to discuss proposed rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of a number of proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the related proposed rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-303	**Subj:** Material for Administrator Meeting	02/13/2012 03:38:28 PM	**Auth:** Michael Goo

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments
OUTLOOK MEETING final Jan 2012. with dates.docx
Long Addendum of EPA Actions in 2012 - dates added.doc
ATT4QERP.docx
Agenda.docx
affrimagendaupdate.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-303 is an email chain between Bob Perciasepe, EPA Deputy Administrator; Bob Sussman, Senior Policy Counsel to the Administrator; Michael Goo, Assistant Adminstrator for the Office of Policy; and Diane Thompson, EPA's Chief of Staff. The email pertains to an upcoming meeting and briefing for former EPA Administrator Lisa Jackson in regard to proposed rulemakings and corresponding interaction with the Office of Management & Budget in regard to the proposed rulemakings. The body of the email has been released; the email's five attachments, which pertain to the meeting and are generally described in the released email body itself, have each been withheld in full.

The withheld information in the five attachments is protected under Exemption 5's deliberative process privilege because it consists of draft agenda items concerning internal discussions on proposed rulemakings, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld attachments are predecisional because they contain information selected by EPA managers to prepare for a meeting with Ms. Jackson to discuss proposed rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of a number of proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the related proposed rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-304	**Subj:** Re: Material for Administrator Meeting	02/13/2012 03:48:06 PM	**Auth:** Bob Sussman

Recipients
Michael Goo/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments
Agenda.docx
ATT4QERP.docx
affrimagendaupdate.docx
OUTLOOK MEETING final Jan 2012. with dates.docx
Long Addendum of EPA Actions in 2012 - dates added.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-304 is is an email chain, with all but the most recent email included within EPA-303. For all but the most recent email, please refer to the listing for EPA-303. The most recent email within EPA-304 features questions from Bob Sussman, Senior Policy Counsel to the Administrator to Michael Goo, Assistant Adminstrator for the Office of Policy and copies Bob Perciasepe, EPA Deputy Administrator and Diane Thompson, EPA's Chief of Staff. The email pertains to an upcoming meeting and briefing for former EPA Administrator Lisa Jackson in regard to proposed rulemakings. The body of the top email has been withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it relates to draft agenda items concerning internal discussions on proposed rulemakings, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA managers to prepare for a meeting with Ms. Jackson to discuss proposed rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of a number of proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the related proposed rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-305	**Subj:** Re: Material for Administrator Meeting	02/13/2012 04:16:23 PM	**Auth:** Michael Goo

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments
Agenda.docx
ATT4QERP.docx
affrimagendaupdate.docx
OUTLOOK MEETING final Jan 2012. with dates.docx
Long Addendum of EPA Actions in 2012 - dates added.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-305 is is an email chain, with all but the most recent email included within EPA-304. For all but the most recent email, please refer to the listing for EPA-303-304. The most recent email within EPA-305 features responses from Michael Goo, Assistant Adminstrator for the Office of Policy, to questions from Bob Sussman, Senior Policy Counsel to the Administrator and copies Bob Perciasepe, EPA Deputy Administrator and Diane Thompson, EPA's Chief of Staff. The email pertains to an upcoming meeting and briefing for former EPA Administrator Lisa Jackson in regard to proposed rulemakings. The body of the top email has been withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it relates to draft agenda items concerning internal discussions

on proposed rulemakings, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and briefing materials on issues still in development at the Agency. The withheld information is predecisional because it contains information selected by EPA managers to prepare for a meeting with Ms. Jackson to discuss proposed rulemakings.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by restricting the open discussion of issues of a number of proposed rulemakings. It would also limit the ability of EPA management to speak freely about issues related to the related proposed rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-306	**Subj:** Business Organization Letter Supporting GHG Rulemaking	02/14/2012 04:31:14 PM	**Auth:** Angela Bonarrigo

Recipients
ombdirector(b)(6) LisaP Jackson/DC/USEPA/US@EPA; Cass(b)(6) jlew(b)(6) ; Aaron Dickerson/DC/USEPA/US@EPA; Jess(b)(6) d(b)(6) rb(b)(6) Michael Goo/DC/USEPA/US@EPA; Rohar(b)(6) "Gary S. Guzy" <(b)(6) ;(b)(6) Heather_(b)(6) Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Angela Bonarrigo <bonarrigo@ceres.org>

Attachments
Business Organization Letter Supporting GHG Standards 02 14 12.pdf

Exemption(s)
Release

Justification
The document EPA-306 was released in full.

However, the index entry for EPA-306 contains the email addresses of staff members of the Executive Office of the President under Exemption 6. The Executive Office of the President's staff members have a significant personal interest in preventing the burden of unsolicited emails and harassment. The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties. Therefore the privacy interest in the email address outweighs the public interest in disclosure.

EPA-307	**Subj:** FW: EPA Tier 3 letter to Hill	02/28/2012 05:36:09 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
McCarthy Tier 3 letter to Whitfield 02 27 12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
Document EPA-307 is included in its entirety within EPA-310. See the entry for EPA-310.

EPA-308	**Subj:** Fw: EPA Tier 3 letter to Hill	02/28/2012 05:42:12 PM	**Auth:** Bob Perciasepe

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US

Attachments
McCarthy Tier 3 letter to Whitfield 02 27 12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
Document EPA-308 is included in its entirety within EPA-310. See the entry for EPA-310.

EPA-309	**Subj:** Re: Fw: EPA Tier 3 letter to Hill	02/28/2012 05:45:26 PM	**Auth:** Arvin Ganesan

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
Document EPA-309 is included in its entirety within EPA-310. See the entry for EPA-310.

EPA-310	**Subj:** Re: Fw: EPA Tier 3 letter to Hill	02/28/2012 05:50:49 PM	**Auth:** Bob Perciasepe

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
Document EPA-310 is an email chain that includes multiple questions and responses between Acting Administrator Bob Perciasepe to Arvin Ganesan, EPA Associate Adminstrator for Congressional and Intergovernmental Relations concerning responses to media inquiries. Mr Perciasepe and Mr. Ganesan are discussing a comment from a staff member of the Executive Office of the President and an accompanying news story.

The withheld information is protected under Exemption 5's deliberative process privilege because it relates to internal discussions concerning responses to media inquiries, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead

reflects analysis and opinions on issues still in development at the Agency.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff concerning responses to media inquiries. It would also limit the ability of EPA management to speak freely about issues related to such inquiries.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

The cell phone number of the current EPA Acting Administrator, which appears in the email signature block, is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

EPA-311	**Subj:** FW: EPA Tier 3 letter to Hill	02/28/2012 08:25:48 PM	**Auth:** Bob Perciasepe

Recipients
Brendan Gilfillan/DC/USEPA/US

Attachments
McCarthy Tier 3 letter to Whitfield 02 27 12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
EPA-311 is a forward of the email from Heather Zichael, of which is included in its entirety within EPA-310. See the entry for EPA-310.

EPA-312	**Subj:** DRAFT - Follow up from last week	02/29/2012 07:31:09 AM	**Auth:** Bob Perciasepe

Recipients
"Zichal, Heather R." <H(b)(6)[redacted]

Attachments
McCarthy Tier 3 letter to Whitfield 02 27 12.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-312 is an email from Bob Perciasepe, EPA Deputy Administrator, and Heather Zichal, Deputy Assistant to the President for Engery and Climate Change, and pertains to an article about the potential noneffects of an EPA proposed rule on sulfur standards and the Agency's response to a Congressional inquiry.

Exemption 5
The withheld information is protected under Exemption 5's deliberative process privilege because it relates to interagency discussions concerning responses to media inquiries, reflecting staff analyses, advice, and recommendations. In this case, the news article related to a proposed limit on sulfur standards and developing a response to inquiries from Congress. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and opinions on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff concerning developing responses to Congressional inquiries, in this case relating to the proposed sulfur fuel standards. It would also limit the ability of EPA management to speak freely about issues related to such inquiries. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Exemption 6
The cell phone number of the current EPA Acting Administrator, which appears in the email signature block, is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-313	**Subj:** Re: Fw: Working Together for Clean Water	03/01/2012 07:47:05 PM	**Auth:** Bob Perciasepe

Recipients
Nancy Stoner/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US; Arvin Ganesan/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Lawrence Elworth/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-313 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell

phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest.

The Acting Administrator's cell phone number was the only withheld information in EPA-313.

EPA-314	**Subj:** Fw: Working Together for Clean Water	03/01/2012 07:48:30 PM	**Auth:** Bob Perciasepe

Recipients
Anna Aurilio <asquared@environmentamerica.org>

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
This email string was released in full except for a withheld cell phone number. The withheld portion of EPA-314 falls within EPA-315. See entry for EPA-315.

EPA-315	**Subj:** Re: Working Together for Clean Water	03/01/2012 08:22:31 PM	**Auth:** Anna Aurilio

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-315 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The current Acting Administrator's cell phone number was the only withheld information in EPA-313.

EPA-316	**Subj:** Administrator's Call with Environmental Leaders	03/02/2012 03:28:07 PM	**Auth:** Ryan Robison

Recipients

Attachments
Administrator Meeting - Background for Call with Enviro Leaders 3-9-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy

Release-Redaction
Withhold attachment

Justification

Document EPA-316 is an email scheduling reminder for several EPA senior managers that includes a conference call number and code and also an attachment featuring internal background information so the managers may prepare for an upcoming conference call with environmental groups. The conference call information and attachment with background information have been withheld.

The withheld information in the attachments is protected under Exemption 5's deliberative process privilege because it consists of internal background information used to prepare for a conference call, reflecting staff analyses, advice, and recommendations. The withheld information does not represent an official Agency decision or policy and instead reflects internal discussions and preparatory material relating to issues still in development at the Agency. The withheld attachments are predecisional because they contain information selected by EPA managers to prepare for a conference call with outside environmental groups.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparation for conference calls with outside groups, prior to those call occurring. Release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

A portion of the document contains an EPA conference call phone number and access code and is withheld under Exemption 6. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and code does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

In addition to the withheld attachment noted above, the conference call number and access code are the only withheld information in this document. All segregable material has been released.

EPA-317	**Subj:** Daily Reading File: March 2, 2012	03/02/2012 04:38:26 PM	**Auth:** Eliska Postell

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments

Daily Reading File.3.2.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-317 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-318	**Subj:** Wyden exchange	03/04/2012 07:33:12 PM	**Auth:** Arvin Ganesan

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments
Wyden letter 720 pm.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold attachment
Withhold in full

Justification
Document EPA-318 is an email from Arvin Ganesan, EPA Associate Adminstrator for Congressional and Intergovernmental Relations to former EPA Administrator Lisa Jackson and then Deputy Administrator Bob Perciasepe concerning a draft letter to Senator Wyden that addresses pending environmental legislation.

The withheld email and attached draft letter is protected under Exemption 5's deliberative process privilege because it relates to internal discussions concerning a draft letter, reflecting staff analyses, advice, and recommendations relating to pending legislation. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and opinions on issues still in development at the Agency.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff concerning prospective correspondence with members of the U.S. Congress. It would also limit the ability of EPA management to speak freely about issues related to such correspondence.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-319	**Subj:** Daily Reading File: March 6, 2012	03/06/2012 04:48:40 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie

Attachments
Daily Reading File.3.6.12.pdf

Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-319 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-320	**Subj:** Hot Issues	03/09/2012 01:05:13 PM	**Auth:** Gina McCarthy

Recipients

Richard Windsor/DC/USEPA/US@EPA; perciasepe.bob@epa.gov; Fulton.Scott@EPA.GOV; Sussman.bob@EPA.GOV; Michael Goo/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA

Attachments

OAR HOT ISSUES 3-9-12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-320 is an email from Gina McCarthy, Assistant Administrator for the Office of Air and Radiation ("OAR") to former EPA Administrator Lisa Jackson and several other senior EPA staff, providing a hot issues list as an attachment. Both the email and the 5-page attachment were withheld in full.

Both the withheld email and attachment contain predecisional and deliberative communications related to future proposed actions in OAR. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA-321	**Subj:** Hot Issues	03/09/2012 01:05:14 PM	**Auth:** Gina McCarthy

Recipients
Richard Windsor/DC/USEPA/US@EPA; perciasepe.bob@epa.gov; Fulton.Scott@EPA.GOV; Sussman.bob@EPA.GOV; Michael Goo/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA

Attachments
OAR HOT ISSUES 3-9-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-321 is a duplicate of EPA-320. See entry for EPA-320.

EPA-322	**Subj:** Fw: Acrylonitrile: Critical Scientific Integrity/Transparency Deficiencies in the IRIS and TSCA Programs Must Be Cured	03/09/2012 06:53:59 PM	**Auth:** Bob Sussman

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Teri Porterfield/DC/USEPA/US@EPA

Attachments
20120307 Attachments for AN Letter.pdf
20120308 Final AN letter to B Perciasepe.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
EPA-322 consists of three email messages, the most recent of which is from Bob Sussman, Senior Policy Counsel to the Administrator, to other agency officials. The two attachments have been released in full; only one sentence in the March 9, 2012 message from Bob Sussman to Jim Jones and other senior officials within the Agency, is redacted. That sentence qualifies for protection under the deliberative process privilege, because it provides Mr. Sussman's opinion to other agency officials about the previous, copied emails and attachments provided by third parties concerning the Agency's review of acrylonitrile. Disclosure of the withheld material would have a chilling effect on the EPA's ability to have open and frank discussions related to information and questions provided by third parties on Agency action.

All segregable material has been released. The withheld sentence falls within the deliberative process privilege and any facts are inextricably intertwined.

EPA-323	**Subj:** Fw: Acrylonitrile: Critical Scientific Integrity/Transparency Deficiencies in the IRIS and TSCA Programs Must Be Cured	03/11/2012 08:42:15 AM	**Auth:** Jim Jones

Recipients
"Wendy Cleland-Hamnett" <Cleland-Hamnett.Wendy@epamail.epa.gov>; Sherry Sterling/DC/USEPA/US@EPA; "Jeff Morris" <Morris.Jeff@epamail.epa.gov>

Attachments
20120307 Attachments for AN Letter.pdf
20120308 Final AN letter to B Perciasepe.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Release attachment
Release-Redaction

Justification

Document 323-EPA consists of four email messages, the most recent of which is from Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention, forwarding an email from Bob Sussman, Senior Policy Counsel to the Administrator, to other agency officials. The two attachments have been released in full; only one sentence in the top, March 11, 2012 email from Mr. Jones is redacted and just one sentence in the March 9, 2012 message from Bob Sussman to Jim Jones and other senior officials within the Agency, is redacted. Both sentences qualify for protection because they provide opinions to other agency officials about the initial emails and attachments provided by third parties that concern the Agency's review of acrylonitrile. Disclosure of the withheld material would have a chilling effect on the EPA's ability to have open and frank discussions related to information and questions provided by third parties on Agency action.

All segregable material has been released. The withheld sentences fall within the deliberative process privilege and any facts are inextricably intertwined.

EPA-324	**Subj:** Pre-Meeting for ECOS	03/12/2012 02:11:33 PM	**Auth:** Teri Porterfield

Recipients

Attachments
Agenda-Speaker-Issue-Resolution Summary.docx
Spring 2012 - State Attendees by Region.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-324 contains an EPA conference call phone number and access code and the current Acting Administrator's cell phone that are withheld under Exemption 6. All other text in the email string was released. The conference call access information is assigned to a particular individual. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls while possibly learning private information about authorized participants on the conference call. Additionally, the participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and code does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

The cell phone number of the current EPA Acting Administrator appears in an email signature block. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

All text was released in EPA-324 except for the withheld conference call information and cell phone number.

EPA-325	**Subj:** Daily Reading File: March 14, 2012	03/14/2012 04:18:35 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi

Attachments
Daily Reading File.3.14.12.pdf

Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-325 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-326	**Subj:** FW: Bloomberg: Refiners Push EPA to Scrap Gasoline Rule That Automakers Want	03/14/2012 04:35:21 PM	**Auth:** "Zichal, Heather R."

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-326 was released in full except for an official email address belonging to a staff member of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

EPA-327	**Subj:** Hey where are you	03/15/2012 07:49:48 AM	**Auth:** Bob Perciasepe

Recipients
"Paul Billings" <Paul.Billings@lung.org>

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-327 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-327.

EPA-328	**Subj:** Re: ECOS Coverage - OAR's Write up	03/15/2012 10:59:25 AM	**Auth:** Don Zinger

Recipients
"Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>; Philip Metzger/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA; McCarthy.Gina@epamail.epa.gov; Janet McCabe/DC/USEPA/US@EPA; Shaw.Betsy@epamail.epa.gov; Millett.John@epamail.epa.gov; Rebecca Weber/R7/USEPA/US@EPA

Attachments
ECOS Summary -OAR.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-328 is an email from EPA's Office of Air & Radiation (OAR) employee Don Zinger that includes Bob Perciasepe, Acting Administrator; Philip Metzger, Counselor for the Deputy Administrator; and Sarah Pallone, Deputy Associate Administrator in the Office of Congressional and Intergovernmental Affairs. Other EPA staff members and managers were also copied on the email, which forwards OAR's briefing memo to prepare for an upcoming meeting of the Environmental Council of the States (ECOs). The withheld attachment consists of a draft briefing paper for the Deputy Administrator on OAR's activities. The attachment was withheld in full. The remaining email was released in full.

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers developed to inform the Deputy Administrator of OAR activities in order to prepare him for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's message on certain Agency activities. Furthermore, release could cause public confusion by disclosure of items and discussion points that were not in fact ultimately the grounds for EPA message given at the ECOs meeting. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

EPA-330	**Subj:** Fw: URGENT--Immediate Attention/Re: Ecos Coverage	03/15/2012 04:47:50 PM	**Auth:** Nancy Jones

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Philip Metzger/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Jeffrey Kohn/DC/USEPA/US@EPA; Randy Deitz/DC/USEPA/US@EPA; Shawna Bergman/DC/USEPA/US@EPA; Becky Brooks/DC/USEPA/US@EPA

Attachments
Mathy Memo for ECOS Revised 3.15.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification
Document EPA-330 is an email string, with the top email sent by EPA's Office of Solid Waste & Emergency Response (OSWER) employee Nancy Jones to Bob Perciasepe, Acting Administrator; Philip Metzger, Counselor for the Deputy Administrator; and Sarah Pallone, Deputy Associate Administrator in the Office of Congressional and Intergovernmental Affairs. Other EPA staff members and managers were also copied on the email, which forwards OSWER's briefing memo to prepare for an upcoming meeting of the Environmental Council of the States (ECOs). The withheld attachment consists of a draft briefing paper for the Deputy Administrator on OSWER's activities. The attachment was withheld in full. Except for the redaction of Mr. Perciasepe's cell phone number, the remaining emails, which discuss the submission of such memos from various EPA offices, were released in full.

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers developed to inform the Deputy Administrator of OSWER activities in order to prepare him for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's message on certain Agency activities. Furthermore, release could cause public confusion by disclosure of items and discussion points that were not in fact ultimately the grounds for EPA message given at the ECOs meeting. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-331	**Subj:** Re: URGENT--Immediate Attention/Re: Ecos Coverage	03/15/2012 05:38:32 PM	**Auth:** Gregory Peck

Recipients
Philip Metzger/DC/USEPA/US@EPA; Martha Workman/DC/USEPA/US@EPA; Matthew Klasen/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Mike Shapiro/DC/USEPA/US@EPA; Mahri Monson/DC/USEPA/US@EPA

Attachments
2012-03-15 ECOS Summary Doc.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification
Document EPA-331 is an email string, with the top email sent by EPA's Office Water (OW) Chief of Staff Gregory Peck to Philip Metzger, Counselor for the Deputy Administrator. Other EPA staff members and managers were also copied on the email, which forwards OW's briefing memo to prepare for an upcoming meeting of the Environmental Council of the States (ECOs). The withheld attachment consists of a draft briefing paper for the Deputy Administrator on OW's activities. The attachment was withheld in full. Except for the redaction of former Deputy Administrator and current Acting Administrator Bob Perciasepe's cell phone number, the remaining emails, which discuss the submission of such memos from various EPA offices, were released in full.

