EPA News Highlights 4.25.18

The Detroit News: Va. Tech. Expert, Team Win $2M For Lead Water Research

Federal officials are giving nearly $2 million for research to a team led by the Virginia Tech researcher who uncovered elevated lead levels in Flint's drinking water to research preventing such problems nationwide. Staffers are slated to use the money to create a consumer-based framework to detect and control lead in drinking water, the agency said in a statement. The "community science project" aims to raise awareness while helping "the most vulnerable communities to actively participate in identifying risks and evaluating opportunities to mitigate those risks." "Our team will establish one of the largest citizen-science engineering projects in U.S. history to help individuals and communities deal with our shared responsibility for controlling exposure to lead in drinking water through a combination of low-cost sampling, outreach, direct collaboration and modeling," said a statement by Marc Edwards, the principal investigator on the project at Virginia Polytechnic Institute and State University, where he has long worked.

NBC Bay Area: EPA Fines East Bay Cities, Water Agencies For Allowing Sewage Into Bay

Oakland, Alameda, Berkeley, Albany and two municipal districts in the East Bay have been fined almost $400,000 for allowing untreated sewage to enter the Bay, U.S. Environmental Protection Agency officials said Tuesday. The East Bay Municipal Utility District and the Stege Sanitary District for El Cerrito, Kensington and parts of Richmond were also fined for the violations, which occurred between September 2014 and June 2017. EPA officials said the cities violated the terms of a 2014 Clean Water Act settlement "consent decree" that required upgraded sewer infrastructure to protect local waters. In 2014, the eight cities and agencies paid $1.5 million for past sewage penalties and agreed to upgrade 1,500 miles of infrastructure over 21 years, according to the EPA. EPA officials said the cities and districts have inspected 720 miles of sewer pipe and spent $80 million to upgrade 100 miles of sewers since the settlement.

The Washington Examiner: Scott Pruitt Announces New EPA Rule To Combat 'Secret Science'

Environmental Protection Agency Administrator Scott Pruitt announced a proposed rule Tuesday that would block the agency from using scientific studies that do not make public the raw data used in the research. The embattled EPA administrator was surrounded by conservative allies when he announced the change at agency headquarters, with no media present because the agency did not invite reporters. Pruitt argues the proposed rule, subject to a 30-day comment period, would improve transparency and ensure science used in policymaking can be independently verified. It fits with a policy he implemented last year to boot scientists from key advisory boards to the EPA.

The Hill: Pruitt Signs Proposed Rule To Erase 'Secret Science' From EPA

Environmental Protection Agency (EPA) Administrator Scott Pruitt signed a rule proposal Tuesday aimed at increasing "transparency" in science all while limiting reporter, environmentalist and scientist access to the event. The proposal, signed at EPA headquarters, aims to expose the methodology behind scientific findings and cut back on what Pruitt has deemed "secret science." Speaking in front of a number of well-known climate change skeptics including the Competitive Enterprise Institute's Myron Ebell, Pruitt announced that the new rule would require science to "be transparent, reproducible and able to be analyzed by those in the marketplace." Reporters were not invited to attend the event, and details surrounding the announcement and rule proposal were kept secret until 30 minutes before the EPA's Twitter account announced it would be live-streamed.

The Wall Street Journal: Trump Faces Pressure To Choose Sides In Fight Between Corn Growers And Oil Refiners

President Donald Trump is caught between two powerful business constituents of the Republican Party as he faces growing pressure to resolve a dispute between the oil industry and the Farm Belt. Oil refineries want out of a costly requirement to blend ethanol into the gasoline they produce. Corn growers say the requirement diversifies the U.S. fuel supply, and insist Mr. Trump fulfill promises to at least hold the ethanol mandate. Both sides have close ties to the GOP and the White House. Tensions between the two industries have been building since well before Mr. Trump became president, the result of a 2005 law that requires refineries to blend about 10% plant-based ethanol into the fuel they produce, or buy credits from rivals to cover their blending obligations. Congress created the mandate in hopes of reducing carbon emissions and weaning the U.S. from foreign crude at a time when oil prices had begun soaring.