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers developed to inform the Deputy Administrator of OW activities in order to prepare him for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's message on certain Agency activities. Furthermore, release could cause public confusion by disclosure of items and discussion points that were not in fact ultimately the grounds for EPA message given at the ECOs meeting. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-333	**Subj:** Re: URGENT--Immediate Attention/Re: Ecos Coverage	03/15/2012 05:58:23 PM	**Auth:** Philip Metzger

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA

Attachments
2012-03-15 ECOS Summary Doc.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification
Document EPA-333 is an email chain that includes Bob Perciasepe, Acting Administrator; Philip Metzger, Counselor for the Deputy Administrator; and Sarah Pallone, Deputy Associate Administrator in the Office of Congressional and Intergovernmental Affairs. Other EPA staff members and managers were included in the earlier emails within the email string. The electronic transmission was pertained to the Office of Water coverage of an Environmental Council of the States (ECOs). The withheld attachment consists of a draft briefing paper for Deputy Administrator on the Office of Water's activities. The attachment was withheld in full. EPA released the email string except for the Deputy Administrator's cellphone number.

Exemption 5
The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the analyses, advice, and recommendations of staff to managers developed to inform the Deputy Administrator of updates to the Office of Water in order to prepare him for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's message on certain Agency activities. Furthermore, release could cause public confusion by disclosure of items and discussion points that were not in fact ultimately the grounds for EPA message given at the ECOs meeting. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

Exemption 6
The cell phone number of the Acting Administrator, Bob Perciasepe, was withheld. This number appears in the signature block of the Acting Administrator. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure. The Acting Administrator's cellphone was the only email text that was withheld in EPA-333.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-334	**Subj:** Re: URGENT--Immediate Attention/Re: Ecos Coverage	03/15/2012 06:07:17 PM	**Auth:** Philip Metzger

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Anthony Raia/DC/USEPA/US@EPA

Attachments
2012-03-15 ECOS Summary Doc.docx
ECOS Summary -OAR.docx
Mathy Memo for ECOS Revised 3.15.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification
Document EPA-334 is an email chain containing ten emails that includes Bob Perciasepe, Acting Administrator; Philip Metzger, Counselor for the Deputy Administrator; Sarah Pallone, Deputy Associate Administrator in the Office of Congressional and Intergovernmental Affairs; and Anthony Raia, staff in Office of Congressional and Intergovernmental Affairs. Other EPA staff members and managers were included in the earlier emails within the email string. The electronic transmission was pertained to the Office of Water coverage of an Environmental Council of the States (ECOs). The withheld attachments consist of draft briefing papers for Deputy Administrator on the Office of Water, Office of Air and Radiation, and Office of Solid Waste and Emergency Response's activities. The attachments were withheld in full. EPA released all the text in the 10 emails except for the Deputy Administrator's cellphone number.

Exemption 5

The withheld attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information which reflects the

analyses, advice, and recommendations of staff to managers developed to inform the Deputy Administrator of updates to the Office of Water, Office of Air and Radiation, and Office of Solid Waste and Emergency Response in order to prepare him for an upcoming meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's message on certain Agency activities. Furthermore, release could cause public confusion by disclosure of items and discussion points that were not in fact ultimately the grounds for EPA message given at the ECOs meeting. Factual information in these documents and communications is inextricably intertwined with deliberative content and is therefore not reasonably segregable.

Exemption 6

The cell phone number of the Acting Administrator, Bob Perciasepe, was withheld. This number appears in the signature block of the Acting Administrator. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure. The Acting Administrator's cellphone was the only email text that was withheld in EPA-334.

All segregable material in this record has been released to the Plaintiff. All text in the ten emails has been released except for the Deputy Administrator's cell phone number. To the extent any of the withheld information in the attachments contain facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning the briefing papers.

EPA-335	**Subj:** Daily Reading File: March 15, 2012	03/15/2012 06:15:30 PM	**Auth:** Cynthia Gaines

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov; Brian Hope/DC/USEPA/US@EPA; Eliska Postell/DC/USEPA/US@EPA; Jacqueline Leavy/DC/USEPA/US@EPA; Brigette Moritz/DC/USEPA/US@EPA; gaines.cynthia@epa.gov

Attachments

Daily Reading File.3.15.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-335 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-343	**Subj:** Politico questions on regs	03/19/2012 02:01:37 PM	**Auth:** Betsaida Alcantara

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-343 is an email from Betsaida Alcantara, former EPA Press Secretary, to Bob Sussman, Senior Policy Counsel to the Administrator; Bob Perciasepe, Deputy Administrator, and Brendan Gilfillan, Deputy Press Secretary. The email discusses EPA response to press inquiry regarding the greenhouse gas (GHG) new source performance standard (NSPS) for new power plants, coal ash/hazardous waste rulemaking, a Tier 3 rulemaking, NSPS for oil and gas processing, cooling towers study, and the regional haze deadlines. The email was withheld in part.

Exemption 5
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response to questions advanced by the news agency, Politico, about EPA regulatory activity. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the development of the rulemakings' communications plans and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-344	**Subj:** Fw: House GOP plans legislation on EPA gas rules	03/19/2012 06:55:42 PM	**Auth:** Laura Vaught

Recipients
Richard Windsor/DC/USEPA/US; Brendan Gilfillan/DC/USEPA/US; Betsaida Alcantara/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US; Diane Thompson/DC/USEPA/US; Lawrence Elworth/DC/USEPA/US; Arvin Ganesan/DC/USEPA/US; Bob Sussman/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Release-Redaction

Justification

EPA-344 is an email memorializing communications between Laura Vaught, Deputy Associate Administrator for the Office of Congressional and Intergovernment Affairs, and other EPA senior level managers, including Lisa Jackson, Administrator. The email discusses House Republican plans to introduce legislation to delay a number of EPA regulations, including sulfur in gasoline and ozone standards. The email was withheld in part and released in part. The Politico Whiteboard article was released in full.

Exemption 5

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in addressing the GOP's legislative plans to delay a number of EPA's rules. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA with respect to the article's content. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior staff during the communications plan development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-345	**Subj:** Re: House GOP plans legislation on EPA gas rules	03/19/2012 07:09:38 PM	**Auth:** Richard Windsor

Recipients

Laura Vaught/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Betsaida Alcantara/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Lawrence Elworth/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-345 falls within EPA-346. See the entry for EPA-346.

EPA-346	**Subj:** Re: House GOP plans legislation on EPA gas rules	03/19/2012 07:50:07 PM	**Auth:** Laura Vaught

Recipients

Richard Windsor/DC/USEPA/US; Arvin Ganesan/DC/USEPA/US@EPA; Betsaida Alcantara/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Lawrence Elworth/DC/USEPA/US@EPA; Michael

Attachments

Goo/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-346 is an email chain of three emails memorializing communications between Laura Vaught, Deputy Associate Administrator for the Office of Congressional and Intergovernment Affairs, and other EPA senior level managers, including Lisa Jackson, Administrator. EPA-344 is encapsulated in EPA-346. The email chain discusses House Republican plans to introduce legislation to delay a number of EPA regulations, including sulfur in gasoline and ozone standards. The email chain was withheld in part and released in part. The Politico Whiteboard article was released in full.

Exemption 5
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in addressing the GOP's legislative plans to delay a number of EPA's rules. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA with respect to the article's content. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior staff during the communications plan development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-347	**Subj:** CCR	03/20/2012 02:44:28 PM	**Auth:** Mathy Stanislaus

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA

Attachments
ccrudpate%20administrator%203-19-12[1].docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold attachment
Withhold in full

Justification
EPA-347 falls within EPA-198. See the entry for EPA-198.

EPA-348	**Subj:** Fw: CCR	03/20/2012 03:44:03 PM	**Auth:** Bob Sussman

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments
ccrudpate%20administrator%203-19-12[1].docx

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold attachment
Withhold in full

Justification

EPA-348 is an email from Bob Sussman, Senior Counsel on Policy, to Lisa Jackson, EPA Administrator, and Bob Perciasepe, Deputy Administrator. The email is in response to Mathy Stanslaus's, Assistant Administrator in EPA's Office of Solid Waste and Emergency Response, email regarding the document transmitted in EPA-199 and EPA-201. The message contains a description of the originally transmitted document and an analysis of policy issues raised by the document and related internal policy discussions surrounding the selection of a policy option for a rulemaking known as the "CCR Rule." The response email raises a potential issue with the document's file name. These documents were internal EPA briefing and analysis documents and were not shared with third parties outside EPA.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents the results and outcome of communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys.There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

The withheld information is also protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

There is no reasonably segregable information in this document. To the extent that this document contains facts, those facts are inextricably intertwined with the privileged content.

EPA-349	**Subj:** Fw: Industry will back off EPA gasoline claim	03/21/2012 03:56:39 PM	**Auth:** Richard Windsor

Recipients

"Heather Zichal" <(b)(6)

Attachments

Exemption(s)

Release

Justification

The document EPA-349 was released in full.

However, the index entry for EPA-349 contains the email addresses of staff members of the Executive Office of the President under Exemption 6. The Executive Office of the President's staff members have a significant personal interest in preventing the burden of unsolicited emails and harassment. The email addresses

are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties. Therefore the privacy interest in the email address outweighs the public interest in disclosure.

EPA-350	**Subj:** RE: Industry will back off EPA gasoline claim	03/21/2012 04:02:11 PM	**Auth:** "Zichal, Heather R."

Recipients
Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-350 falls within EPA-357. See the entry for EPA-357.

EPA-351	**Subj:** Fw: Industry will back off EPA gasoline claim	03/21/2012 04:07:13 PM	**Auth:** Richard Windsor

Recipients
"Heather Zichal" (b)(6) [redacted]

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-351 falls within EPA-357. See the entry for EPA-357.

EPA-352	**Subj:** Fw: Industry will back off EPA gasoline claim	03/21/2012 04:07:26 PM	**Auth:** Richard Windsor

Recipients
"Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-352 falls within EPA-359. See the entry for EPA-359.

EPA-353	**Subj:** Fw: Industry will back off EPA gasoline claim	03/21/2012 04:19:52 PM	**Auth:** Richard Windsor

Recipients

Attachments

"Arvin Ganesan" <ganesan.arvin@epa.gov>; "Laura Vaught" <Vaught.Laura@epamail.epa.gov>

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
The withheld portion of EPA-353 falls within EPA-359. See the entry for EPA-359.

EPA-354	**Subj:** Re: Industry will back off EPA gasoline claim	03/21/2012 04:22:04 PM	**Auth:** Gina McCarthy

Recipients
Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-354 falls within EPA-359. See the entry for EPA-359.

EPA-355	**Subj:** Re: Industry will back off EPA gasoline claim	03/21/2012 04:26:58 PM	**Auth:** Richard Windsor

Recipients
Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-355 falls within EPA-359. See the entry for EPA-359.

EPA-356	**Subj:** RE: Industry will back off EPA gasoline claim	03/21/2012 05:02:59 PM	**Auth:** "Zichal, Heather R."

Recipients
Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-356 falls within EPA-357. See the entry for EPA-357.

EPA-357	**Subj:** Re: Industry will back off EPA gasoline claim	03/21/2012 05:13:42 PM	**Auth:** Richard Windsor

Recipients
"Zichal, Heather R." <H(b)(6)[redacted]

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-357 is an email chain memorializing communications between Lisa Jackson, EPA Administrator, and Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. In an earlier email, Arvin Ganesan, Associate Administrator for the Office of Congressional and Intergovernment Affairs is forwarding an article indicating that the American Petroleum Institute (API) plans to release a new study lowering its impacts to gas prices related to EPA's requirement to cut sulfur in gasoline. The email was withheld in part.

Exemption 5
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response to the API study on EPA's proposed rule to reduce sulfur in gasoline. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when developing this rule.

The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies about the rule on sulfur standards in gasoline, which was still in development at the Agency at the time the record was created. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and management during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public response to API's study. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Exemption 6
Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-358	**Subj:** Re: Industry will back off EPA gasoline claim	03/21/2012 05:38:01 PM	**Auth:** Gina McCarthy

Recipients

Attachments

Richard Windsor/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-358 falls within EPA-359. See the entry for EPA-359.

EPA-359	**Subj:** Re: Industry will back off EPA gasoline claim	03/21/2012 06:09:34 PM	**Auth:** Richard Windsor

Recipients
Gina McCarthy/DC/USEPA/US@EPA; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-359 is an email chain memorializing communications between Lisa Jackson, EPA Administrator, and Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. Brendan Gilfillan, Deputy Press Secretary, is cc'ed. The communication forwards discussion between the Administrator and Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. In an earlier email, Arvin Ganesan, Associate Administrator for the Office of Congressional and Intergovernment Affairs forwards an article indicating that the American Petroleum Institute (API) plans to release a new study lowering its impacts to gas prices related to EPA's requirement to cut sulfur in gasoline. The email was withheld in part.

Exemption 5
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analysis, advice, and deliberations of EPA's management in formulating a public response to the API study on EPA's proposed rule to reduce sulfur in gasoline. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when developing this rule.

The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies about the rule on sulfur standards in gasoline, which was still in development at the Agency at the time the record was created. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and management during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public response to API's study. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Exemption 6
Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-360	**Subj:** Validators ?	03/22/2012 12:10:48 PM	**Auth:** Bob Perciasepe

Recipients
Gina McCarthy/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-360 falls within EPA-361. See entry for EPA-361.

EPA-361	**Subj:** Re: Validators ?	03/22/2012 01:09:22 PM	**Auth:** Gina McCarthy

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-361 is an email chain of five emails memorializing communications between Lisa Jackson, EPA Administrator; Bob Perciasepe, Deputy Administrator; and Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. The email chain involves the preparation of a meeting with the White House to discuss a number of EPA proposed rulemakings. EPA-360 is encapsulated in EPA-361. This record was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management with respect to the preparation for a meeting with the White House. The purpose of the White House meeting is to provide an update on a number of EPA proposed rulemakings, which include the new source performance standards for power plants. These communications were developed to assist in the decisionmaking process and represent the issues related to the myriad proposed rulemakings to the White House. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers in order to prepare for a meeting, which occurred during a number of proposed rules' development process, and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's position with respect to these proposed rules.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-362	**Subj:** Re: NSPS Materials	03/25/2012 05:25:35 PM	**Auth:** Brendan Gilfillan

Recipients
Gina McCarthy/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>

Attachments
3-25 NSPS releaseUPDATED.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-362 is an email chain memorializing communications between Brendan Gilfillan, EPA Deputy Press Secretary; Gina McCarthy, Assistant Administrator for the Office of Air and Radiation; and Bob Perciasepe, Deputy Administrator. The email chain discusses EPA policy and decisionmaking regarding the new source performance standards proposed rulemaking, including EPA's communications strategy for the proposed rulemaking. Portions of this record were withheld under Exemptions 5 and 6.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management with respect to rolling out the proposed rule on new source performance standards for the oil and gas industry. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when developing the rollout materials. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on the communications strategy that was still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public communications on this proposed rulemaking. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions on the communication strategy that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Exemption 6
The cell phone number of the current EPA Acting Administrator, which appears in the email signature block, was withheld pursuant to Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-363	**Subj:** Fw: Fwd: GHG NSPS CEG statement	03/26/2012 08:09:16 PM	**Auth:** Gina McCarthy

Recipients
"Bob Perciasepe" <perciasepe.bob@epa.gov>; "Arvin Ganesan" <Ganesan.Arvin@EPA.GOV>; "Michael Goo" <goo.michael@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "John Millett" <Millett.John@EPA.GOV>; "Joseph Goffman"
(b)(6) [redacted]

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-363 contains one personal email address that was withheld under Exemption 6. The owner of the email address was disclosed, but the actual email address was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

The only information withheld from EPA-363 is the personal email address. All other information from this email string was released.

EPA-364	**Subj:**	03/26/2012 08:22:40 PM	**Auth:** Bob Perciasepe

Recipients

probertson@anga.us

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-364 falls within EPA-370. See the entry for EPA-370.

EPA-365	**Subj:** Re:	03/26/2012 10:08:57 PM	**Auth:** Peter Robertson

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-365 falls within EPA-370. See the entry for EPA-370.

EPA-366	**Subj:** RE: Re:	03/26/2012 10:25:47 PM	**Auth:** Bob Perciasepe

Recipients

"Peter Robertson" <probertson@anga.us>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-366 falls within EPA-370. See the entry for EPA-370.

EPA-367	**Subj:** Re: Fw: ACIL Meeting	03/27/2012 07:44:43 AM	**Auth:** Jan Matuszko

Recipients

Mike Shapiro/DC/USEPA/US@EPA; Debbie Cash/DC/USEPA/US@EPA; Gregory

Attachments

ACIL - Background on Methods Modernization.docx

Carroll/CI/USEPA/US@EPA; Lynn Zipf/DC/USEPA/US@EPA; Robert Wood/DC/USEPA/US@EPA; Maria Gomez-Taylor/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-367 is an email string from Greg Carroll, Director of the EPA Technical Support Center in the Office of Ground Water and Drinking Water within the Office of Water (OW), to Mike Shapiro, Deputy Assistant Administrator for the OW, copying other OW senior management. The email pertains to preparing for a meeting at the American Council of Independent Laboratories (ACIL) on the topic of third party accreditation. Portions of the email were withheld. The attached document was withheld in full.

The withheld information in the email communication is protected under Exemption 5's deliberative process privilege because it consists of internal briefing and planning information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist with preparation for the ACIL meeting, including recommended responses to potential questions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on the Agency's position related to potential discussion topics at the ACIL meeting. The withheld records are predecisional because they contain information selected by EPA staff to prepare and inform senior officials of those OW-related topics prior to the meeting, and may not reflect the actual response, if any, to questions raise by ACIL.

Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the meeting preparation period and may harm the Agency's decisionmaking by chilling the open discussion of topical areas that may be discussed at the ACIL meeting. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed topics. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-368	**Subj:** RE:	03/27/2012 08:25:22 AM	**Auth:** Peter Robertson

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-368 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-368.

EPA-369	**Subj:** RE: Re:	03/27/2012 08:26:43 AM	**Auth:** Peter Robertson

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-369 falls within EPA-370. See the entry for EPA-370.

EPA-370	**Subj:** RE: Re:	03/27/2012 09:48:34 AM	**Auth:** Bob Perciasepe

Recipients
Peter Robertson <probertson@anga.us>

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
The email string within EPA-370 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-370 and related documents.

EPA-371	**Subj:** Daily Reading File: March 27, 2012	03/27/2012 03:51:08 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.3.27.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-371 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-372	**Subj:** Re: 316(b) policy mtg?	03/27/2012 08:24:10 PM	**Auth:** Bob Sussman

Recipients

Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-372 falls within EPA-375. See entry for EPA-375.

EPA-373	**Subj:** Re: 316(b) policy mtg?	03/27/2012 08:28:39 PM	**Auth:** Bob Sussman

Recipients

Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-372 falls within EPA-375. See entry for EPA-375.

EPA-374	**Subj:** RE: 316(b) policy mtg?	03/27/2012 09:13:12 PM	**Auth:** Bob Perciasepe

Recipients

Bob Sussman/DC/USEPA/US; Scott Fulton/DC/USEPA/US; Michael Goo/DC/USEPA/US; Diane Thompson/DC/USEPA/US

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-372 falls within EPA-376. See entry for EPA-376.

EPA-375	**Subj:** Re: 316(b) policy mtg?	03/28/2012 08:31:51 AM	**Auth:** Diane Thompson

Recipients

Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-375 is an email chain memorializing communications between Diane Thompson, Chief of Staff; Bob Sussman, Senior Policy Counsel to the Administrator; Bob Perciasepe, Deputy Administrator; Micheal Goo, Associate Administrator for the Office of Policy; and Scott Fulton, General Counsel. The EPA senior managers are discussing an email sent by Drew McConville, Senior Advisor to the Chair at the Council on Environmental Quality. The initial email requests a policy level discussion on the Clean Water Act (CWA) section 316(b) and its related proposed rulemaking. This record was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in responding to CEQ's request for a policy level discussion on the CWA section 316(b) and its related proposed rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when applying CWA section 316(b) to advance its proposed rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the Agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its senior staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy with respect to this proposed rule. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The withheld information is also protected under Exemption 5's attorney-client privilege because it presents information and legal advice to the Administrator that relate to this rule and the various policy proposals under consideration. This communication chain contains the opinions and questions of EPA's General Counsel. The withheld portion comprises of communications between an EPA attorney and his clients relating to a legal matter. There is no segregable factual information that could be released without revealing protected attorney-client communications. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going consideration of these proposal as they relate to EPA rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

There is no reasonably segregable information in this communication to be released to Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations and privileged content related to an attorney's advice to clients. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative and privileged discussion within this document.

EPA-376	**Subj:** 316(b) Policy Meeting	03/28/2012 09:23:47 AM	**Auth:** Teri Porterfield

Recipients

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification
EPA-376 is a meeting invite that contains an email chain memorializing communications between Diane Thompson, Chief of Staff; Bob Sussman, Senior Policy Counsel to the Administrator; Bob Perciasepe, Deputy Administrator; Micheal Goo, Associate Administrator for the Office of Policy; and Scott Fulton, General Counsel. The meeting invite includes senior managers within the EPA Office of Water. The EPA senior managers are discussing an email sent by Drew McConville, Senior Advisor to the Chair at the Council on Environmental Quality. The initial email requests a policy level discussion on the Clean Water Act (CWA) section 316(b) and its related proposed rulemaking. This record was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in responding to CEQ's request for a policy level discussion on the CWA section 316(b) and its related proposed rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when applying CWA section 316(b) to advance its proposed rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy with respect to this proposed rule. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-377	**Subj:** FW: EPA's Proposed Rules for Oil and Gas Production	03/28/2012 02:14:18 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
Oil and Gas OMB Presentation 22 March 12- FINAL.PDF
image002.jpg
ATTQA23G.jpg

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-377 is an email chain memorializing communications between Bob Perciasepe, EPA Deputy Administrator, and Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. Ms. Zichal's email address was the only information that was withheld.

Exemption 6
A portion of this document contains an official email address that belong to a staff member of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used

for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of the email address would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-378	**Subj:** Daily Reading File: March 28, 2012	03/28/2012 04:05:52 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.3.28.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-378 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-379	**Subj:** Daily Reading File: March 29, 2012	03/29/2012 04:07:08 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura

Attachments
Daily Reading File.3.29.12.pdf

Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-379 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-380	**Subj:** Quarterly Meeting with OMB	03/30/2012 02:57:47 PM	**Auth:** Mathy Stanislaus

Recipients

Barbara Hostage/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; Barry Breen/DC/USEPA/US@EPA; Suzanne Rudzinski/DC/USEPA/US@EPA; James Woolford/DC/USEPA/US@EPA; Barnes Johnson/DC/USEPA/US@EPA; Gerain Perry/DC/USEPA/US@EPA; Barbara Hostage/DC/USEPA/US; Lisa Feldt/DC/USEPA/US; Barry Breen/DC/USEPA/US; Suzanne Rudzinski/DC/USEPA/US; James Woolford/DC/USEPA/US; Barnes Johnson/DC/USEPA/US; Gerain Perry/DC/USEPA/US; Matt Straus/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-380 falls within EPA-72. See the entry for EPA-72.

EPA-381	**Subj:** Daily Reading File: March 30, 2012	03/30/2012 04:12:11 PM	**Auth:** Eliska Postell

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi

Attachments

Daily Reading File.3.30.12.pdf

Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-381 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-382	**Subj:** Re: Quarterly Meeting with OMB	03/30/2012 11:11:11 PM	**Auth:** Suzanne Rudzinski

Recipients

Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

The originating email falls within EPA-72. See the entry of EPA-72 for the withheld portion of the originating email. The additional email contained in EPA-382 has two sentences redacted in addition to the information redacted in EPA-72. These two sentences consist of an inquiry regarding this rulemaking and a staff opinion regarding this rulemaking that were considered in the development on the rule and the internal conversation regarding this rule. Release of these two sentences (and the remaining conversation) would have a chilling effect on the agency's ability to recieve the candid opinions of staff members in the decisionmaking process.

EPA-383	**Subj:** Re: Fw: Quarterly Meeting with OMB	04/02/2012 12:36:37 PM	**Auth:** Nigel Simon

Recipients

Barry Breen/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The withheld portion of EPA-383 falls within EPA-72. See the entry for EPA-72.

EPA-384	**Subj:** Daily Reading File: April 2, 2012	04/02/2012 05:11:27 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.4.2.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-384 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-385	**Subj:** Daily Reading File: April 3, 2012	04/03/2012 04:45:38 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.4.3.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-385 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-386	**Subj:** FW: WSJ: (Editorial) Killing Coal	04/04/2012 08:52:10 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-386 falls within EPA-393. See the entry for EPA-393.

EPA-387	**Subj:** Fw: WSJ: (Editorial) Killing Coal	04/04/2012 09:14:43 PM	**Auth:** Bob Perciasepe

Recipients
"Richard Windsor" <Windsor.Richard@epamail.epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Sussman, Bob" <sussman.bob@epa.gov>; "Michael Goo" <Goo.Michael@epamail.epa.gov>; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-387 falls within EPA-389. See the entry for EPA-389 and EPA-393.

EPA-388	**Subj:** Re: WSJ: (Editorial) Killing Coal	04/04/2012 10:35:00 PM	**Auth:** Gina McCarthy

Recipients

"Heather Zichal" (b)(6) [redacted]; Bob Perciasepe/DC/USEPA/US@EPA; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-388 falls within EPA-393. See the entry for EPA-393.

EPA-389	**Subj:** Re: WSJ: (Editorial) Killing Coal	04/04/2012 10:53:47 PM	**Auth:** Brendan Gilfillan

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>; "Sussman, Bob" <sussman.bob@epa.gov>; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-389 falls within EPA-393, except for one line at the very top which represents a communication from Brendan Gilfillian addressing options for a response. This line was redacted as deliberative for the reasons explained in EPA-393. See entry for EPA-393.

EPA-390	**Subj:** RE: WSJ: (Editorial) Killing Coal	04/05/2012 05:33:13 AM	**Auth:** Bob Perciasepe

Recipients

Gina McCarthy/DC/USEPA/US; Brendan Gilfillan/DC/USEPA/US

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-390 falls within EPA-393. See the entry for EPA-393.

EPA-391	**Subj:** NY Times Cleaner Fuels, Cleaner Cars -- and the WSJ	04/05/2012 07:04:39 AM	**Auth:** Bob Perciasepe

Recipients

Paul Billings <Paul.Billings@lung.org>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-391 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-391.

EPA-392	**Subj:** Re: WSJ: (Editorial) Killing Coal	04/05/2012 07:18:28 AM	**Auth:** Gina McCarthy

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-392 falls within EPA-393. See the entry for EPA-393.

EPA-393	**Subj:** Re: WSJ: (Editorial) Killing Coal	04/05/2012 07:31:50 AM	**Auth:** Bob Perciasepe

Recipients

Gina McCarthy/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>

Attachments

Killing Coal - perc thoughts.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA 393 is an email string between Bob Perciasepe, EPA Deputy Administrator (currently Acting Administrator); Gina McCarthy, Assistant Administrator for the Office of Air and Radiation; and Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. The content pertains to a Wall Street Jounal (WSJ) article on EPA's proposed new source performance standards for carbon pollution. The email was withheld in part under Exemption 5 and 6.

Exemption 5 -- Deliberative Process Privilege
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of the White House and EPA's senior managers in formulating a public response to the WSJ article on the proposed new source performance standards. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA as it developed its communications strategy for the proposed rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public response to the WSJ article. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Exemption 6
The cell phone number of the current EPA Acting Administrator, which appears in the email signature block, was redacted under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and therefore there is no public interest in disclosure of the email addresses. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-394	**Subj:** Draft blog	04/05/2012 12:17:50 PM	**Auth:** Brendan Gilfillan

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-394 falls within EPA-395. See the entry for EPA-395.

EPA-395	**Subj:** Re: Draft blog	04/05/2012 01:50:14 PM	**Auth:** Richard Windsor

Recipients
Brendan Gilfillan/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA 395 is an email string between Brenden Gilfillan, Deputy Press Secretary; Lisa Jackson, former EPA Administrator; and Bob Perciasepe, EPA Deputy Administrator (currently Acting Administrator). The content pertains to EPA's response to a Wall Street Jounal (WSJ) article on EPA's proposed new source performance standards for carbon pollution. The email string was withheld in full under Exemption 5.

Exemption 5 -- Deliberative Process Privilege
The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of the White House and EPA's senior managers in formulating a public response to the WSJ article on the proposed new source performance standards for carbon pollution. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA as it developed its response to the WSJ article. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public response to the WSJ article. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-396	**Subj:** Fw: blog	04/05/2012 03:18:41 PM	**Auth:** Brendan Gilfillan

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification
Document EPA-396 is an email from Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education, to Bob Perciasepe, the Deputy Administrator. The email forwards an email from Mr. Gilfillan to Clark Stevens, in the Executive Office of the President that contains the text of a draft blog entry. EPA-396 was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal draft of a document which reflects the advice and deliberations between EPA and the White House related to the proposed blog entry. The withheld information does not represent an official Agency decision or statement and instead reflects a potential public statement on issues that was still under consideration and in development at the Agency. The withheld record is predecisional because it contains information selected by EPA staff under consideration by EPA managers and presented to White House staff for advice and analysis.

Release would have a chilling effect on the Agency's ability to have open and frank discussions on how to communicate with the public on EPA activities, and may harm the Agency's decision-making by restricting the open discussion of how to educate the public about EPA activities. It would also limit the ability of EPA and the White House to speak freely about these issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-397	**Subj:** WSJ blog	04/05/2012 03:32:48 PM	**Auth:** Bob Perciasepe

Recipients
"Zichal, Heather R." <(b)(6)[redacted]

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification
Document EPA-397 is an email from Bob Perciasepe, Deputy Administrator to Heather Zichal, Deputy Assistant to the President for Energy and Climate Change. The email forwards the email string contained in document EPA-396, and also includes copies the text of a submitted Letter to the Editor of the Wall Street Journal, written by Susan Tierney. EPA-397 was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal draft of a document which reflects the advice and deliberations between EPA and the White House related to the proposed blog entry. The withheld information does not represent an official Agency decision or statement and instead reflects a potential public statement on issues that was still under consideration and in development at the Agency. The withheld record is predecisional because it contains information selected by EPA staff under consideration by EPA managers and presented to White House staff for advice and analysis.

Release would have a chilling effect on the Agency's ability to have open and frank discussions on how to communicate with the public on EPA activities, and may harm the Agency's decision-making by restricting the open discussion of how to educate the public about EPA activities. It would also limit the ability of EPA and the White House to speak freely about these issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

Portions of this document also contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-398	**Subj:** RE: WSJ blog	04/05/2012 03:37:36 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege

Release-Redaction

Justification

Document EPA-398 is an email from Heather Zichal, Deputy Assistant to the President for Energy and Climate Change to Bob Perciasepe, Deputy Administrator. The email replies to the email contained in EPA-397, and was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal draft of a document which reflects the advice and deliberations between EPA and the White House related to the proposed blog entry. The withheld information does not represent an official Agency decision or statement and instead reflects a potential public statement on issues that was still under consideration and in development at the Agency. The withheld record is predecisional because it contains information selected by EPA staff under consideration by EPA managers and presented to White House staff for advice and analysis.

Release would have a chilling effect on the Agency's ability to have open and frank discussions on how to communicate with the public on EPA activities, and may harm the Agency's decision-making by restricting the open discussion of how to educate the public about EPA activities. It would also limit the ability of EPA and the White House to speak freely about these issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-399	**Subj:** Daily Reading File: April 9, 2012	04/09/2012 06:56:26 PM	**Auth:** Cynthia Gaines

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments

Daily Reading File.4.9.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-399 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX

staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-400	**Subj:** Daily Reading File: April 10, 2012	04/10/2012 04:35:33 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.4.10.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-400 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-401	**Subj:** Daily Reading File: April 11, 2012	04/11/2012 04:07:05 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob

Attachments
Daily Reading File.4.11.12.pdf

Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-401 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-402	**Subj:** Fw: THURSDAY: API and ANGA outline final recommendations on EPA'semissions rules for hydraulic fracturing	04/12/2012 12:24:58 AM	**Auth:** Gina McCarthy

Recipients

Richard Windsor/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Janet Woodka" <Woodka.Janet@epamail.epa.gov>; "Diane Thompson" <Thompson.Diane@EPA.GOV>

Attachments

Exemption(s)

Release

Justification

EPA-402 was released in full.

EPA-403	**Subj:** RE: THURSDAY: API and ANGA outline final recommendations on EPA'semissions rules for hydraulic fracturing	04/12/2012 06:03:55 AM	**Auth:** Bob Perciasepe

Recipients

Attachments

Gina McCarthy/DC/USEPA/US; Joseph Goffman/DC/USEPA/US

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-403 falls within EPA-405. See the entry for EPA-405.

EPA-404	**Subj:** Re: THURSDAY: API and ANGA outline final recommendations on EPA'semissions rules for hydraulic fracturing	04/12/2012 07:42:16 AM	**Auth:** Gina McCarthy

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US; "Peter Tsirigotis" <Tsirigotis.Peter@EPA.GOV>

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-404 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-404.

EPA-405	**Subj:** Re: THURSDAY: API and ANGA outline final recommendations on EPA'semissions rules for hydraulic fracturing	04/12/2012 08:12:58 AM	**Auth:** Joseph Goffman

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-405 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-405.

EPA-406	**Subj:** Fw: API letter	04/12/2012 08:37:57 AM	**Auth:** Janet Woodka

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-406 is an email from Janet Woodka Senior Advisor to the Deputy Administrator to Administrator Lisa Jackson, Bob Perciasepe, Deputy Adminstrator, Gina McCarthy Assistant Administrator for the Office of Air and Radiation and Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education. The email forwards an advance copy of a letter from the American Petroleum Institute to the Administrator, which was released. A portion of the email from Ms. Woodka was withheld under Exemption 5, the Deliberative Process Privilege.

The withheld portion of this email is protected under Exemption 5's deliberative process privilege because it consists of internal discussions and opinion on how to respond to the letter from stakeholders and the EPA's evaluation of stakeholder concerns. The withheld portion does not represent an official Agency decision or policy and instead reflect analysis and recommendations on issues and communications still in development at the Agency.

The withheld information is predecisional because it relates to issues raised by the stakeholder letter that were still in discussion at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider responses to such issues. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-407	**Subj:** Re: Jack Gerard letter on New Source Performance Standards for the Oil and Gas Sector	04/12/2012 11:32:41 AM	**Auth:** Richard Windsor

Recipients
Janet Woodka/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

Attachments

Exemption(s)
Release

Justification
EPA-407 was released in full.

EPA-408	**Subj:** Re: Jack Gerard letter on New Source Performance Standards for the Oil and	04/12/2012 11:38:02 AM	**Auth:** Janet Woodka

	Gas Sector		

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The originating email of EPA-408 falls within EPA-407 and EPA-409, which were released in full. The additional portion of the email exchange contained in EPA-408 has two sentences contained within a reply email redacted in addition to the information that was released in EPA-407. These two sentences consist of an inquiry regarding outreach and public responwse and an opinion regarding this potential options for outreach that were considered as part of the Agency's decisionmaking process regarding how to respond to public inquiries related to rulemaking. Release of these two sentences (and the remaining conversation) would have a chilling effect on the agency's ability to recieve the candid opinions of staff members in the decisionmaking process with regard to the Agency's public outreach activities.

All reasonably segregable information has been released to Plaintiff, including the documents released in EPA-407 and EPA-409. There is no additional reasonably segregable information that can be released to plaintiff. Any factual information in the redacted portion is inextricably intertwined with deliberative content not subject to release.

EPA-409	**Subj:** Fw: Jack Gerard letter on New Source Performance Standards for the Oil and Gas Sector	04/12/2012 11:40:38 AM	**Auth:** Diane Thompson

Recipients
Eric Wachter/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US

Attachments
O&GAdministratorLtr.pdf

Exemption(s)
Release

Justification
EPA-409 was released in full.

EPA-410	**Subj:** Daily Reading File: April 12, 2012	04/12/2012 04:19:25 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.4.12.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-410 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-411	**Subj:** Fw: GHG Rule	04/12/2012 05:38:10 PM	**Auth:** Brendan Gilfillan

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Betsaida Alcantara/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-411 contains an internal email from Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education, to Bob Perciasepe, Deputy Administrator and other senior EPA staff, forwarding a press inquiry from a Politico reporter. The internal portion of the e-mail discussing the inquiry and possible responses to it has been withheld, and the inquiry from the reporter was released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The redacted information does not contain reasonably segregable factual information. The segregable portions of the email chain, including the external communications, have been released.

EPA-412	**Subj:** Daily Reading File: April 13, 2012	04/13/2012 05:31:26 PM	**Auth:** Cynthia Gaines

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi

Attachments

Daily Reading File.4.13.12.pdf

Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-412 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-413	**Subj:** FW: Letter to President Obama re: Oil and Gas Sector Air Emissions	04/13/2012 06:24:53 PM	**Auth:** Janice Nolen

Recipients

LisaP Jackson/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Steve Page/RTP/USEPA/US@EPA

Attachments

Letter to President Obama_Oil and Gas Sector Air Emissions 4 13 12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-413 contains an email chain exchanged between the American Lung Association and White House and EPA officials, which was released in full, with the exception of two redactions of official email addresses that belong to staff members of the Executive Office of the President under Exemption 6.

The withheld portions contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

EPA-414	**Subj:** Daily Reading File: April 16, 2012	04/16/2012 05:13:45 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.4.16.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-414 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-416	**Subj:** Hot List	04/17/2012 05:01:05 PM	**Auth:** Gina McCarthy

Recipients
Richard Windsor/DC/USEPA/US@EPA; perciasepe.bob@epa.gov; Sussman.bob@EPA.GOV; Michael Goo/DC/USEPA/US@EPA; Fulton.Scott@EPA.GOV; Thompson.Diane@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA

Attachments
Hot List 4.17.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-416 is an email from Gina McCarthy, Assistant Administrator for the Office of Air and Radiation ("OAR") to eight senior EPA staff providing a hot issues list as an attachment. The text of the email was released in full, the 3 page attachment was withheld in full.

The information redacted from this attachment contains predecisional and deliberative communications related to future proposed actions in OAR. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All segregable material in the Exemption 5 withheld documents has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-417	**Subj:** Hot List	04/17/2012 05:01:05 PM	**Auth:** Gina McCarthy

Recipients
Richard Windsor/DC/USEPA/US@EPA; perciasepe.bob@epa.gov; Sussman.bob@EPA.GOV; Michael Goo/DC/USEPA/US@EPA; Fulton.Scott@EPA.GOV; Thompson.Diane@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA

Attachments
Hot List 4.17.12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
EPA-417 is identical to EPA-416. See the entry for EPA-416.

EPA-418	**Subj:**	04/17/2012 05:15:06 PM	**Auth:** Bob Perciasepe

Recipients
probertson@anga.us

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-418 was released in full except for the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The Acting Administrator's cell phone number was the only withheld information in EPA-418.

EPA-420	**Subj:** Daily Reading File: April 18, 2012	04/18/2012 04:14:32 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.4.18.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-420 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-421	**Subj:** summary of meeting with Las Brisas	04/19/2012 12:33:01 AM	**Auth:** Janet McCabe

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Al Armendariz/R6/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-421 is an email from Janet McCabe, Principal Deputy Assistant Administrator of the Office of Air and Radiation to senior EPA officials, including Gina McCarthy, the Assistant Administrator of the Office of Air and Radiation, which contains a summary and analysis of a meeting with Las Brisas. The email was withheld in full.

The email is protected under Exemption 5's deliberative process privilege because it was shared only with Agency employees and contained the opinions and analysis of a information that was provided for discussion and consideration by senior managers. The email reflects the analyses, advice, and recommendations presented to senior leaders to consider options related to a Las Brisas facility. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on options still in development at the Agency. Release would have a chilling effect on the Agency's ability to

have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of information and ideas that originated in meetings with stakeholders.