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National News Highlights 4.25.18

The New York Times: Trump's Travel Ban Faces A Supreme Court Test
The Supreme Court will hear a challenge on Wednesday to President Trump's latest effort to limit travel from countries said to pose a threat to the nation's security. The case, a major test of presidential power, will require the justices to decide whether Mr. Trump's campaign promises to impose a "Muslim ban" were reflected in executive orders that restricted travel from several predominantly Muslims nations. Just a week after he took office, President Trump issued his first travel ban, causing chaos at the nation's airports and starting a cascade of lawsuits and appeals. Fifteen months later, after two revisions of the ban and a sustained losing streak in the lower courts, the Supreme Court took up the case in its last scheduled argument of the term. A decision is expected by late June. The case, Trump v. Hawaii, No. 17-965, concerns Mr. Trump's third and most considered bid to make good on his campaign promise to secure the nation's borders. Challengers to the latest ban, issued as a presidential proclamation in September, said it was tainted by religious animus and not adequately justified by national security concerns.

The Washington Post: Trump Rallies Behind VA Nominee After Suggesting He Drop Out Because Of 'Ugly' Process
The White House rallied around Ronny L. Jackson's nomination to lead the Department of Veterans Affairs late Tuesday as the president's doctor was besieged by accusations that he improperly dispensed drugs, created a hostile workplace and became intoxicated on duty. The administration's decision to fight on in defense of the nomination came hours after President Trump publicly suggested that Jackson should consider pulling out because of the "abuse" he was facing. But by late afternoon, Trump had huddled with Jackson, and White House aides vowed to fight the charges. "I don't want to put a man through a process like this," Trump had said earlier when asked about Jackson's nomination during a joint news conference with French President Emmanuel Macron. "It's too ugly, and it's too disgusting."

TRUMP TWEETS

The Detroit News

https://www.detroitnews.com/story/news/michigan/flint-water-crisis/2018/04/24/va-tech-edwards-epa-grant-flint-water/34221001/

Va. Tech. Expert, Team Win $2M For Lead Water Research
By The Detroit News, 4/24/18

Federal officials are giving nearly $2 million for research to a team led by the Virginia Tech researcher who uncovered elevated lead levels in Flint's drinking water to research preventing such problems nationwide.

Staffers are slated to use the money to create a consumer-based framework to detect and control lead in drinking water, the agency said in a statement. The "community science project" aims to raise awareness while helping "the most vulnerable communities to actively participate in identifying risks and evaluating opportunities to mitigate those risks."

"Our team will establish one of the largest citizen-science engineering projects in U.S. history to help individuals and communities deal with our shared responsibility for controlling exposure to lead in drinking water through a combination of low-cost sampling, outreach, direct collaboration and modeling," said a statement by Marc Edwards, the principal investigator on the project at Virginia Polytechnic Institute and State University, where he has long worked.

"We will tap a growing 'crowd' of consumers who want to learn how to better protect themselves from lead, and in the process, also create new knowledge to protect others. Whether from wells or municipalities, we all consume water, and we can collectively work to reduce health risks."

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The U.S. Environmental Protection Agency is expected to announce the funding Wednesday.

The grant dovetails with federal efforts to tackle lead exposure and comes weeks after Edwards testified in the district court case involving Nick Lyon, the state Health and Human Services director, who is charged with involuntary manslaughter linked to the Flint water crisis.

The Flint water crisis began when the city's water supply was contaminated with lead in April 2014, when a state-appointed emergency manager switched the source of the city's drinking water supply from Lake Huron to the Flint River. When the move was made, the Michigan Department of Environmental Quality did not require adequate corrosion-control chemicals to treat the water, causing lead to leach from joints, pipes and fixtures

Prosecutors have said the switch helped create the conditions for a Legionnaires' outbreak that killed 12 and sickened 79 others.

Edwards, an environmental engineer, tested the water of Flint resident Lee-Anne Walter in 2015 and found elevated lead levels he had not seen in 25 years. He assembled a team of Virginia Tech researchers, took them to Flint to test the water, launched a website and paid $150,000 to complete the work.

He also found documents showing that state leaders knew in the summer of 2015 that there was lead contamination in Flint's water. Edwards testified before Congress in March 2016 about the crisis.

The EPA grant follows the launch of a task force this year to address childhood lead exposure.

"Lead exposure is one of the greatest environmental threats we face as a country, and it's especially dangerous for our children," EPA Administrator Scott Pruitt said. "This research will move us one step closer to advancing our work to eradicate lead in drinking water."