There is no reasonably segregable information in this exchange that could be released. To the extent that the email communication and attachments contain factual information, that factual information is inextricably intertwined with the deliberative content and cannot be released without disclosing protected deliberations not subject to disclosure.

EPA-422	**Subj:** FW: PA voices on air rule	04/19/2012 05:42:14 PM	**Auth:** "Shelley Vinyard"

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
airrule-localofficialsletter-Apr2012.docx

Exemption(s)
Release

Justification
Document EPA-422 was released in full.

EPA-423	**Subj:** Fw: Environmental Justice: Rodenticides	04/24/2012 12:25:49 PM	**Auth:** Jim Jones

Recipients
Steven Bradbury/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US; Niva Kramek/DC/USEPA/US@EPA

Attachments
GARCIA042412.pdf
GARCIA042012ATTACHMENT.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
EPA-423 contains an email from Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) to EPA staff asking a question about a forwarded email from Hal Ambuter of Reckitt Benckiser. One sentence of the internal email was withheld. The forwarded email from the third party and its attachments were released in full.

This information is protected by the deliberative process privilege of Exemption 5 because it was internal to the Agency, and does not represent an official Agency decision or policy and instead reflects questions, analysis, and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about environmental justice, and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

EPA segregated and released the non-deliberative email transmitting the attachments and information under consideration. To the extent any of this withheld information contains facts, the facts reflect the Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-424	**Subj:** Fw: Environmental Justice: Rodenticides	04/24/2012 05:46:30 PM	**Auth:** Jim Jones

Recipients
Lisa Garcia/DC/USEPA/US@EPA; Lisa Garcia/DC/USEPA/US

Attachments
GARCIA042412.pdf
GARCIA042012ATTACHMENT.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
EPA-424 contains an email from Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) to Lisa Garcia, the Associate Assistant Administrator for Environmental Justice, providing information and asking a question about a forwarded email from Hal Ambuter of Reckitt Benckiser. A portion of the internal email was withheld. The forwarded email from the third party and its attachments were released in full.

This information is protected by the deliberative process privilege of Exemption 5 because it was internal to the Agency, and does not represent an official Agency decision or policy and instead reflects internal discussion about the attached correspondence from a third party concerning environmental justice and the Agency's work on regulating rodenticides. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about environmental justice.

EPA segregated and released the non-deliberative email transmitting the attachments and information under consideration. To the extent any of this withheld information contains facts, the facts reflect the Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-425	**Subj:** Fw: Fw: Environmental Justice: Rodenticides	04/24/2012 06:15:22 PM	**Auth:** Jim Jones

Recipients
"Gloria Milhouse" <Milhouse.Gloria@epamail.epa.gov>; Steven Bradbury/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments
GARCIA042412.pdf
GARCIA042012ATTACHMENT.pdf

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction

Justification
EPA-425 contains an email from Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) to EPA staff asking to set up time to discuss issues related to a forwarded email from Hal Ambuter of Reckitt Benckiser. A portion of the internal email was withheld, and is identical to the information withheld in EPA-424. A portion of the internal emails and the forwarded email from the third party and its attachments were released in full.

This information is protected by the deliberative process privilege of Exemption 5 because it was internal to the Agency, and does not represent an official Agency decision or policy and instead reflects internal discussion about a response to the attached correspondence from a third party that concerns environmental justice and the Agency's work on regulating rodenticides. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about environmental justice, and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

EPA segregated and released the non-deliberative email transmitting the attachments and information under consideration. To the extent any of this withheld information contains facts, the facts reflect the Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual

information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-426	**Subj:** Daily Reading File: April 25, 2012	04/25/2012 05:27:25 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File..4.25.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-426 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-427	**Subj:** Daily Reading File: April 26, 2012	04/26/2012 04:28:01 PM	**Auth:** Jacqueline Leavy

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.4.26.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-427 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-428	**Subj:** Re: Fw: trade press re PM NAAQS, boilers, and Tier 3	04/27/2012 12:10:59 AM	**Auth:** Janet McCabe

Recipients
Kevin McLean/DC/USEPA/US@EPA; John Hannon/DC/USEPA/US@EPA; Patricia Embrey/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-428 contains an email exchange between Janet McCabe, Principal Deputy Assistant Administrator of the Office of Air and Radiation and three attorneys in the Office of General Counsel. The withheld information qualifies for protection under both the deliberative process and the attorney-client privileges of Exemption 5. All communications in this document were internal to EPA; and they are pre-decisional and deliberative. They represent discussions with 3 different OGC attorneys who were assisting in responding to a press story concerning EPA rules related to fine soot.

The withheld information is protected under Exemption 5's attorney-client privilege because it represents communications between an EPA program office client and EPA Office of General Counsel attorneys regarding legal advice related to agency activities. This communication chain contains the opinions of attorneys and represents the legal questions raised by the article. The withheld portions of records consist of communications between an EPA attorney and his/her client relating to a legal matter, the legal implications of EPA's public statements. The records contain facts divulged by the clients to their attorneys. This communication was kept confidential and only circulated to those with a need to know in the Agency. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's response to these letters and other legal matters. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the rulemaking process. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys. Because the withheld material consists of communications between the Agency's attorneys and an individual within one of its air programs about a legal matter, they qualify for attorney-client protection. These email messages contain the opinions of attorneys responding to legal questions and were circulated only to those with a need to know in the Agency.

This information is also protected by the deliberative process privilege of Exemption 5 because it was internal to the Agency, and does not represent an official Agency decision or policy and instead reflects questions, analysis, and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about rulemaking, and may harm the Agency's decisionmaking by chilling the open discussion of public statements about the Agency's proposed actions and activities. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

There is no segregable factual information within the redacted material in the three emails that could be released without revealing that which is protected under Exemption 5 privileges.

EPA-429	**Subj:** NPDES rule	04/27/2012 12:30:21 PM	**Auth:** Cynthia Giles-AA

Recipients
Lisa Lund/DC/USEPA/US@EPA; John Dombrowski/DC/USEPA/US@EPA; Lisa Lund/DC/USEPA/US; John Dombrowski/DC/USEPA/US; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-429 is a email from Cynthia Giles, Associate Administrator for EPA's Office of Enforcement and Compliance Assurance to Lisa Lund in the EPA's Office of Enforcement and Compliance Assurance, copying other EPA employees in the Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a decision on how to move forward with a rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on a potential policy or agency action. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy and approaches to policymaking.

Document EPA-80, which was released with redactions, contains some very minor segregable information from this chain of communication such as signature block information and greetings. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-430	**Subj:** Re: NPDES rule	04/27/2012 02:52:23 PM	**Auth:** Cynthia Giles-AA

Recipients
Lisa Lund/DC/USEPA/US@EPA; Lisa Lund/DC/USEPA/US; John Dombrowski/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-430 is an email string consisting of three email messages memorializing communications between Cynthia Giles, Associate Administrator for EPA's Office of Enforcement and Compliance Assurance and Lisa Lund in the EPA's Office of Enforcement and Compliance Assurance, copying other EPA employees in the

Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a decision on how to move forward with a rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on a potential policy or agency action. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy and approaches to policymaking.

Document EPA-80, which was released with redactions, contains some very minor segregable information from this chain of communication such as signature block information and greetings. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-431	**Subj:** Daily Reading File: April 27, 2012	04/27/2012 05:16:23 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.4.27.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-431 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-432	**Subj:** Daily Reading File: April 30, 2012	04/30/2012 05:34:17 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky

Attachments
Daily Reading file.4.30.12.pdf

Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-432 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-433	**Subj:** Fw: Follow up on palm oil	05/01/2012 12:32:44 PM	**Auth:** lisapjackson

Recipients

Gina McCarthy/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

EPA-palm-oil-comments-final.pdf
ATTJDMA6.tiff
ATTJ8YTI.tiff

Exemption(s)

Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification

The withheld portion of EPA-433 falls within EPA-434. See the entry of EPA-434.

EPA-434	**Subj:** Re: Fw: Follow up on palm oil	05/01/2012 02:47:13 PM	**Auth:** Gina McCarthy

Recipients

lisapjackson(b)(6) [redacted] Bob Perciasepe/DC/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

ATTTD4ZE.tiff
EPA-palm-oil-comments-final.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification

EPA-434 contains one personal email address that was withheld under Exemption 6. The owner of the email address was disclosed, but the actual email address was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

The only information withheld from EPA-434 is the personal email address. All other information from this email string was released.

EPA-435	**Subj:** Daily Reading File: May 1, 2012	05/01/2012 06:35:15 PM	**Auth:** Cynthia Gaines

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments

Daily Reading File.5.1.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-435 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-436	**Subj:** Re: ACTION: EE News re: Dioxin PRG-DEADLINE Today COB	05/02/2012 03:57:46 PM	**Auth:** Brendan Gilfillan

Recipients

Attachments

Michael Goo/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-436 consists of an email chain of eight emails. Three of the emails contained commincations between EPA staff and reporter, and were released in full. Those emails were then forwarded internally among EPA staff, for consideration of a response. Portions of four internal emails were redacted. The final email in the chain, containing the final text of the reporter's story was released in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

Additionally, the cell phone number of the current EPA Acting Administrator, which appears in the email signature block, was redacted under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-440	**Subj:** Re: Wash Post inquiry	05/03/2012 02:20:02 PM	**Auth:** Brendan Gilfillan

Recipients

Brendan Gilfillan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-440 falls within EPA-442. See the entry for EPA-442.

EPA-441	**Subj:** Re: Wash Post inquiry	05/03/2012 02:42:54 PM	**Auth:** Brendan Gilfillan

Recipients

Brendan Gilfillan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-441 falls within EPA-442. See the entry for EPA-442.

EPA-442	**Subj:** Re: Wash Post inquiry	05/03/2012 03:44:01 PM	**Auth:** Brendan Gilfillan

Recipients
Brendan Gilfillan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-442 contains an email chain between Brendan Gilfillan, a staff member within the Office of External Affairs and Environmental Education, and EPA senior staff, the Administrator and Deputy Administrator. The email forwards an email from a reporter asking for comment on a proposed news article. The email from the reporter was forwarded to senior EPA officials, as well as a copy of the article, and both emails were released in full. Two emails among EPA staff were then redacted under Exemption 5, Deliberative Process Privilege.

The withheld portion of EPA-442 is protected by the deliberative process privilege of Exemption 5 because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. There is no segregable factual information within the redacted material in the three emails that could be released without revealing that which is protected under Exemption 5 privileges

In addition, portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

EPA-443	**Subj:** Fw: 316b talking points	05/03/2012 08:15:00 PM	**Auth:** Michael Goo

Recipients
"Richard Windsor" <Windsor.Richard@epamail.epa.gov>; Perciasepe.Bob@epamail.epa.gov; "Bob Sussman" <Sussman.Bob@epamail.epa.gov>; vaught.laura@epa.gov; "Diane Thompson" <Thompson.Diane@epamail.epa.gov>

Attachments
316b NODA Stated Preference Note and TPs v2.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

EPA-443 is an email from Michael Goo, Assistant Adminstrator for the Office of Policy to the Administrator, Deputy Administrator and other senior staff that forwards an attachment containing draft talking points. The email body also contains a discussion about preparation for possible calls with Exelon, a portion of which was released. The attachment was withheld in full.

The withheld portions of EPA-443 feature background information and draft talking points and are protected under Exemption 5's deliberative process privilege because they consist of selected issues and information prepared by EPA staff to prepare the Administrator for a future phone call with Exelon. The withheld information was internal to EPA staff only, and is predecisional because it contains information selected by EPA staff to prepare and update the Administrator, and was not finalized for use by the Administrator during the discussion. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider preparations for such meetings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-444	**Subj:** Re: CONFIDENTIAL: FWS interests in ongoing discusions with FL	05/04/2012 10:23:52 AM	**Auth:** Richard Windsor

Recipients

Bob Sussman/DC/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-444 falls within EPA-447. See entry for EPA-447.

EPA-445	**Subj:** Re: CONFIDENTIAL: FWS interests in ongoing discusions with FL	05/04/2012 10:37:57 AM	**Auth:** Bob Sussman

Recipients

Richard Windsor/DC/USEPA/US@EPA; Gwendolyn KeyesFleming/R4/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-445 falls within EPA-447. See entry for EPA-447.

EPA-446	**Subj:** RE: CONFIDENTIAL: FWS interests in ongoing discusions with FL	05/04/2012 11:14:53 AM	**Auth:** Bob Perciasepe

Recipients
Bob Sussman/DC/USEPA/US; Richard Windsor/DC/USEPA/US; Gwendolyn KeyesFleming/R4/USEPA/US; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-446 falls within EPA-447. See entry for EPA-447.

EPA-447	**Subj:** RE: CONFIDENTIAL: FWS interests in ongoing discusions with FL	05/04/2012 11:14:53 AM	**Auth:** Bob Perciasepe

Recipients
Bob Sussman/DC/USEPA/US; Richard Windsor/DC/USEPA/US; Gwendolyn KeyesFleming/R4/USEPA/US; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-447 contains an email string of five emails (which full includes documents EPA-444, EPA-445 and EPA-446). The string is comprised of a series of emails among EPA senior staff, including the Administrator and Deputy Administrator and Bob Sussman, Senior Policy Counsel to the Administrator, discussing an email received from the Department of the Interior which contains Attorney-Client privileged communications to Avi Garbow, Deputy General Counsel of EPA's Office of General Counsel. The entire email string was withheld in full under the deliberative process privilege and the attorney-client privilege.

The withheld emails qualify for protection under the deliberative process privilege of Exemption 5 because they are intra-agency communications that relate to pre-decisional considerations concerning potential proposals related to Florida water quality standards under consideration by the Agency and the Department of the Interior. The withheld material does not represent an official Agency decision or policy; its release would have a chilling effect on the EPA's ability to have open and frank discussions among its staff in regard to potential future Agency actions.

The withheld information is also protected under Exemption 5's attorney-client privilege because it presents information and legal advice to the Administrator that relate to the water quality standards and various proposals under consideration. This communication chain contains the opinions and questions of an EPA attorney. The withheld portion comprises of communications between an EPA attorney and his clients relating to a legal matter. There is no segregable factual information that could be released without revealing protected attorney-client communications. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going consideration of these proposal as they relate to EPA rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

All segregable material, which includes the remainder of the document, has been released. The release of any remaining, redacted information would reveal deliberative or attorney-client information not subject to disclosure. Any factual information in the withheld portion of the draft materials is inextricably

intertwined with deliberative content, and is not reasonably segregable.

Finally, the cell phone number of the then Deputy Administrator (now the current Acting Administrator) is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-448	**Subj:** Daily Reading File: May 7, 2012	05/07/2012 05:23:49 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.5.7.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-448 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-450	**Subj:** Fw: Meeting with Mark Bernstein, Latham & Watkins and the Deputy Administrator	05/08/2012 10:12:13 AM	**Auth:** Nena Shaw

Recipients
"Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>

Attachments
ReCommunity 5_8_12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
EPA-450 contains a string of 6 emails and one meeting invitation. The body of all of the emails and the meeting invitation was released in full. One email from an employee in the Office of Air and Radiation to several EPA staff contained an attachment. The two page attachment containing a briefing paper for a meeting about ReCommunity was withheld in full under the deliberative process privilege.

The briefing document discusses background information to be discussed during the meeting as well as various options for outcomes and potential EPA activity. The attachment is protected under Exemption 5's deliberative process privilege because it consists of internal briefing information that reflect the analyses, advice, and recommendations of staff to managers, developed to assist EPA decisionmakers in deciding on a course of action with respect to the issues raised in the ReCommunity meeting. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the Agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff in preparing for meetings with outside groups and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when preparing for such meetings. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-451	**Subj:** Daily Reading File: Mat 8, 2012	05/08/2012 04:42:54 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.5.8.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-451 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in

preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-459	**Subj:** Pre-Brief re: OMB staff briefing on Boiler/NHSM package	05/14/2012 01:27:17 PM	**Auth:** Donald Maddox

Recipients

Attachments
ATT78RDT.pptx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
EPA-459 contains a meeting invitation and attachment. The meeting invitation was released in full and the 19-page attachment containing a set of PowerPoint slides titled "Boiler Major Source, Boiler Area Source and CISWI Rules, briefing for OMB Staff" dated May 16, 2012 was withheld in full. It contains the opinions, advice, and recommendations of EPA staff provided as a draft/pre-brief document for senior Agency officials in advance of the meeting scheduled with OMB later in the week. The attachment includes staff analysis of comments on EPA's proposed rules and potential responses.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal briefing paper which reflects the analyses, advice, and deliberations of EPA's personnel in formulating a policy decision. The attachment was developed to assist in the decisionmaking process and represents the opinions and judgments that were under consideration by EPA at the time. The withheld information does not represent an official Agency decision or policy; rather, it reflects analysis and recommendations on proposed rules that were still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies.

The meeting invitation has been released in full. All segregable material in this record has been released to the Plaintiff. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-460	**Subj:** PM	05/14/2012 06:03:41 PM	**Auth:** Gina McCarthy

Recipients
perciasepe.bob@epa.gov; Michael Goo/DC/USEPA/US@EPA; Fulton.Scott@EPA.GOV;
Janet McCabe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-460 is contained within EPA-464. See entry for EPA-464.

EPA-461	**Subj:** Re: PM	05/14/2012 06:08:25 PM	**Auth:** Michael Goo

Recipients
Gina McCarthy/DC/USEPA/US@EPA; Fulton.Scott@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; perciasepe.bob@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-461 contains a two email chain. The original email message is identical to EPA-460, which is described in more detail in the entry for EPA-464. The second email message is a reply to the original email, sent by Michael Goo, Associate Administrator for the Office of Policy to Gina McCarthy, the Assistant Administrator for the Office of Air and Radiation, copying the Deputy Administrator, the General Counsel, and Principle Deputy Assistant Administrator for the Office of Air and Radiation.

The withheld information is protected because it is an internal conversation that reflects the analyses, advice, and deliberations of EPA's management in working together with OMB and OAQPS/EPA. This withheld record is predecisional because the communication represents the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches during ongoing rulemakings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. There is no additional segregable material that can be released in this email message.

The withheld information is also protected under Exemption 5's attorney-client privilege because it represents a communication between an EPA program office and the General Counsel, related to legal advice regarding an issue arising in a potential rulemaking. The withheld record consists of information presented to the General Counsel from The Assistant Administrator, related to the rulemaking process, and reflects legal advice about the rulemaking and related litigation. The record contain facts and questions divulged by the clients to the Office of General Counsel. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of the rule. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality.

To the extent there are facts in the withheld record, the selection of those facts are an integral part of the process of seeking legal advice by EPA decisionmakers during the development of these rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

EPA-462	**Subj:** Remarks for Steel Manufacturers Association Conference -- tomorrow at 3 PM	05/14/2012 07:07:52 PM	**Auth:** Stephanie Epner

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Teri Porterfield/DC/USEPA/US@EPA; Denise Anderson/DC/USEPA/US@EPA

Attachments
TP for GinaMcCarthy_AISI_ 5-1-2012_OAQPSversion.docx
20120515 Steel Manufacturers Association.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification

This document is a single email conveying draft remarks for the Deputy Administrator's consideration for a scheduled appearance the next day. The email message has been released in full as is the attached draft speech.

The second attachment, talking points prepared for Gina McCarthy for a previous engagement, has been properly withheld in full under Exemption 5. This information is protected by the deliberative process privilege of Exemption 5 because it reflects the advice and recommendations of staff to managers, developed to assist in the Asssistant Administrator's consideration of program priorities. Release would have a chilling effect on the Agency's ability to have open and frank discussions.

All segregable material in these documents has been released to the Plaintiff.

EPA-463	**Subj:** Re: PM	05/14/2012 07:37:46 PM	**Auth:** Bob Perciasepe

Recipients

Gina McCarthy/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US; Fulton.Scott@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-463 falls within EPA-464. See the entry for EPA-464.

EPA-464	**Subj:** Re: PM	05/14/2012 07:43:33 PM	**Auth:** Gina McCarthy

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Fulton.Scott@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-464 contains an email string of 3 email messages (and includes the full text of documents EPA-460 and EPA-463). The first email message in the string is from Gina McCarthy, Assistant Administrator of the Office of Air and Radiation, to Bob Perciasepe, the Deputy Administrator, the Michael Goo, the Associate Administrator for the Office of Policy, and Scott Fulton, the General Counsel. The second email in the chain is a reply to the email from Gina McCarthy by Bob Perciasepe, the Deputy Administrator to the recipients of the original email, and also to Janet McCabe, the Principle Deputy Assistant Administrator for the Office of Air and Radiation. The third email in the string contains a reply to the same four individuals, from Gina McCarthy.

This document was withheld in full under the deliberative process privilege of Exemption 5. It discusses EPA policy and future decisionmaking regarding particulate matter in the context of proposed rule-making.

The withheld information is protected because it is an internal conversation that reflects the analyses, advice, and deliberations of EPA's management in working together with OMB and OAQPS/EPA. This withheld record is predecisional because the communication represents the opinions and judgments that were under

consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches during ongoing rulemakings. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government. There is no additional segregable material that can be released in this email message.

The withheld information is also protected under Exemption 5's attorney-client privilege because it represents a communication between an EPA program office and the General Counsel, related to legal advice regarding an issue arising in a potential rulemaking. The withheld record consists of information presented to the General Counsel from The Assistant Administrator, related to the rulemaking process, and reflects legal advice about the rulemaking and related litigation. The record contain facts and questions divulged by the clients to the Office of General Counsel. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of the rule. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality.

To the extent there are facts in the withheld record, the selection of those facts are an integral part of the process of seeking legal advice by EPA decisionmakers during the development of these rules. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

EPA-465	**Subj:** Fw: Heads up..w: 105 Letter to congressional delegations	05/15/2012 08:45:46 AM	**Auth:** Sarah Pallone

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
final_letter_on_federal_funding.pdf

Exemption(s)
Release

Justification
EPA-465 was released in full.

EPA-466	**Subj:** UPDATED Remarks for Steel Manufacturers Association Conference	05/15/2012 10:07:49 AM	**Auth:** Stephanie Epner

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Denise Anderson/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Teri Porterfield/DC/USEPA/US@EPA

Attachments
20120515 Steel Manufacturers Association (2).docx

Exemption(s)
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
EPA-466 was released in full except for one redacted sentence that relates to the health and absence of an EPA employee. The individual involved has a privacy interest related to the withheld information. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the withheld sentence would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

The only information withheld from EPA-363 is the withheld sentence.

EPA-467	**Subj:** Fw: Heads up..w: 105 Letter to congressional delegations	05/15/2012 10:48:24 AM	**Auth:** Bob Perciasepe

Recipients
"Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>; "Barbara Bennett" <Bennett.Barbara@epamail.epa.gov>

Attachments
final_letter_on_federal_funding.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-467 contains the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The cell phone number of the current EPA Acting Administrator is the only information withheld in EPA-467. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-468	**Subj:** 051612: Materials for Meeting with Natural Gas CEOs	05/15/2012 02:34:51 PM	**Auth:** Ann Campbell

Recipients
Noah Dubin/DC/USEPA/US@EPA; briefings@epa.gov; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Donald Maddox/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Teri Porterfield/DC/USEPA/US@EPA; Denise Anderson/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA

Attachments
CEOs Mtng_Executive Summary_051612.docx
EPA Activities_051512.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Redact in attachment
Release-Redaction
Withhold attachment

Justification
One 5-page attachment titled "EPA Hydraulic Fracturing Activities" is withheld in full as a briefing paper prepared for senior officials in the Agency in advance of a meeting scheduled for the next day.
The other attachment is a 2-page summary of what to expect at that meeting; two of the five sections in that document have been redacted.
The withheld portions of these documents qualify for protection under Exemption 5 because they are pre-decisional and deliberative:
The information that has been withheld, including that which was redacted, is related to a future meeting. All of this material is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to anticipation of a future event. The withheld information does not represent an official Agency decision or policy; rather it reflects recommendations on matters still under consideration at the Agency.
Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of proposed approaches when formulating the Agency's future activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All segregable material in the Exemption 5 withheld material has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations; the factual information is inextricably intertwined with the deliberative discussion.

EPA-470	**Subj:** Draft Policy Calendar	05/18/2012 01:05:37 PM	**Auth:** Christopher Busch

Recipients
Diane Thompson/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Robin Kime/DC/USEPA/US@EPA; Shannon Kenny/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Denise Dickenson/DC/USEPA/US@EPA; KarenL Martin/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Ann Campbell/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Sharnett Willis/DC/USEPA/US@EPA; Noha Gaber/DC/USEPA/US@EPA; Kelley Smith/DC/USEPA/US@EPA; Linda Chappell/DC/USEPA/US@EPA; MichaelE Scozzafava/DC/USEPA/US@EPA; Chad Nitsch/DC/USEPA/US@EPA

Attachments
Policy Calendar 05-18-12_v3.xlsx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold attachment

Justification
The email message in this document, which has been released, conveys a draft policy calendar for all Agency programs from a staff member in the Office of the Administrator to EPA officials throughout the Agency. The cover email was released in full. The attached draft policy calendar was withheld under FOIA's Exemption 5 deliberative process privilege.

The attached draft calendar has been properly withheld in full because it is a draft of proposed actions and contains predecisional material that is deliberative in nature.This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

All reasonably segregable information from EPA-470 has been released to Plaintiff. There is no additional segregable material that can be released from this document. To the extent that the withheld attachment contains factual information, that information is inextricably intertwined with the deliberative content.

EPA-471	**Subj:** Hot Issues List	05/21/2012 12:19:08 PM	**Auth:** Gina McCarthy

Recipients
Fulton.Scott@EPA.GOV; Michael Goo/DC/USEPA/US@EPA; Thompson.Diane@EPA.GOV; Janet McCabe/DC/USEPA/US@EPA; Joseph Goffman/DC/USEPA/US@EPA; Lorie Schmidt/DC/USEPA/US@EPA; Joel Beauvais/DC/USEPA/US@EPA

Attachments
OAR HOT ISSUES 5-21-12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Withhold attachment

Justification

This document is an email from Gina McCarthy, Assistant Administrator for the Office of Air and Radiation ("OAR") to senior EPA staff and officials providing a hot issues list as an attachment. The text of the email was released in full; the 4-page attachment was withheld in full.

The information that is withheld in this attachment contains predecisional and deliberative communications related to future proposed actions in OAR. This information is protected by the deliberative process privilege of Exemption 5 because it reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy; rather, it provides analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld document has been released to the Plaintiff. There is no additional segregable material in the attachment. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-472	**Subj:** Fw: ECOS - Outline for STEP 2012 Partnership Panel	05/21/2012 12:30:15 PM	**Auth:** Shawn Garvin

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA

Attachments

St Michael_IssuePaper 5 16 2012.docx
Working Outline for Partnership Panel.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification

Document EPA-472 is an electronic transmission of an attached document (2 page Word document) consisting of a briefing paper prepared by EPA staff in EPA's Region 3 Office and EPA's Office of Water for Bob Perciasepe, Deputy Administrator, regarding the proposed NPDES permit for a mine in Region 3. The email transmission contains a draft message from the Regional Administrator in Region 3 to a state government representative in Pennsylvania and comments on issues that may potentially be raised by the state at an upcoming meeting of the Environmental Council of the States. The withheld attachment contains the opinions, advice, and recommendations of EPA staff as a briefing document for Mr. Perciasepe in advance of that meeting. The attachment includes staff analysis of EPA's proposed permitting action, options for potential questions and potential responses, and discussion and advice on EPA policy positions for the use of senior managers when formulating EPA's final policy. The redacted portion of the email transmission similarly contains draft communications and inquiries from EPA Region 3 to Mr. Perciasepe to assist in developing a final response to state concerns. This communication did not include any outside parties and has not been shared with any outside parties.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a policy decision and official Agency response to potential state inquiries on an EPA action. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA in responding to state inquiry. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies and activities still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among

its management and staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's rulemaking policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All reasonably segregable information in EPA-472, including communications with the states and an attachment sent by the Environmental Council of the States, has been released to Plaintiff. Any factual information in the withheld and redacted portions of this email communication or in the withheld attachment is inextricably intertwined with deliberative content, and is not reasonably segregable.

EPA-473	**Subj:** RE: ECOS - Outline for STEP 2012 Partnership Panel	05/21/2012 01:07:10 PM	**Auth:** Bob Perciasepe

Recipients
Shawn Garvin/R3/USEPA/US; Nancy Stoner/DC/USEPA/US; Arvin Ganesan/DC/USEPA/US; Sarah Pallone/DC/USEPA/US; Cynthia Giles-AA/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The withheld portion of EPA-473 falls within EPA-472. See the entry for EPA-472.

EPA-474	**Subj:** boilers and NHSM	05/22/2012 09:04:44 AM	**Auth:** Arvin Ganesan

Recipients
Mathy Stanislaus/DC/USEPA/US@EPA; Lisa Feldt/DC/USEPA/US@EPA; mccarthy.gina@epa.gov; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-474 is the originating email of the email chain described in EPA-209. See the entry for EPA-209.

EPA-475	**Subj:** Re: boilers and NHSM	05/22/2012 10:37:11 AM	**Auth:** Lisa Feldt

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA; mccarthy.gina@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-475 falls within EPA-209. See the entry for EPA-209.

EPA-476	**Subj:** Fw: boilers and NHSM	05/22/2012 10:39:10 AM	**Auth:** Lisa Feldt

Recipients
Matt Straus/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-476 falls within EPA-209. See the entry for EPA-209.

EPA-477	**Subj:** Re: Fw: boilers and NHSM	05/22/2012 11:54:49 AM	**Auth:** Lisa Feldt

Recipients
Matt Straus/DC/USEPA/US@EPA; Mathy Stanislaus/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-477 is a follow-up to a message from Elizabeth (Lisa) Feldt, Deputy Assistant Administrator of the Office of Solid Waste and Emergency Response, to an EPA employee in the Office of Solid Waste and Emergency Response. This communication is a continuation of EPA-474, EPA-475, and EPA-476, and contains the string described in EPA-209. The email requests information for the development of Agency policy and strategy regarding the "Boilers / NHSM" rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official actions. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule. Any factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable.

EPA-479	**Subj:** Daily Reading File: May 23, 2012	05/23/2012 04:16:22 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.5.23.12.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-479 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-480	**Subj:** Npdes rule	05/25/2012 03:31:02 PM	**Auth:** Cynthia Giles-AA

Recipients

"Michael Goo" <goo.michael@epa.gov>; "Al McGartland" <McGartland.Al@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-480 falls within EPA-212. See the entry for EPA-212.

EPA-481	**Subj:** Re: Npdes rule	05/25/2012 05:00:04 PM	**Auth:** Michael Goo

Recipients

Cynthia Giles-AA/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-481 is a reply to EPA-480 from Michael Goo, Associate Administrator for the Office of Policy to Cynthia Giles, and is related to the email chain described in EPA-212. Document EPA-212 is an email chain of four emails memorializing communications between Micheal Goo, Associate Administrator for the Office of Policy, Al McGartland, Director of the National Center for Environmental Economics, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule, including EPA's public response to a news story related to this rule. EPA-481 is an additional discussion of EPA's public response to a news story related to the NPDES E-Reporting rule, including the analysis and advice of the Office of Policy.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and

instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-482	**Subj:** Re: Npdes rule	05/25/2012 05:07:38 PM	**Auth:** Al McGartland

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; "Michael Goo" <goo.michael@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-482 falls within EPA-212. See the entry for EPA-212.

EPA-483	**Subj:** Re: Fw: EPA ECONOMISTS STRUGGLE TO ESTIMATE BENEFITS OF NPDES E-REPORTING RULE	05/26/2012 12:29:24 PM	**Auth:** Cynthia Giles-AA

Recipients
David Hindin/DC/USEPA/US@EPA; David Hindin/DC/USEPA/US; Betsy Smidinger/DC/USEPA/US@EPA; John Dombrowski/DC/USEPA/US@EPA; Lawrence Starfield/DC/USEPA/US@EPA; Lisa Lund/DC/USEPA/US@EPA; Lucy Reed/DC/USEPA/US@EPA; Steven Chester/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-483 falls within EPA-104. See the entry for EPA-104.

EPA-484	**Subj:** Re: Npdes rule	05/26/2012 12:39:49 PM	**Auth:** Cynthia Giles-AA

Recipients
Al McGartland/DC/USEPA/US@EPA; Al McGartland/DC/USEPA/US; "Michael Goo" <goo.michael@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-484 falls within EPA-212. See the entry for EPA-212.

EPA-485	**Subj:** Re: Npdes rule	05/26/2012 02:45:19 PM	**Auth:** Cynthia Giles-AA

Recipients

Attachments

Al McGartland/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

All but the most recent email of Document EPA-485 falls within Document EPA-212. Document EPA-212 is an email chain of four emails memorializing communications between Micheal Goo, Associate Administrator for the Office of Policy, Al McGartland, Director of the National Center for Environmental Economics, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance. The email chain discusses EPA policy and decisionmaking regarding the NPDES E-Reporting Rule, including EPA's public response to a news story related to this rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public response. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public responses. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

EPA-486	**Subj:** Briefing documents for tomorrow's meeting with Senator Murkowski Staff	05/31/2012 12:05:12 AM	**Auth:** Kendra Tyler

Recipients

Arvin Ganesan/DC/USEPA/US@EPA; Dennis McLerran/R10/USEPA/US@EPA; Janet McCabe/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Ken Kopocis/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Ed Walsh/DC/USEPA/US@EPA; Marna McDermott/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA; Mindy Kairis/DC/USEPA/US@EPA; Michelle Pirzadeh/R10/USEPA/US@EPA

Attachments

RICE changes.pdf
Friends of Earth Suit-Av Gas.pptx
North American ECA.pptx
Bristol Bay FAQs.docx
Fact Sheet-404 CWA enforcement program. .pdf
Hot Issues 5-31-12.docx
ATT1HFKO.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release attachment
Release-Redaction
Withhold attachment

Justification

Document EPA-486 is an email between EPA staff within the the Office of the Administrator, EPA's Region 10 Office, and EPA's Office of Air and Radiation, copying attorneys in EPA's Office of General Counsel. The email communication transmits briefing documents and materials prepared by EPA staff for a meeting with EPA and Senator Murkowski on Alaska issues. The email communication transmitting the briefing documents was released in full. Two of the attachments, including the proposed agenda for the meeting and a "Fact Sheet" on EPA's CWA enforcement program, were released in full. The remaining attachments, which consist of a "Hot Issues" briefing document, a .PDF document on changes to a proposed rule, two internal Powerpoint briefing documents that were developed by EPA staff for internal EPA use, and an internal "FAQ" document that was developed by EPA staff for internal EPA briefings.

The withheld attachments contain predecisional and deliberative communications related to future proposed actions by various EPA offices that may affect Alaska. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities and to assist in the decisionmaking process on these rules and

actions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material has been released to the Plaintiff, including the email communication and those attachments which were primarily factual. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-487	**Subj:** Meetng with Sen. Murkowski's staff	05/31/2012 09:04:57 AM	**Auth:** Denise Anderson

Recipients

Attachments
Proposed Agenda May 31, 2012.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release attachment
Release-Redaction

Justification
EPA-487 contains an EPA conference call phone number and access code and are withheld under Exemption 6. The conference call access information is assigned to an individual. The public release of this phone number and access code would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and code does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

All text was released from EPA-487 except for the conference call phone number and access code.

EPA-488	**Subj:** EPA-ECOS Leadership Meeting in DC - Budget 2014 - Bob will cover for the Administrator	06/04/2012 10:20:23 AM	**Auth:** Denise Anderson

Recipients

Attachments
DRAFT Agenda for June 6 (EPA).docx
Final DRAFT Agenda for June 6.docx
EPA - ECOS Joint Activities June 2012.doc
Oversight of State Delegation KPI -- DA discussion with ECOS on June 6.docx
June 6 Participants.docx
Agenda Issues.docx
STEP Final_Agenda.doc

Exemption(s)
Release

Justification
EPA-488 was released in full.

EPA-489	**Subj:** Meeting with AF&PA President and Member Company CEO's with the Administrator	06/04/2012 10:38:27 AM	**Auth:** Elizabeth Ashwell

Recipients

Attachments
summary of final rule changes 6-5-12.docx
summary of final rule changes attachment 6-5-12.docx
AFPA background Boiler_CISWI Reconsideration 6_12_12.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-489 is a meeting invitation and attached email between EPA staff in preparation for a meeting with an outside group. The email communication transmits briefing documents and materials prepared by EPA staff for a meeting with EPA's Administrator and the AF & PA group. The email communication transmitting the briefing documents was released in full. The internally prepared attachments consist of two word documents summarizing rule changes that were underway in the Agency as part of the rulemaking process and an internal "background" document that was developed by EPA staff for an internal EPA briefing.

The withheld attachments contain predecisional and deliberative communications related to future proposed actions by various EPA offices that may affect Alaska. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities and to assist in the decisionmaking process on these rules and actions. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

All segregable material has been released to the Plaintiff, including the email communication and those attachments which were primarily factual. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-490	**Subj:** Daily Reading File: June 4, 2012	06/04/2012 06:02:11 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.6.4.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-490 falls within EPA-491. See the entry for EPA-491.

EPA-491	**Subj:** Fw: Daily Reading File: June 4, 2012	06/05/2012 02:54:08 PM	**Auth:** Richard Windsor

Recipients
Susan Hedman/R5/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA; Nancy Stoner/DC/USEPA/US@EPA; Susan Hedman/R5/USEPA/US; Cynthia Giles-AA/DC/USEPA/US; Nancy Stoner/DC/USEPA/US; Bob Perciasepe/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA

Attachments
Daily Reading File.6.4.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-491 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-492	**Subj:** Daily Reading File: June 6, 2012	06/06/2012 04:31:34 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA

Attachments
Daily Reading File.6.6.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-492 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-493	**Subj:** RE: Just what I'm talking about....	06/07/2012 01:45:11 PM	**Auth:** William Painter

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-493 contains an email string between an EPA employee and EPA Deputy Administrator Bob Perciasepe, which contains a forwarded news article and discussion of the news article. A single sentence consisting of a question from the employee has been redacted under Exemption 5's deliberative process privilege. The news article and the remaining part of the email discussion has been released. The personal cell phone number of Mr. Perciasepe has also been redacted.

The single sentence withheld under FOIA Exemption 5 is predecisional and deliberative. It consists of a question and an opinion about a proposed course of action related to EPA water permitting and water quality guidelines. It does not represent any final agency decision or position taken with respect to permitting and water quality rules. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff about invitations provided from third parties.

EPA-493 also contains a redaction of the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

All segregable material has been released. Besides the personal cell phone number withheld under Exemption 6, one sentence was withheld under exemption 5. The release of any remaining information would reveal internal agency deliberations and personal privacy information not subject to release.

EPA-494	**Subj:** Re: CDR Issue	06/07/2012 03:55:31 PM	**Auth:** Richard Windsor

Recipients

Attachments

Jim Jones/DC/USEPA/US@EPA

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
The withheld portion of EPA-494 falls within EPA-220. See EPA-220.

EPA-495	**Subj:** Fw: ISRI Background -- NEW INFO	06/08/2012 11:30:10 AM	**Auth:** Sherry Sterling

Recipients
Jim Jones/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US; wise.louise@epa.gov

Attachments
Development of a Recycled PCBs Use Authorization_5.23.2012_OD Review 2.docx

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-495 falls within Document-217. See the entry for EPA-217 (related to Documents EPA-116, EPA-117, EPA-118, and EPA-218).

EPA-496	**Subj:** Human Subjects Rule	06/08/2012 02:57:39 PM	**Auth:** Jim Jones

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; "Michael Goo" <Goo.Michael@epamail.epa.gov>; Arvin Ganesan/DC/USEPA/US@EPA; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
EPA-496 was released in full.