NBC Bay Area

https://www.nbcbayarea.com/news/local/EPA-Fines-East-Bay-Cities-Water-Agencies-For-Allowing-Sewage-Into-Bay-480745591.html

EPA Fines East Bay Cities, Water Agencies For Allowing Sewage Into Bay

By Bay City News, 4/24/18

Oakland, Alameda, Berkeley, Albany and two municipal districts in the East Bay have been fined almost $400,000 for allowing untreated sewage to enter the Bay, U.S. Environmental Protection Agency officials said Tuesday.

The East Bay Municipal Utility District and the Stege Sanitary District for El Cerrito, Kensington and parts of Richmond were also fined for the violations, which occurred between September 2014 and June 2017.

EPA officials said the cities violated the terms of a 2014 Clean Water Act settlement "consent decree" that required upgraded sewer infrastructure to protect local waters.

In 2014, the eight cities and agencies paid $1.5 million for past sewage penalties and agreed to upgrade 1,500 miles of infrastructure over 21 years, according to the EPA.

EPA officials said the cities and districts have inspected 720 miles of sewer pipe and spent $80 million to upgrade 100 miles of sewers since the settlement.

The current violations include sanitary sewer overflows reaching the water, failure to meet limits for chlorine and coliform and failing to repair small defects within a year.

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Oakland incurred the highest fines at $226,500, with EBMUD paying the second-highest portion at $134,000.

"We knew heading into the consent decree that we could not eliminate these issues overnight, and we knew some stipulated penalties would be unavoidable," Oakland Public Works spokesman Sean Maher said in an email.

Oakland has reduced sewage spills into the Bay by 16 percent since 2014, and the agency is reaching multiple goals outlined in the decree, like pipe rehabilitation, Maher said.

EBMUD spokeswoman Jenesse Miller said the fines are reasonable and the district is confident that it can improve in the next few years.

Miller said the violations stemmed from numerous issues, but a main cause was a very wet winter that came after a five-year drought.

"We discovered our operators needed better muscle memory, if you will, to manage the sudden and enormous inflow of storm water into our system," Miller said in an email.

The district is organizing more on-site trainings before storms and evaluating standard operating procedures. Miller said the training has paid off and there weren't any violations during the most recent set of late-winter storms.

Trump, Macron Make a Show as Best Buds But Tussle Over Iran
The district will pay the fines with wastewater revenue, which comes from taxpayers, according to Miller.

The Washington Examiner

https://www.washingtonexaminer.com/policy/energy/scott-pruitt-announces-new-epa-rule-to-combat-secret-science

Scott Pruitt Announces New EPA Rule To Combat 'Secret Science'
By Josh Siegel, 4/24/18

Environmental Protection Agency Administrator Scott Pruitt announced a proposed rule Tuesday that would block the agency from using scientific studies that do not make public the raw data used in the research.

The embattled EPA administrator was surrounded by conservative allies when he announced the change at agency headquarters, with no media present because the agency did not invite reporters.

Pruitt argues the proposed rule, subject to a 30-day comment period, would improve transparency and ensure science used in policymaking can be independently verified. It fits with a policy he implemented last year to boot scientists from key advisory boards to the EPA.

"The science that we use is going to be transparent, reproducible and able to be analyzed by those in the marketplace," Pruitt said. "This is the right approach. Today is a red letter today. It's a banner day. It's an agency taking responsibility for how we do our work and respect the process to make sure we can enhance confidence in our decision making."

The proposal is modeled after legislation proposed by House Science Committee Chairman Lamar Smith, R-Texas, who tried to impose a similar requirement through legislation, but it failed to pass. Smith attended Pruitt's announcement, with Sen. Mike Rounds, R-S.D., who authored a mirroring bill in the Senate.

Supporters of the idea said they want to end the use of “secret science” in rulemaking.

"Surely, we can all agree on two things," Smith said. "We need clean air and water, and EPA's regulations should be supported by legitimate and publicly available data. Today’s announcement ensures data will be secret no more."

The proposed rule would have the effect of restricting the science the EPA could use when drafting environmental regulations, which critics say would allow the agency to justify weaker rules because it has less research to work with and can favor information that fits its goals, rather than relying on the best science.

Some scientific research uses personal health information from individuals who participate knowing the details are not to be made public but used to inform policymaking.

“Administrator Pruitt is very clearly trying to exclude and ignore longstanding pollution and medical science that is peer-reviewed, embraced by the National Academy of Sciences among others, and also based on health data that people were promised would be kept confidential,” John Walke, the clean air director of the Natural Resources Defense Council, told the Washington Examiner.

Walke argues the rule would be struck down in court because it is an arbitrary and capricious decision under the Administrative Procedure Act, which governs agency rule-making and requires regulatory decisions to be backed by data.

It also could violate laws that mandate the use of "best available science," including the Toxic Substances Control Act and Safe Drinking Water Act, opponents of the policy said.

“It is arbitrary and illegal for EPA to condition use of science and relevant information on the public availability of confidential health information, confidential business information, computer codes, and the like, rather than the validity and integrity of that science and information,” Walke said. “Moreover, EPA is very likely to tie itself up knots trying, unsuccessfully, to allow confidential information desired by industry, while disallowing health studies based on confidential patient data that would support stronger health safeguards.”

Major studies that have depended on confidential information include a major 1993 study by Harvard University linking air pollution to premature deaths.

Companies can’t reveal proprietary information either, so businesses also could be subject to the policy. That means the EPA could be blocked from considering confidential business information, such as data submitted by auto companies intended to aid in determining fuel-efficiency standards.

“It seems like this will handicap the EPA in making rules based on public health or industry data, and I think we should tread cautiously,” Joseph Majkut, director of climate policy at the Niskanen Center, a free-market think tank, told the Washington Examiner. “Private industry data and public health surveys cannot be as transparent as Pruitt would like to protect their property or the privacy of people in the studies. Insofar as the science behind them is solid, and in the case of Harvard and others it seems to be, then we risk losing valuable sources of information. I'm all for an open and transparent scientific process, but we probably don't want to throw the baby out with the bathwater.”

But the text of the proposed rule says Pruitt may grant exemptions on a case-by-case basis when publishing underlying data is "impracticable."

It lists exposing "confidential business information" as a possible exception, so corporate-funded research could potentially get an opt-out. Information that is "sensitive to national and homeland security" also can be kept private.

Pruitt’s announcement of the new rule comes as he is slated to visit Capitol Hill Thursday for the first time since a flood of allegations about his spending, ethics, and hiring practices prompted investigations by Congress, the White House, and the EPA’s inspector general.

He is scheduled to testify before a House Energy and Commerce subcommittee in the morning and at a House Appropriations subcommittee in the afternoon.

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The EPA administrator, in the lead-up to the hearings, is losing Republican support.

Three key Senate Republicans on Monday called for Pruitt to face more hearings about his recent controversies, including Sen. Jim Inhofe, R-Okla., a reliable Pruitt ally from his home state.

Sen. Lisa Murkowski, R-Alaska, told reporters Tuesday she plans to invite Pruitt to testify next month before the Senate appropriations subcommittee that oversees the EPA's budget.

Smith and Rounds, however, sought to reinforce support that Pruitt maintains from many conservatives.

"I know of no administration official who goes on the offensive, is not intimidated, and does the right thing regardless," Smith said. "We couldn't have a better head of the EPA."

The Hill

http://thehill.com/policy/energy-environment/384636-pruitt-signs-proposed-rule-to-erase-secret-science-from-agency

Pruitt Signs Proposed Rule To Erase 'Secret Science' From EPA

By Miranda Green, 4/24/18

Environmental Protection Agency (EPA) Administrator Scott Pruitt signed a rule proposal Tuesday aimed at increasing "transparency" in science all while limiting reporter, environmentalist and scientist access to the event.

The proposal, signed at EPA headquarters, aims to expose the methodology behind scientific findings and cut back on what Pruitt has deemed "secret science."

Speaking in front of a number of well-known climate change skeptics including the Competitive Enterprise Institute's Myron Ebell, Pruitt announced that the new rule would require science to "be transparent, reproducible and able to be analyzed by those in the marketplace." Reporters were not invited to attend the event, and details surrounding the announcement and rule proposal were kept secret until 30 minutes before the EPA's Twitter account announced it would be live-streamed.

Pruitt said the new ruling shows "an agency taking responsibility for how we do our work, in respecting process … so that we can enhance confidence in our decision making." He also dubbed the current process which had, until now, allowed science to be peer reviewed rather than open to public scrutiny, "simply wrong headed."

The rule will replicate, through agency action, two bills previously introduced in the House and Senate meant to restrict the kind of science the EPA can use when writing regulations.

The House bill authored by Rep. Lamar Smith (R-Texas), now called the Honest and Open New EPA Science Treatment Act, would mandate all scientific data and findings be made publicly available before they are used to justify agency regulations. Versions of Smith's bill passed the GOP-controlled House three times, but the Senate hasn't taken it up.