EPA-497	**Subj:** Re: Human Subjects Rule	06/08/2012 03:22:59 PM	**Auth:** Richard Windsor

Recipients
Jim Jones/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification

EPA-498	**Subj:** RE: Human Subjects Rule	06/08/2012 04:04:49 PM	**Auth:** Bob Perciasepe

Recipients
Richard Windsor/DC/USEPA/US; Jim Jones/DC/USEPA/US; Bob Sussman/DC/USEPA/US; Michael Goo/DC/USEPA/US; Arvin Ganesan/DC/USEPA/US; Brendan Gilfillan/DC/USEPA/US

Attachments

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-498 contains the cell phone number of the current EPA Acting Administrator, which appears in the email signature block. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The cell phone number of the current EPA Acting Administrator is the only information withheld in EPA-498. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-499	**Subj:** Re: Human Subjects Rule	06/08/2012 04:56:54 PM	**Auth:** Jim Jones

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-499 falls within EPA-503. See the entry for EPA-503.

EPA-500	**Subj:** Re: Human Subjects Rule	06/10/2012 10:41:47 AM	**Auth:** Bob Sussman

Recipients
Jim Jones/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-500 falls within EPA-503. See the entry for EPA-503.

EPA-501	**Subj:** Re: Human Subjects Rule	06/10/2012 12:42:57 PM	**Auth:** Jim Jones

Recipients
Bob Sussman/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments
Comparisonclean.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
EPA-501 falls within EPA-503. See the entry for EPA-503.

EPA-502	**Subj:** Re: Human Subjects Rule	06/10/2012 01:26:52 PM	**Auth:** Bob Perciasepe

Recipients
Jim Jones/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-502 falls within EPA-503. See the entry for EPA-503.

EPA-503	**Subj:** Re: Re: Human Subjects Rule	06/10/2012 01:44:33 PM	**Auth:** Jim Jones

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-503 is a string of emails between Jim Jones, Acting Assistant Adminstrator for the Office of Chemical Safety and Pollution Prevention and senior managers in EPA's Office of the Administrator. The email chain discusses EPA policy and decisionmaking regarding a Greenwire story concerning the human subjects rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses to Congressional inquires, including the development of EPA's eventual rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

All segregable information from this discussion has been released. Any additional factual information contained in this communication is inextricably intertwined

with deliberative content and is not reasonably segregable from the deliberative information.

EPA-504	**Subj:** Re: Re: Human Subjects Rule	06/10/2012 02:46:36 PM	**Auth:** Jim Jones

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-504 is a continuation of the string of emails in EPA-503, following up with different information and advice. It is a string of emails between Jim Jones, Acting Assistant Adminstrator for the Office of Chemical Safety and Pollution Prevention and senior managers in EPA's Office of the Administrator. The email chain discusses EPA policy and decisionmaking regarding a Greenwire story concerning the human subjects rule. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses to Congressional inquires, including the development of EPA's eventual rule. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

All segregable information from this discussion has been released. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-505	**Subj:** OCSPP Action Activity Summary and Update Reports for Monday, June 11, 2012	06/11/2012 08:50:47 AM	**Auth:** Angela Hofmann

Recipients
Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Kevin Keaney/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Emily Dougherty/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Mary Waller/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Sven-Erik

Attachments
OCSPP-Updates2AA-2012-06-11.docx

Kaiser/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Debbie-E Thomas/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-505 is an e-mail from Angela Hofmann, Director of Regulatory Coordination for EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a one page Word document that was compiled for internal regulatory and policy planning purposes by OCSPP staff. The attached .doc referred to as a "summary report" and titled "OCSPP-Updates2AA" is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties.

The withheld information in the draft attachments contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative cover email transmitting this information. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-506	**Subj:** Re: Fw: OCSPP Six-Month Policy Calendar - please send me your changes by 3 pm Tomorrow (6/12)	06/12/2012 02:22:34 PM	**Auth:** Angela Hofmann

Recipients

Steve Nako/DC/USEPA/US@EPA; Eric Burman/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Brian Katz/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments

2012-06-12afh_ocspp_six_month.calendar.2012-06-12.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

Document EPA-506 is an e-mail from Angela Hofmann, Director of Regulatory Coordination in EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff that contains her comments and analysis of an attached 15-page version of the OCSPP Policy Calendar. The version of the policy calendar withheld in EPA-506 contains substantial edits and changes in track changes with comments and analysis. The cover email to EPA-506 also contains substantive suggestions,

changes, revisions, and analysis of the Policy Calendar, and was therefore withheld under Exemption 5's deliberative process privilege. These documents were not shared with any outside parties.

The withheld information in the draft calendar contains predecional and deliberative information related to proposed actions in OCSPP over a six-month period. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

The email communication is also withheld in full because it contains internal discussion of the substantive changes to the Policy Calendar. This communication contains internal briefing information that represents a pre-decisional update to management on office goals and priorities. Release of this email would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document. Therefore there is no reasonably segregable factual information in this document.

EPA-507	**Subj:** Re: Greenwire Inquiry on HS	06/14/2012 06:27:30 PM	**Auth:** Jim Jones

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
EPA-507 was released.

EPA-508	**Subj:** Re: Greenwire Inquiry on HS	06/15/2012 07:07:55 AM	**Auth:** Douglas Parsons

Recipients
Jim Jones/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
EPA-508 was released.

EPA-509	**Subj:** Fw: Greenwire Inquiry on HS	06/15/2012 07:49:07 AM	**Auth:** Jim Jones

Recipients
Arvin Ganesan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-509 is contained within EPA-125. See entry for EPA-125 for a description of the withheld information in EPA-509. The originating portion of EPA-509 is in EPA-507 and EPA-508 and has been released in full to plaintiff.

EPA-510	**Subj:** Re: this is what i got	06/15/2012 09:26:17 AM	**Auth:** Arvin Ganesan

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-510 is contained within EPA-512. See entry for EPA-512.

EPA-511	**Subj:** Re: this is what i got	06/15/2012 09:38:58 AM	**Auth:** Richard Windsor

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-511 is contained within EPA-512, except for a single sentence containing the expression of a policy preference of one of EPA's senior managers when presented with policy options related to this rulemaking. This expression of a policy preference was within the context of the discussion and does not represent a directive or final decision. See entry for EPA-512.

EPA-512	**Subj:** Re: this is what i got	06/15/2012 09:39:15 AM	**Auth:** Richard Windsor

Recipients
Arvin Ganesan/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-512 is a chain of email communications between EPA senior managers including the Administrator, Deputy Administrator, and Chief Policy Counsel regarding potential Congressional and White House issues with EPA's Human Subjects Rule. This email communication contains questions, policy analysis, and high-level policy discussion related to EPA's final stance on the rule, including different options and the potential objections of interested parties in Congress and

at the White House.

The withheld information contains predecisional and deliberative discussions related to this proposed action. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

There is no reasonably segregable information within this email chain to be provided to plaintiff. To the extent that the withheld conversation contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-516	**Subj:** Re: More detail on WH TSCA discussion with industry	06/22/2012 09:29:00 AM	**Auth:** Bob Perciasepe

Recipients
Bob Sussman/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
EPA-516 was released in full.

EPA-517	**Subj:** From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/22/2012 10:10:29 AM	**Auth:** Ann Campbell

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Release

Justification
EPA-517 was released in full. It is the "originating email" containing the news story that originates the discussion in EPA-518, EPA-519, and EPA-135, 136, 138, 139, and 140.

EPA-518	**Subj:** Re: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/22/2012 06:38:41 PM	**Auth:** Bob Perciasepe

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; "Diane Thompson"

Attachments

<thompson.diane@epa.gov>

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-518 is a response email from then-Adminstrator Lisa Jackson to EPA-136 that contains suggestions and questions related to EPA's policy position and response to this story. Document EPA-136 is an email discussion between senior management at EPA, including Bob Sussman, Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-519	**Subj:** Re: From EnergyWire -- HYDRAULIC FRACTURING: White House delaying BLM rule at industry's request	06/23/2012 11:22:56 AM	**Auth:** Richard Windsor

Recipients

Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jim Jones/DC/USEPA/US@EPA; "Diane Thompson" <thompson.diane@epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-519 is a brief one line response to EPA-140. The one line response in EPA-519 was released to plaintiff. Document EPA-140 (related to EPA-135, EPA-136, EPA-138, and EPA-139) is an email discussion between senior management at EPA, including Bob Sussman, Senior Policy Counsel to the Adminstrator, Bob Perciasepe, Deputy Adminstrator, and Adminstrator Lisa Jackson that features communications between EPA management as they discussed potential reactions to media releases pertaining to EPA policy and actions. The withheld portion of the email is protected under Exemption 5's deliberative process privilege because it consists of analysis and opinion from EPA's leadership as part of formulating a policy response to comments and communications in the media. The withheld portion does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues and communications still in development at the Agency. The withheld information is predecisional because it contains an opinion by an EPA staff member that intreprets the media release. Release of the withheld portion would have a chilling effect on the Agency's ability to have open and frank discussions among its staff as they consider how to respond to such media accounts. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

All segregable material in this record has been released to the Plaintiff, including the media report that was the subject of the discussion. To the extent any of this withheld information contains facts, the selection of those facts was an integral part of the deliberations. The factual information contained therein is inextricably

intertwined with the deliberative discussion concerning this document.

EPA-520	**Subj:** Draft WH Entry on Formaldehyde	06/25/2012 05:44:15 PM	**Auth:** Douglas Parsons

Recipients
"Sherry Sterling" <Sterling.Sherry@epamail.epa.gov>; "Kate Graf" <Graf.Kate@epamail.epa.gov>; "Niva Kramek" <Kramek.Niva@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-520 is contained within EPA-227. See entry for EPA-227.

EPA-521	**Subj:** Daily Reading File : June 25, 2012	06/25/2012 05:46:37 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.6.25.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-521 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-522	**Subj:** Re: Draft WH Entry on Formaldehyde	06/26/2012 07:16:15 AM	**Auth:** Sherry Sterling

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US; "Kate Graf" <Graf.Kate@epamail.epa.gov>; "Niva Kramek" <Kramek.Niva@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-522 is contained within EPA-227. See entry for EPA-227.

EPA-523	**Subj:** Fw: Rule for Potential Autopen Signature this Week	06/26/2012 07:56:53 PM	**Auth:** Diane Thompson

Recipients
"John Reeder" <reeder.john@epa.gov>

Attachments
FL Rule extenstion action memo 6 18 12.doc

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification
Document EPA-523 is an e-mail chain between Diane Thompson, Chief of Staff in EPA's Office of the Administrator and others in the office of the administrator related to policy considerations and staff advice on the timing of the signature of the Florida Nutrient Criteria Rule. This is an internal discussion of EPA strategy and policy options that was not shared with any outside parties. Portions of this email chain also discuss the vacation and leave plans of the Chief of Staff, which are withheld under Exemption 6.

The withheld information in the email communication and in the attachment contains predecisional and deliberative information related to proposed actions in OAR. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of EPA senior managers discussing various policy options, which were developed to assist in the agency's rulemaking activities and to inform decisions related to Agency rules. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

Portions of this document also contain personal information about an individual's vacation, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual whose vacation information is recorded has a significant personal privacy interest in the information. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains vacation information belonging to a particular individual. Public disclosure of this information would not shed light on the performance of the employee's official duties. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The reasonably segregable information in this communication has been provided to plaintiff. There is no additional reasonably segregable information in the redacted portions of this communication communication which can be released to Plaintiff. To the extent that this communication contains factual information, that information is inextricably intertwined with the deliberative content related to EPA's rulemaking activities.

EPA-524	**Subj:** Daily Reading File: June 27, 2012	06/27/2012 06:09:08 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.6.27.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-524 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-525	**Subj:** Daily Reading File: June 28, 2012	06/28/2012 05:25:46 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Attachments
Daily Reading File.6.28.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-525 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-526	**Subj:** Addition to Cabinet Report	06/29/2012 12:53:01 PM	**Auth:** Christopher Busch

Recipients

Nicole_(b)(6) [redacted] Diane Thompson/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification

Document EPA-526 is an e-mail communication transmitting a draft report to the White House on EPA's current rulemaking and outreach activities with regard to regulating formaldehyde use in composite wood products. This report were compiled for internal Executive Branch regulatory and policy planning purposes The redacted portion of the document is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties. Only the paragraph containing the draft communication to the White House was redacted -- the remaining information in this email chain was segregated and released to Plaintiff.

The withheld information in the redacted paragraph contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

EPA segregated and released the non-deliberative portions of the email chain transmitting this information. To the extent that the withheld paragraph contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-527	**Subj:** Fw: Hot Issues Tracker	06/29/2012 05:40:26 PM	**Auth:** Diane Thompson

Recipients
"Stephanie Washington" <washington.stephanie@epa.gov>

Attachments
HIT List 28 June 2012.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification
Document EPA-527 is an email chain memorializing communications between EPA personnel including EPA Administrator Lisa Jackson, Robert Sussman, Senior Policy Counsel to the Administrator, and Jim Jones, Acting Assistant Administrator, Office of Chemical Safety & Pollution Prevention (OCSPP) The first e-mail is from Jim Jones, Acting Assistant Administrator in OCSPP EPA staff forwarding a "Hot issues" tracker. The "Hot Issues" Tracker was withheld in full. The transmitting email was released with deliberative information redacted.

The information redacted from this document contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

The withheld attachment contains predecisional and deliberative communications related to future proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

All segregable material in the Exemption 5 withheld document has been released to the Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-528	**Subj:** Daily Reading File: July 2, 2012	07/02/2012 07:08:05 PM	**Auth:** Cynthia Gaines

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah

Attachments
Daily Reading File.7.2.12.pdf

Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@epa.gov

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-528 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-529	**Subj:** FW: STATUS OF ENVIRO REGULATIONS	07/03/2012 03:46:47 PM	**Auth:** David Bloomgren

Recipients

"Michael Goo" <Goo.Michael@epamail.epa.gov>; "Bob Sussman" <Sussman.Bob@epamail.epa.gov>; "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>; "Alisha Johnson" <Johnson.Alisha@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-529 falls within EPA-533. See the text of EPA-533.

EPA-530	**Subj:** Daily Reading File: July 3, 2012	07/03/2012 05:30:26 PM	**Auth:** Cynthia Gaines

Recipients

Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; briefings@epa.gov; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US@EPA; James

Attachments

Daily Reading File.7.3.12.pdf

O'Hara/DC/USEPA/US@EPA; Janet Woodka/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-530 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-531	**Subj:** Re: FW: STATUS OF ENVIRO REGULATIONS	07/03/2012 08:02:41 PM	**Auth:** Bob Sussman

Recipients

David Bloomgren/DC/USEPA/US@EPA; "Brendan Gilfillan" <Gilfillan.Brendan@epamail.epa.gov>; "Michael Goo" <Goo.Michael@epamail.epa.gov>; "Alisha Johnson" <Johnson.Alisha@epamail.epa.gov>; "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-531 falls within EPA-533. See the text of EPA-533.

EPA-532	**Subj:** Re: FW: STATUS OF ENVIRO REGULATIONS	07/03/2012 09:57:16 PM	**Auth:** David Bloomgren

Recipients

Bob Sussman/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Alisha Johnson/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege

Release-Redaction

Justification

EPA-532 falls within EPA-533. See the text of EPA-533.

EPA-533	**Subj:** Re: FW: STATUS OF ENVIRO REGULATIONS	07/03/2012 10:50:53 PM	**Auth:** Bob Perciasepe

Recipients

Bob Sussman/DC/USEPA/US@EPA; David Bloomgren/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Alisha Johnson/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

Document EPA-533 is a string of emails related to a press inquiry from the Associated Press related to rulemaking out of EPA's Office of Air and Radiation, and contains internal discussion between EPA's senior management and EPA's press office related to EPA's response to this inquiry. The segregable portions of this communication, including the original press inquiry from the reporter, have been released to the plaintiff. The internal portion of the e-mail discussing the article and possible responses to it have been withheld. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses to press inquiries. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when responding to inquiries.

The redacted information does not contain reasonably segregable factual information. The segregable portions of the email chain have been released. Any additional factual information contained in this communication is inextricably intertwined

EPA-534	**Subj:** EPA: Cabinet Report Update	07/06/2012 04:18:27 PM	**Auth:** Kelley Smith

Recipients

Diane Thompson/DC/USEPA/US@EPA; Jon Monger/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification

EPA-534 falls within EPA-538. See the text of EPA-538.

EPA-535	**Subj:** Re: EPA: Cabinet Report Update	07/06/2012 04:19:29 PM	**Auth:** Diane Thompson

Recipients

Kelley Smith/DC/USEPA/US@EPA; Kelley Smith/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-535 falls within EPA-538. See the text of EPA-538.

EPA-536	**Subj:** Re: EPA: Cabinet Report Update	07/06/2012 04:22:54 PM	**Auth:** Kelley Smith

Recipients
Diane Thompson/DC/USEPA/US@EPA; Jon Monger/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-536 falls within EPA-538. See the text of EPA-538.

EPA-537	**Subj:** Fw: EPA: Cabinet Report Update	07/06/2012 04:25:18 PM	**Auth:** Kelley Smith

Recipients
Diane Thompson/DC/USEPA/US@EPA; Jon Monger/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-537 falls within EPA-538. See the text of EPA-538.

EPA-538	**Subj:** Re: EPA: Cabinet Report Update	07/06/2012 04:42:38 PM	**Auth:** Christopher Busch

Recipients
Kelley Smith/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Jon Monger/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
Document EPA-538 is an e-mail communication between Kelley Smith, EPA's White House Liaison, to Diane Thompson, EPA's Chief of Staff in the Office of the Administrator and other EPA employees in the Office of the Administrator for the purpose of developing and transmitting a report to the White House on EPA's current rulemaking and outreach activities with regard to regulating formaldehyde use in composite wood products. This report were compiled for internal Executive Branch regulatory and policy planning purposes The redacted portion of the document is a summary for EPA's management of policy activities under consideration by OCSPP. These documents were not shared with any outside parties. Only the paragraph containing the draft communication to the White House was redacted -- the remaining information in this email chain was segregated and released to Plaintiff.

The withheld information in the redacted paragraph contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of staff to managers, developed to assist in the scheduling of program priorities. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action. Furthermore, release could cause public confusion by disclosure of reasons and rationales that were not in fact ultimately the grounds for EPA or U.S. Government action.

EPA segregated and released the non-deliberative portions of the email chain transmitting this information. To the extent that the withheld paragraph contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-539	**Subj:** Fw: 316(b) schedule	07/10/2012 11:52:31 AM	**Auth:** Michael Goo

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Denise Anderson/DC/USEPA/US@EPA; Alex Barron/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-539 is an email chain memorializing communications betweem Micheal Goo, Associate Administrator for the Office of Policy and Bob Perciasepe, Deputy Administrator, copying other EPA employees. The EPA senior managers are discussing a meeting with Michael Bradley, an industry representative, and other policy issues and potential outreach on the Clean Water Act (CWA) section 316(b) and its related proposed rulemaking. This record was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in responding to requests from parties for discussion on the CWA section 316(b) and its related proposed rulemaking. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA when applying CWA section 316(b) to advance its proposed rulemaking. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the Agency, including policies regarding outreach, communications, and timing of the proposed rule. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's policy with respect to this proposed rule.

There is no reasonably segregable information in this communication to be released to Plaintiff. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations and privileged content related to an attorney's advice to clients. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative and privileged discussion within this document.

EPA-540	**Subj:** Rundown of Community Work on Carbon Pollution Standards	07/13/2012 01:30:26 PM	**Auth:** Nathan Willcox

Recipients
"Zichal, Heather R." (b)(6) [redacted] Gina McCarthy/DC/USEPA/US@EPA; "Patel, Rohan" <R(b)(6) [redacted] Bob Perciasepe/DC/USEPA/US@EPA; Taryn_(b)(6) [redacted]

Attachments
CADC Field Report_Industrial Carbon Pollution Hearings .pdf
Attached Message Part

(b)(6) "Maher, Jessica A." <(b)(6)
"Carson, Jon" (b)(6) ; Arvin Ganesan/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; cortney_(b)(6)

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-540 was released in full except for official email addresses belonging to a staff members of the Executive Office of the President. The remainder of the email has been released.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications. All other information in EPA-540 has been released.

EPA-541	**Subj:** WaPost Response on Range set for PM2.5	07/17/2012 11:09:30 AM	**Auth:** David Bloomgren

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; James O'Hara/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-541 falls within EPA-545. See the text of EPA-545.

EPA-542	**Subj:** Re: WaPost Response on Range set for PM2.5	07/17/2012 11:55:48 AM	**Auth:** James O'Hara

Recipients
David Bloomgren/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-542 falls within EPA-545. See the text of EPA-545.

EPA-543	**Subj:** Re: WaPost Response on Range set for PM2.5	07/17/2012 12:03:52 PM	**Auth:** David Bloomgren

Recipients
James O'Hara/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-543 falls within EPA-545. See the text of EPA-545.

EPA-544	**Subj:** RE: WaPost Response on Range set for PM2.5	07/17/2012 12:09:00 PM	**Auth:** Bob Perciasepe

Recipients
David Bloomgren/DC/USEPA/US; James O'Hara/DC/USEPA/US; Brendan Gilfillan/DC/USEPA/US; Gina McCarthy/DC/USEPA/US

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-544 falls within EPA-545. See the text of EPA-545.

EPA-545	**Subj:** Re: WaPost Response on Range set for PM2.5	07/17/2012 12:13:58 PM	**Auth:** Gina McCarthy

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; David Bloomgren/DC/USEPA/US@EPA; James O'Hara/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
Document EPA-545 is a string of e-mails related to a press inquiry from the Washington Post related to a rulemaking out of EPA's Office of Air and Radiation, and contains internal discussion between EPA's senior management and EPA's press office related to EPA's response to this inquiry. The internal portion of the e-mail discussing the article and possible responses to it have been withheld. This is an internal conversation that was not disclosed to any parties outside of EPA.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses to press inquiries. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when responding to inquiries.

EPA also redacted and withheld the cell phone number of the current EPA Acting Administrator, which appears in the email signature block in document EPA-591. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

The redacted information does not contain reasonably segregable factual information. The segregable portions of the email chain have been released. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information.

EPA-546	**Subj:** Re: Status of Article---USA Today	07/18/2012 08:48:30 PM	**Auth:** Jim Jones

Recipients
Douglas Parsons/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-546 is a response to EPA-159. See entry for EPA-159 for the redacted and withheld material. The additional one-line communication in EPA-546 was released to Plaintiff.

EPA-548	**Subj:** Daily Reading File: July 20, 2012	07/20/2012 04:20:26 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Heidi Ellis/DC/USEPA/US@EPA; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA; James O'Hara/DC/USEPA/US@EPA

Attachments
Daily Reading File.7.20.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-548 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-549	**Subj:** Brief note on 11 AM with utility CEOs	07/25/2012 10:33:03 AM	**Auth:** Alex Barron

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; kime.robin@epa.gov; Teri Porterfield/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-549 is an email from a senior advisor to the then-Deputy Administrator of the EPA. The email concerns an upcoming meeting with utility company CEOs. The email discusses EPA's work on a rulemaking, called the 316b rule, and provides key points about the rulemaking and timing to the Deputy Administrator. The email also provides an analysis of the use of a study conducted by the Office of Water for the rulemaking and provides the advisor's opinion on arguments that may be raised by the CEO's against the study. The email is predecisional because it relates to an ongoing EPA rulemaking and internal preparation for an upcoming meeting. The email is deliberative because it reflects the advisor's opinions and analysis related to the rulemaking as well as a selection of potential issues related to the rulemaking.

The email was withheld in full. Any facts are intextricably intertwined with the decision-making process related to this rulemaking and are not reasonably segregable.

EPA-550	**Subj:** ELG Option selection and its interface with CCR	07/25/2012 10:42:31 AM	**Auth:** Mathy Stanislaus

Recipients
Richard Windsor/DC/USEPA/US@EPA; "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>; "Bob Sussman" <Sussman.Bob@epamail.epa.gov>; "Nancy Stoner" <Stoner.Nancy@epamail.epa.gov>; "Lisa Feldt" <Feldt.Lisa@epamail.epa.gov>; "Ken Kopocis" <Kopocis.Ken@epamail.epa.gov>; Scott Fulton/DC/USEPA/US@EPA; "Avi Garbow" <Garbow.Avi@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-550 falls within EPA-558. See the entry for EPA-558.

EPA-551	**Subj:** Re: ELG Option selection and its	07/25/2012 03:59:11 PM	**Auth:** Bob Sussman

	interface with CCR		

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; "Michael Goo" <Goo.Michael@epamail.epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-551 falls within EPA-558. See the entry for EPA-558.

EPA-552	**Subj:** Re: ELG Option selection and its interface with CCR	07/25/2012 07:18:34 PM	**Auth:** Richard Windsor

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-552 falls within EPA-558. See the entry for EPA-558.

EPA-553	**Subj:** Re: ELG Option selection and its interface with CCR	07/25/2012 07:26:32 PM	**Auth:** Scott Fulton

Recipients
Richard Windsor/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-553 falls within EPA 558. See the entry for EPA-558.

EPA-554	**Subj:** Re: ELG Option selection and its interface with CCR	07/25/2012 07:28:25 PM	**Auth:** Richard Windsor

Recipients
Scott Fulton/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-554 falls within EPA-558. See the entry for EPA-558.

EPA-555	**Subj:** Re: ELG Option selection and its interface with CCR	07/25/2012 07:42:07 PM	**Auth:** Bob Perciasepe

Recipients
Richard Windsor/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-555 falls within EPA-558. See entry for EPA-558.

EPA-556	**Subj:** Re: ELG Option selection and its interface with CCR	07/26/2012 08:00:56 AM	**Auth:** Bob Perciasepe

Recipients
Michael Goo/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Scott Fulton/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-556 falls within EPA-558. See the entry for EPA-558.

EPA-557	**Subj:** Re: ELG Option selection and its interface with CCR	07/26/2012 08:06:33 AM	**Auth:** Scott Fulton

Recipients

Attachments

Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-557 falls within EPA-558. See the entry for EPA-558.

EPA-558	**Subj:** Re: ELG Option selection and its interface with CCR	07/26/2012 10:22:41 AM	**Auth:** Bob Sussman

Recipients

Scott Fulton/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Avi Garbow/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Attorney Client Privilege
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-558 is a chain of ten emails orginating with Mathy Stanislaus, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response (OSWER) and transmitted to the then-Administrator Lisa Jackson and Deputy-Administrator Bob Perciasepe and copying senior Agency officials, including the Scott, Fulton, the General Counsel. The email contains discussion among the Adminstrator, Deputy Administrator, General Counsel, and Michael Goo, Assistant Administrator for EPA's Office of Policy about high level policy options for a rulemaking known as the "CCR Rule". The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to the CCR rule. The email chain contains EPA senior management requesting and receiving the advice of legal counsel and contains a discussion among EPA senior leadership about legal and policy issues raised by the rulemaking and opinion and analysis of the rulemaking, including legal analysis of potential legal results of policy decisions.

The withheld information consisting of internal communications between Agency senior management and Agency counsel is protected under Exemption 5's attorney-client privilege because it represents communications between EPA program office clients and EPA Office of General Counsel attorneys seeking legal advice regarding different policy options related to this rulemaking. This communication chain memorializes discussions between Agency attorneys and program clients on rulemaking options. The records contain facts and questions divulged by the clients to their attorneys. There is no segregable factual information that could be released without revealing protected attorney-client communications concerning the development of EPA's policy judgment regaring the CCR rule, the legal implications of different policy decisions, and other legal matters. These records were only shared on a need-to-know basis to maintain attorney-client confidentiality. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues during the on-going regulatory development of these rules and EPA's response to these letters related to specific rulemakings. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

In addition, the records reflect discussions among senior EPA managers about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an intra-agency communication and internal conversation which reflects the analyses, advice, and

deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations and legal advice contained in the email communication.

EPA-559	**Subj:** Re: Need Help	07/28/2012 01:17:01 PM	**Auth:** Gina McCarthy

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-559 is an email string containing two emails between Bob Perciasepe, Deputy Adminstrator and Gina McCarthy, Assistant Administrator for the Office of Air and Radiation. The email discusses a pending EPA rulemaking related to heavy duty vehicles and emissions.

The email concerns a question related to an update on significant EPA actions. The email reflects discussion related to the timing and need for the rule between the Deputy Administrator and the Assistant Adminstrator. The withheld email string is predecision because it relates to pending EPA rulemaking. The email is deliberative because because it consists of internal discussion reflecting the analyses and opinions of EPA senior officials on the rulemaking. The withheld information does not represent an official Agency decision. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its senior officials on active rulemakings and impede the ability to provide updated reports and respond to questions.

The email string containing two emails was withheld in full. Any factual information is inextricably intertwined in the discussion about the rulemaking and the timing.

EPA-560	**Subj:** Fw: Need Help	07/28/2012 01:19:34 PM	**Auth:** Gina McCarthy

Recipients
Cynthia Giles-AA/DC/USEPA/US; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
The withheld portion of EPA-560 consists of the two emails that were withheld in EPA-559. See the entry of EPA-559 for the withheld portion of this document.

EPA-561	**Subj:** OCSPP Action Activity Summary and Update Reports for Monday, July 30, 2012	07/30/2012 08:53:19 AM	**Auth:** Angela Hofmann

Recipients

Jim Jones/DC/USEPA/US@EPA; Louise Wise/DC/USEPA/US@EPA; Matt Bogoshian/DC/USEPA/US@EPA; Wendy Cleland-Hamnett/DC/USEPA/US@EPA; Barbara Cunningham-HQ/DC/USEPA/US@EPA; Jeff Morris/DC/USEPA/US@EPA; Frank Sanders/DC/USEPA/US@EPA; Steven Knott/DC/USEPA/US@EPA; Steven Bradbury/DC/USEPA/US@EPA; Marty Monell/DC/USEPA/US@EPA; William Jordan/DC/USEPA/US@EPA; Robert Mcnally/DC/USEPA/US@EPA; Kevin Keaney/DC/USEPA/US@EPA; Priscilla Flattery/DC/USEPA/US@EPA; Colby Lintner/DC/USEPA/US@EPA; Lindsay Moose/DC/USEPA/US@EPA; Emily Dougherty/DC/USEPA/US@EPA; Debby Sisco/DC/USEPA/US@EPA; Margie Fehrenbach/DC/USEPA/US@EPA; Karen Angulo/DC/USEPA/US@EPA; Pat West/DC/USEPA/US@EPA; Mary Waller/DC/USEPA/US@EPA; Douglas Parsons/DC/USEPA/US@EPA; Kate Graf/DC/USEPA/US@EPA; Niva Kramek/DC/USEPA/US@EPA; Steve Nako/DC/USEPA/US@EPA; Mary Hanley/DC/USEPA/US@EPA; Marylouise Uhlig/DC/USEPA/US@EPA; Gloria Milhouse/DC/USEPA/US@EPA; Bruce Berkley/DC/USEPA/US@EPA; Sven-Erik Kaiser/DC/USEPA/US@EPA; Karissa Kovner/DC/USEPA/US@EPA; Daniella Taveau/DC/USEPA/US@EPA; Wesley Allen/DC/USEPA/US@EPA; John-A Richards/DC/USEPA/US@EPA; Debbie-E Thomas/DC/USEPA/US@EPA; Peterj Smith/DC/USEPA/US@EPA; Melissa Chun/DC/USEPA/US@EPA; Jonah Richmond/DC/USEPA/US@EPA; Martha Shimkin/DC/USEPA/US@EPA; Maria Doa/DC/USEPA/US@EPA; Tala Henry/DC/USEPA/US@EPA; Sherry Sterling/DC/USEPA/US@EPA

Attachments

2012-07-30_OCSPP-Updates2AA-MondayRpt.pdf

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Release-Redaction
Withhold attachment

Justification

Document EPA-561 is an e-mail from Angela Hofmann, Director of Regulatory Coordination for EPA's Office of Chemical Safety & Pollution Prevention (OCSPP), to EPA staff in OCSPP forwarding a four page attachment that was compiled for internal regulatory and policy planning purposes by OCSPP staff. The attachment is an internal report of the current status and projected activities regarding Agency rulemakings. The attachment was not shared with any outside parties.

The withheld information in the draft attachment contains predecisional and deliberative information related to proposed actions in OCSPP. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information developed to assist EPA management in the scheduling of program priorities. The withheld information does not represent an official Agency decision. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities.

All text of the email was released in full, the attachment was withheld in full. To the extent any of this withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-562	**Subj:** OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	07/31/2012 09:51:42 PM	**Auth:** Bob Perciasepe

Recipients

Attachments

Diane Thompson/DC/USEPA/US; Bob Sussman/DC/USEPA/US; Cynthia Giles-AA/DC/USEPA/US; Gina McCarthy/DC/USEPA/US; Nena Shaw/DC/USEPA/US

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-562 falls within EPA-239. See the entry for EPA-239.

EPA-563	**Subj:** OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	07/31/2012 09:51:42 PM	**Auth:** Bob Perciasepe

Recipients

Diane Thompson/DC/USEPA/US; Bob Sussman/DC/USEPA/US; Cynthia Giles-AA/DC/USEPA/US; Gina McCarthy/DC/USEPA/US; Nena Shaw/DC/USEPA/US

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-563 is identical to EPA-562. EPA-562 and EPA-563 fall within EPA-239. See the entry for EPA-239.

EPA-564	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	07/31/2012 11:57:03 PM	**Auth:** Gina McCarthy

Recipients

Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

This email string has two emails. The witheld portion of the originating email falls within EPA-239. See the entry for EPA-239. The response email consists of a one-word response. There is no reasonably segregable information from this exchange to provide to plaintiff. To the extent that there is factual information, it is inextricably intertwined with Agency deliberations.

EPA-565	**Subj:** Fw: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 08:31:57 AM	**Auth:** Cynthia Giles-AA

Recipients

David Hindin/DC/USEPA/US@EPA; David Hindin/DC/USEPA/US; Lawrence Starfield/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-565 falls within EPA-566. See the entry for EPA-566.

EPA-566	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 09:09:10 AM	**Auth:** David Hindin

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Lawrence Starfield/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
Document EPA-566 (related to EPA-169 and EPA-239) is an email chain of six emails memorializing communications between Bob Sussman, EPA's Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

A very small amount of non-substantive information, including email subject lines and signature blocks from this exchange, was released in EPA-169. The remaining information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-567	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 09:43:24 AM	**Auth:** Bob Sussman

Recipients
Bob Perciasepe/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-567 consists of two emails. The originating email falls within EPA-239. See the entry for EPA-239. The second email from Bob Sussman, Senior Policy Counsel to the Administrator, provides a response to the originating email from the then-Deputy Adminstrator, Bob Perciasepe. The second email is withheld for the same reasons explained in the entry for EPA-239.

Additionally, the email discusses questions concerning another EPA rulemaking related to Biofuels that is similarly pre-decisional and deliberative. There is no

reasonably segregable information that can be provided to plaintiff from EPA-567. Any factual information is inextricably intertwined with EPA's decisionmaking process on rulemaking options and is not reasonably segregable.

EPA-568	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 10:32:15 AM	**Auth:** Cynthia Giles-AA

Recipients
Bob Sussman/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US; Bob Perciasepe/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-568 falls within EPA-239. See the entry for EPA-239.

EPA-569	**Subj:** Re: OIRA Chat - burden reduction and Rules Pending (RFG and Diesel to)	08/01/2012 12:15:56 PM	**Auth:** Bob Perciasepe

Recipients
Cynthia Giles-AA/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Gina McCarthy/DC/USEPA/US@EPA; Nena Shaw/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-569 falls within EPA-239. See the entry for EPA-239.

EPA-570	**Subj:** Daily Reading File: August 1, 2012	08/01/2012 04:19:45 PM	**Auth:** Eliska Postell

Recipients
Aaron Dickerson/DC/USEPA/US@EPA; Arvin Ganesan/DC/USEPA/US@EPA; Bicky Corman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Bob Sussman/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA; Eric Wachter/DC/USEPA/US@EPA; Gladys Stroman/DC/USEPA/US; Jose Lozano/DC/USEPA/US@EPA; Laura Vaught/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Sarah Pallone/DC/USEPA/US@EPA; Richard Windsor/DC/USEPA/US@EPA; Stephanie Washington/DC/USEPA/US@EPA; Christopher Busch/DC/USEPA/US@EPA; Veronica Burley/DC/USEPA/US@EPA; Elizabeth Ashwell/DC/USEPA/US@EPA; Brendan Gilfillan/DC/USEPA/US@EPA; briefings@EPA; James O'Hara/DC/USEPA/US@EPA

Attachments
Daily Reading File. 8.1.12.pdf

Exemption(s)
Ex. 6 - Personal Privacy

Release-Redaction

Justification

EPA-570 is an email communication transmitting the Administrator's daily reading file. The daily reading file is a compilation of correspondence compiled by OEX staff for the information and review of the Administrator and senior leadership. Responsive correspondence has been released to the Plaintiff from this file. Non-responsive pages, including internal and intergovernmental documents and non-responsive correspondence, were removed from these files with the volume of non-responsive information noted in the file.

The names of EPA employees managing controlled correspondence have been redacted pursuant to FOIA Exemption 6. These employees have a privacy interest in preventing unwarranted harassment from outside parties due to the large volume of correspondence that they process every day as part of their jobs. There is little public interest in knowing who forwarded correspondence to a particular office. The employees managing controlled correspondence do not have subject matter expertise regarding matters addressed in the correspondence they process and do not impact Agency policy regarding these issues. These employees have a personal privacy interest in preventing repeated contacts and potential personal harassment regarding matters and issues about which they have no knowledge. Therefore, the privacy interest of these employees outweighs the public interest in knowing the particular names of employees responsible for managing controlled correspondence.

EPA-571	**Subj:** Re: Current Draft of "Agenda"	08/03/2012 06:58:39 PM	**Auth:** Bob Sussman

Recipients

Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

EPA 2012 Outlook 7 27 b.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification

EPA-571 is contained within EPA-572. See entry for EPA-572.

EPA-572	**Subj:** Re: Current Draft of "Agenda"	08/05/2012 04:42:11 PM	**Auth:** Bob Sussman

Recipients

Bob Sussman/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA; Diane Thompson/DC/USEPA/US@EPA

Attachments

EPA 2012 Outlook 7 27 b.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction
Withhold attachment

Justification

EPA-572 is an email transmission of draft planning and briefing documents from the Deputy Administrator to to the EPA's rulemaking plans. The withheld attachment contains discussion among the Executive Office of the President and the Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership policy issues raised by different rulemaking options, including discussion of the timing of rules and potential Agency priorities.

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This

information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

Reasonably segregable portions of this email exchange were released to plaintiff. The remaining redacted and withheld information does not contain any additional reasonably segregable information. Any factual information in the redacted portions and in the withheld attachment is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-573	**Subj:** Cafe	08/09/2012 08:59:41 AM	**Auth:** Janet Woodka

Recipients
"Bob Perciasepe" <perciasepe.bob@epa.gov>

Attachments
Governors Fallin and Hickenlooper.pdf
Letter - Governors Fallin (OK) & Hickenlooper (CO) - 2017 & Later Model Year LDV GHG and CAFE Standards.pdf
NGV MOU - 5-31-12.pdf
Oil and Gas Development Notes from April LGAC Meeting.docx

Exemption(s)
Release

Justification
Document EPA-573 was released in full.

EPA-574	**Subj:** RE: 316	08/10/2012 03:35:11 PM	**Auth:** Bob Perciasepe

Recipients
"Zichal, Heather R." (b)(6) [redacted]

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-574 falls within EPA-576. See the text of EPA-576.

EPA-575	**Subj:** Re: 316	08/13/2012 10:09:31 AM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Release-Redaction

Justification
EPA-575 falls within EPA-576. See the text of EPA-576.

EPA-576	**Subj:** Re: 316	08/13/2012 10:49:15 AM	**Auth:** Bob Perciasepe

Recipients
"Zichal, Heather R." (b)(6)

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-576 is an email exchange between Heather Zichal in the Executive Office of the President and Bob Perciasepe, Deputy Administrator of EPA, related to a draft of a communication for outreach and response to stakeholders on various EPA rulemakings, including the rule known as "316(b)". The email communication contains a draft of an official communication, followed by internal discussion, advice, and analysis regarding the substance of the communication and United States Government policy toward these rules. These communications are internal to the United States Government and were not shared with third parties outside of the government.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management and staff in evaluating policy options related to a rulemaking and weighing the consequences of those options. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rulemaking.

The cell phone number of the current EPA Acting Administrator, which appears in the email signature block, is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number. The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

A portion of this document contains an official email address belonging to a staff member of the Executive Office of the President that has been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email address is used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owner's name is already disclosed, public disclosure of this email address would not shed light on the performance of the employee's official duties, and there is therefore no public interest in

disclosure of this type of information. In redacting the email address, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

Portions of this email exchange not containing deliberative content were segregated and released to plaintiff while the deliberative content was redacted.There is no additional reasonably segregable information in this document. To the extent that the redacted portion of this document contains facts, those facts are inextricably intertwined with the privileged content.

EPA-577	**Subj:** Fw: post oct prioirities	08/15/2012 07:58:30 PM	**Auth:** Bob Sussman

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
post oct prioirities.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold attachment
Withhold in full

Justification
EPA-577 is an email transmission of draft planning and briefing documents from the Deputy Administrator to the Executive Office of the President related to EPA's rulemaking plans. The email contains discussion among the Executive Office of the President and the Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership about legal and policy issues raised by different rulemaking options, including discussion of the timing of rules and potential Agency priorities. This communicatino was withheld in full, as were the attachments. These discussions and attachments were not shared outside of the government

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-578	**Subj:** sept oct priorities	08/16/2012 05:16:15 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
sept oct priorities.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold attachment
Withhold in full

Justification
EPA-578 is an email transmission of draft planning and briefing documents from the Deputy Administrator to the Executive Office of the President related to EPA's rulemaking plans. The email contains discussion among the Executive Office of the President and the Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership about legal and policy issues raised by different rulemaking options, including discussion of the timing of rules and potential Agency priorities. This communicatino was withheld in full, as were the attachments. These discussions and attachments were not shared outside of the government

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-579	**Subj:** post oct prioirities	08/16/2012 05:26:20 PM	**Auth:** "Zichal, Heather R."

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments
post oct prioirities.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy

Withhold in full

Justification

EPA-579 is an email transmission of draft planning and briefing documents from the Deputy Administrator to the Executive Office of the President related to EPA's rulemaking plans. The email contains discussion among the Executive Office of the President and the Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership about legal and policy issues raised by different rulemaking options, including discussion of the timing of rules and potential Agency priorities. This communicatino was withheld in full, as were the attachments. These discussions and attachments were not shared outside of the government

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-580	**Subj:** Comments back	08/16/2012 07:29:26 PM	**Auth:** Bob Perciasepe

Recipients

"Zichal, Heather R." (b)(6) [redacted]

Attachments

~2569934 BP.docx
post oct prioirities BP.docx

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold attachment
Withhold in full

Justification

EPA-580 is an email transmission of draft planning and briefing documents from the Deputy Administrator to the Executive Office of the President related to EPA's rulemaking plans. The email contains discussion among the Executive Office of the President and the Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership about legal and policy issues raised by different rulemaking

options, including discussion of the timing of rules and potential Agency priorities. This communicatino was withheld in full, as were the attachments. These discussions and attachments were not shared outside of the government

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

Portions of this document contain official email addresses that belong to staff members of the Executive Office of the President that have been withheld under Exemption 6. The Executive Office of the President's staff members have a significant personal privacy interest in preventing the burden of unsolicited emails and harassment, and the withheld information therefore falls within the scope of the phrase "personnel and medical files and similar files." The email addresses are used for internal messages to and from the Executive Office of the President to prevent unsolicited communications. Since the owners' names are already disclosed, public disclosure of these email addresses would not shed light on the performance of the employees' official duties, and there is therefore no public interest in disclosure of this type of information. In redacting the email addresses, the Agency has left visible the email owner's name so there is no confusion as to who received or sent the email communications.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-581	**Subj:** Re: Feedback from OMB on Electronic Reporting Rule	08/16/2012 08:37:34 PM	**Auth:** Steven Chester

Recipients

Bob Sussman/DC/USEPA/US@EPA; Cynthia Giles-AA/DC/USEPA/US@EPA; Bob Perciasepe/DC/USEPA/US@EPA; Michael Goo/DC/USEPA/US@EPA

Attachments

Exemption(s)

Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-581 is a response to EPA-245. Document EPA-245 is an email memorializing communications between Bob Sussman, EPA' Senior Policy Counsel in the Office of the Administrator, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, copying other senior managers in EPA. The email chain discusses EPA policy and decisionmaking regarding the promulgation and internal Executive Branch review of the NPDES E-Reporting Rule. EPA-581 contains a continuation of this internal conversation, including analysis and recommendations from managers to senior managers regarding these policy issues and options.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating a public policy position for the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA's senior managment in reaching a final policy decision related to promulgation and review of the E-Reporting rule. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and senior managers during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion

of issues and approaches when formulating the Agency's public policies and rules. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government.

The information in this email exchange does not contain any reasonably segregable factual information. To the extent that this communication chain contains factual information, it is inextricably intertwined with protected deliberations and is not reasonably segregable.

EPA-582	**Subj:** List through October	08/19/2012 03:36:35 PM	**Auth:** Bob Perciasepe

Recipients
Richard Windsor/DC/USEPA/US@EPA

Attachments
Now until end of Oct.docx
November to January Priorities.docx
Other Items November to January.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification
EPA-582 is an email communication between the then-Administrator Lisa Jackson and Deputy-Administrator Bob Perciasepe transmitting attached internal briefing documents that were sent from the Deputy Administrator to the Executive Office of the President related to EPA's rulemaking plans. The email contains discussion among the Adminstrator and Deputy Administrator about high-level policy options for rulemakings and the Agency's priorities. The email contains discussion about the legal and policy implications of various policy and rulemaking options with regard to these proposed rules. The email chain contains a discussion among EPA senior leadership about legal and policy issues raised by different rulemaking options, including discussion of the timing of rules and potential Agency priorities. This communicatino was withheld in full, as were the attachments. These discussions and attachments were not shared outside of the government

The withheld records reflect discussions among senior EPA managers and executive branch officials about high level policy issues facing the Agency. This information is deliberative because it contains discussions, advice, opinions, and recommendations related to the development of the rulemaking. The withheld information is also protected under Exemption 5's deliberative process privilege because it is an inter-agency communication and internal conversation which reflects the analyses, advice, and deliberations of agency employees in evaluating policy options related to a rulemaking and weighing the consequences of those options. The documents were pre-decisional because they relate to the options presented for a policy decision before the actual decision was to be made. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA and by the Executive Branch as a whole. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency’s ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public policies.

There is no reasonably segregable information that can be released from this communication chain. Any factual information is inextricably intertwined with the internal deliberations contained in the email communication and the attachment.

EPA-583	**Subj:** Rule Review Schedule	08/20/2012 09:48:54 AM	**Auth:** Gina McCarthy

Recipients
perciasepe.bob@epa.gov

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Withhold in full

Justification

EPA-583 is contained within EPA-585. See entry for EPA-585.

EPA-584	**Subj:** Re: Rule Review Schedule	08/20/2012 09:52:36 AM	**Auth:** Bob Perciasepe

Recipients
Gina McCarthy/DC/USEPA/US@EPA; "perciasepe bob" <perciasepe.bob@epa.gov>

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification
EPA-584 is contained within EPA-585. See entry for EPA-585.

EPA-585	**Subj:** Re: Rule Review Schedule	08/20/2012 10:08:35 AM	**Auth:** Gina McCarthy

Recipients
Bob Perciasepe/DC/USEPA/US@EPA

Attachments

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Withhold in full

Justification
Document EPA-585 is an e-mail chain between Gina McCarthy, Assistant Administrator of the Office of Air and Radiation, to Bob Perciasepe, Deputy Administrator, discussing her concerns with different suggested policy options related to rulemakings that were underway at the time out of the Office of Air and Radiation. This is an internal discussion of EPA strategy and policy options that was not shared with any outside parties. Portions of this email chain also discuss the vacation and leave plans of the Deputy Administrator, which are withheld under Exemption 6.

The withheld information in the email communication contains predecisional and deliberative information related to proposed actions in OAR. This information is protected by the deliberative process privilege of Exemption 5 because it consists of information which reflects the analyses, advice, and recommendations of EPA senior managers discussing various policy options, which were developed to assist in the agency's rulemaking activities and to inform decisions related to Agency rules. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations on issues still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's proposed actions and activities. It would also limit the ability of EPA management to speak freely about potential concerns that they may have with a proposed course of action.

Portions of this document also contain personal information about an individual's vacation, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The individual whose vacation information is recorded has a significant personal privacy interest in the information. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains vacation information belonging to a particular individual. Public disclosure of this information would not shed light on the performance of the employee's official duties. The harm to the individual as a result of the disclosure clearly outweighs the public interest in such disclosure.

There is no reasonably segregable information in this communication which can be released to Plaintiff. To the extent that this communication contains factual information, that information is inextricably intertwined with the deliberative content and / or would reveal personal privacy information not subject to release.

EPA-586	**Subj:** Gina Boiler MACT FOIA Search 10 Documents; 5 responsive	11/02/2012 05:03:12 PM	**Auth:** Amit Srivastava

Recipients
Don Zinger/DC/USEPA/US@EPA; Daniel Hopkins/DC/USEPA/US@EPA

Attachments
The Honorable Gina McCarthy 5.12.docx
Manufacturing Action Council_Spring_2012_Membership.pdf
Cover Sheet - Am Iron & Steel Institute.docx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-586 is a transmission of compiled calendar entries that were prepared by OAR in response to a FOIA request based on key word searches. Responsive calendar entries and correspondence related to rulemaking has been released to the Plaintiff from this file. Non-responsive pages such as internal meetings or non-responsive attachments were removed from these files with the volume of non-responsive information noted in the file.

EPA-586 contains EPA conference call phone numbers and access codes that are withheld under Exemption 6. The conference call access information is assigned to an individual. The public release of the phone number and access codes would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and codes do not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

All responsive entries and attachments were released except for the withheld conference call number and access codes.

EPA-587	**Subj:** " Portland Cement " Landmark FOIA search for Janet	12/07/2012 02:10:38 PM	**Auth:** Daniel Hopkins

Recipients
Don Zinger/DC/USEPA/US@EPA; Don Zinger/DC/USEPA/US; Larke Williams/DC/USEPA/US@EPA

Attachments
INGAA Letter to GMcCarthy Oil & Gas NSPS.pdf
INGAA Comments_Subpart OOOO and HHH Rules_Final_112211.pdf
NTAA_EPA_Call_Agenda_29_Mar_2012_Draft.pdf
Tribal Consultation.pptx
ATTHZS40.xlsx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-587 is a transmission of compiled calendar entries that were prepared by OAR in response to a FOIA request based on key word searches. Responsive calendar entries and correspondence related to rulemaking has been released to the Plaintiff from this file. Non-responsive pages such as internal meetings or non-responsive attachments were removed from these files with the volume of non-responsive information noted in the file.

EPA-587 contains EPA conference call phone numbers and access codes that are withheld under Exemption 6. The conference call access information may be assigned to an individual. The public release of the phone number and access codes would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and codes do not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-587 also contained some personal email addresses that were withheld under Exemption 6. The owners of the email addresses was disclosed to the extent possible, but the actual email address extension was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

All responsive entries and attachments were released except for the withheld conference call numbers, access codes, and personal email addresses.

EPA-588	**Subj:** " Rice Rule " Landmark FOIA search for Janet	12/07/2012 02:16:03 PM	**Auth:** Daniel Hopkins

Recipients
Don Zinger/DC/USEPA/US@EPA; Don Zinger/DC/USEPA/US; Larke Williams/DC/USEPA/US@EPA

Attachments
2012_01_09_EC_Call Agenda_Draft.pdf
2011_ 11_21 EC Call Minutes_Draft.pdf
2011_11_21_EC Call Summary_Draft.pdf
Air Topic Areas for EC Expertise_Draft.pdf
2012_02_27_EC_Call Agenda_Draft.pdf
11_12_6_8_EC_Meeting Summary_Draft.pdf
2011_12_6_8_EC_Meeting_Notes_Draft.pdf
2011_01_09_EC Call Minutes_Draft.pdf
2012_01_09_EC Call Summary_Draft.pdf
6_NTAA slides IED overview 2 23 12.pptx
2012_ 05_09 EC Call Agenda.docx
Tribal Info Mtg PM NAAQS May 9 2012.pdf
ATT8GFKD.pdf
ATTCLRKU.pdf
ATT211YC.pptx

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-588 is a transmission of compiled calendar entries that were prepared by OAR in response to a FOIA request based on key word searches, which were released to plaintiff except for the redaction of conference call codes.

EPA-588 contains EPA conference call phone numbers and access codes that are withheld under Exemption 6. The conference call access information is assigned to an individual. The public release of the phone number and access codes would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and codes do not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-588 also contained some personal email addresses that were withheld under Exemption 6. The owners of the email addresses was disclosed to the extent possible, but the actual email address extension was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

All responsive entries and attachments were released except for the withheld conference call number and access codes and personal email addresses.

EPA-589	**Subj:** " CISWI " Landmark FOIA search for Janet	12/07/2012 02:16:45 PM	**Auth:** Daniel Hopkins

Recipients
Don Zinger/DC/USEPA/US@EPA; Don Zinger/DC/USEPA/US; Larke Williams/DC/USEPA/US@EPA

Attachments
Introductory OAR-ORCR Talking Points.docx
SpecFUEL Slide Deck revised for OAR mtg 05 04 12.pptx
SpecFUEL REgulatory Analysis.DOCX
Standard-Reg-Form-ACE-2012.pdf
2012-Preliminary-Program.pdf
ATTM37XQ.pdf
ATTZWW8Z.pdf

Exemption(s)
Ex. 6 - Personal Privacy
Release-Redaction

Justification
EPA-589 is a transmission of compiled calendar entries that were prepared by OAR in response to a FOIA request based on key word searches. Responsive calendar entries and correspondence related to rulemaking has been released to the Plaintiff from this file. Non-responsive pages such as internal meetings or non-responsive attachments were removed from these files with the volume of non-responsive information noted in the file.

EPA-589 contains EPA conference call phone numbers and access codes that are withheld under Exemption 6. The conference call access information is assigned to an individual. The public release of the phone number and access codes would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and codes do not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-589 also contained some personal email addresses that were withheld under Exemption 6. The owners of the email addresses was disclosed to the extent possible, but the actual email address extension was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

All responsive entries and attachments were released except for the withheld conference call numbers, access codes, and personal email addresses.

EPA-590	**Subj:** " Boiler MACT " Landmark FOIA search for Janet	12/07/2012 02:17:36 PM	**Auth:** Daniel Hopkins

Recipients
Don Zinger/DC/USEPA/US@EPA; Don Zinger/DC/USEPA/US; Larke Williams/DC/USEPA/US@EPA

Attachments
McCarthyEPAmeetingRequest010612 1.pdf
Air Topic Areas for EC Expertise_Draft.pdf
2012_02_27_EC_Call Agenda_Draft.pdf
11_12_6_8_EC_Meeting Summary_Draft.pdf
2011_12_6_8_EC_Meeting_Notes_Draft.pdf
2011_01_09_EC Call Minutes_Draft.pdf
2012_01_09_EC Call Summary_Draft.pdf

6_NTAA slides IED overview 2 23 12.pptx
Gina McCarthy (EPA) letter.2.29.12.pdf
McCarthy Meeting Request Letter.pdf
NAAQS Implementation Coalition Modeling Conference Comments.pdf
Introductory OAR-ORCR Talking Points.docx
SpecFUEL Slide Deck revised for OAR mtg 05 04 12.pptx
SpecFUEL REgulatory Analysis.DOCX
FINAL LIST Perciasepe Meeting 6 6 12 RIC MAC.xlsx
Perciasepe Meeting 6.6.12 RIC.MAC.xlsx
RIC Membership List and Mission Statement 2012.pdf
Standard-Reg-Form-ACE-2012.pdf
2012-Preliminary-Program.pdf
ATTZRWU4.pdf
ATTB4YDP.pdf
The Honorable Gina McCarthy 5.12.docx
Manufacturing Action Council_Spring_2012_Membership.pdf
OAQPS Rule List Report - Public.pdf
2012_07_26_NTAA_EPA_Call.docx
Scheraga - NTAA-EPA Air Policy Call - July 26 2012.ppt
ATTRA5U2.pdf

Exemption(s)

Ex. 6 - Personal Privacy
Release-Redaction

Justification

EPA-590 is a transmission of compiled calendar entries that were prepared by OAR in response to a FOIA request based on key word searches. Responsive calendar entries and correspondence related to rulemaking has been released to the Plaintiff from this file. Non-responsive pages such as internal meetings or non-responsive attachments were removed from these files with the volume of non-responsive information noted in the file.

EPA-590 contains EPA conference call phone numbers and access codes that are withheld under Exemption 6. The conference call access information is assigned to an individual. The public release of the phone number and access codes would potentially allow uninvited third parties to illegally listen to internal calls and interfere with EPA individuals. The call participants have a personal privacy interest in ensuring that no uninvited person is listening in on the call. The withheld conference call number and codes do not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure. Therefore, the harm to individuals as a result of the disclosure clearly outweighs the public interest in such disclosure.

EPA-590 also contained some personal email addresses that were withheld under Exemption 6. The owners of the email addresses was disclosed to the extent possible, but the actual email address extension was redacted. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase “personnel and medical files and similar files,” because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

All responsive entries and attachments were released except for the withheld conference call numbers, access codes, and personal email addresses.

EPA-591	**Subj:** Meeting w/Marwood Group in NY - if you are eating be there at 11:40 - the mtg starts @ 12:00 - it's over at 2:00		**Auth:** Denise Anderson

Recipients

Attachments
Bob Perciasepe NY Lunch 7 20 12.pdf
20120720 Marwood Group Meeting REMARKS AND BACKGROUND.docx

Exemption(s)
Ex. 5 -- Deliberative Process Privilege
Ex. 6 - Personal Privacy
Redact in attachment
Release-Redaction

Justification
EPA-591 is an electronic transmission of material to Bob Perciasepe in preparation for a lunch meeting and Q & A session in New York. The email communication was released in full except for the cell phone number of Bob Perciasepe. The invite to the meeting was released in full, as was the email transmission from the outside party to EPA. EPA redacted information in the attached talking points document that contained "background" information consisting of internal analysis, briefing information, and deliberations regarding agency activities for preparation for answers to potential questions. The portion of the talking points reflecting Mr. Perciasepe's remarks was segregated and released.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management in formulating EPA's policy and official responses. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects a request for internal analysis and recommendations on policies still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the rule development process and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the grounds for or position of the EPA or the U.S. Government on this rule.

EPA redacted and released the reasonably segregable information from EPA-591. Any additional factual information contained in this communication is inextricably intertwined with deliberative content and is not reasonably segregable from the deliberative information in the redacted and withheld portions of the document.

EPA also redacted and withheld the cell phone number of the current EPA Acting Administrator, which appears in the email signature block in document EPA-591. The cell phone number is withheld under Exemption 6. The withheld information is within the scope of the phrase "personnel and medical files and similar files," because the cell phone number contains personal information that applies to a particular individual. The Acting Administrator has a privacy interest in minimizing unsolicited disruptive and harassing calls to his work cell phone as a result of widespread public release of his personal cell phone number.

The withheld cell phone number does not shed light on EPA's performance of its statutory duties so there is no public interest in disclosure of the current Acting Administrator's cell phone number. Therefore, the harm to individual as a result of the disclosure clearly outweighs the public interest in such disclosure.