Last week, internal documents released by a Freedom of Information Act request by the Union of Concerned Scientists found that EPA political staffers have been working for months in conjunction with Smith and his staff to mimic the bill.

Speaking at the event Tuesday, Smith thanked Pruitt for being a "courageous leader" of the agency and blamed the "liberal media and alarmist environmental groups," for finding negatives in his legislation.

"For too long, EPA has withheld data that has been hidden from the American people," Smith said.

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Opponents of the new rule say it would limit the number of available scientific studies that could be used by the agency in its rulemaking, namely by excluding a number of public health studies.

Timed with Pruitt's announcement, seven Democratic Lawmakers sent a letter to Pruitt on Tuesday denouncing the new policy. The letter, led by Sen. Tom Carper (D-Del.), tells Pruitt, "Your proposed new policy likely violates several laws with which EPA must comply as the agency writes rules to protect our air, water and land from harmful pollution."

The lawmakers said Pruitt's new policy likely would run afoul of a number of laws that mandate rulemaking be based on the "best available science … because it would require EPA to ignore some of the 'best' scientific studies."

"Courts have explained that 'best available science' means that agencies 'should seek out and consider all existing scientific evidence relevant to the decision' and 'cannot ignore existing data,' " the letter read.

The Wall Street Journal

https://www.wsj.com/articles/trump-faces-pressure-to-choose-sides-in-fight-between-corn-growers-and-oil-refiners-1524648602

Trump Faces Pressure To Choose Sides In Fight Between Corn Growers And Oil Refiners

By Tim Puko and Bradley Olson, 4/25/18

President Donald Trump is caught between two powerful business constituents of the Republican Party as he faces growing pressure to resolve a dispute between the oil industry and the Farm Belt.

Oil refineries want out of a costly requirement to blend ethanol into the gasoline they produce. Corn growers say the requirement diversifies the U.S. fuel supply, and insist Mr. Trump fulfill promises to at least hold the ethanol mandate. Both sides have close ties to the GOP and the White House.

Tensions between the two industries have been building since well before Mr. Trump became president, the result of a 2005 law that requires refineries to blend about 10% plant-based ethanol into the fuel they produce, or buy credits from rivals to cover their blending obligations. Congress created the mandate in hopes of reducing carbon emissions and weaning the U.S. from foreign crude at a time when oil prices had begun soaring.

By the time Mr. Trump took office, though, oil and gas supplies had gone from shortage to saturation thanks to the shale-drilling boom. Now, oil refiners—and some Trump advisers—consider a rollback of the 2005 regulation years overdue.

That leaves Mr. Trump stuck between conflicting promises to cut government regulation and to support ethanol mandates. He was one of the few in the Republican presidential primary race to emphasize the mandate in Iowa—the nation's biggest corn-producing state and home to the first nominating contests.

The Trump White House has failed to broker a deal, even after hosting supporters from both sides in the Oval Office. The administration has struggled for months after several proposals for administrative solutions have run into opposition from corn or oil backers.

"I can't see any obvious middle ground," said Sandy Fielden, director of oil and products research at Morningstar. "If there was an easy answer, we'd all be looking at it."

The impasse has refineries taking matters into their own hands, appealing directly to the Environmental Protection Agency for relief in the form of waivers. The agency has stepped up waiver approvals. That has infuriated agricultural interests and put more pressure on the White House to come up with a permanent solution.

The agricultural lobby has been uncomfortable with EPA chief Scott Pruitt, who, before coming to Washington, had called the ethanol mandate "unworkable" and filed a legal brief in 2013 backing a lawsuit challenging it when he was Oklahoma attorney general. Mr. Pruitt landed the EPA role in part because of a recommendation from Carl Icahn, a billionaire adviser to Mr. Trump's transition team and an owner of a small refinery operator that faces around $250 million in costs to comply with the ethanol mandate.

More oil refiners are looking to take advantage of a loophole in the law that has only widened since Mr. Pruitt took over the agency. Small refineries with less than 75,000 barrels a day of capacity—even if owned by a large company—can get a waiver if they prove the mandates are causing "disproportionate economic hardship," according to the EPA website.

To get a waiver, each refinery gets evaluated on its own finances—independent from the health of its parent company. Compliance costs could still be tens of millions of dollars, which alone appears to be enough now to prove economic harm, industry lobbyists said.

For years, the EPA regularly rejected requests from refiners seeking waivers from ethanol requirements. Then this March, the agency agreed to waive millions in obligations for Philadelphia Energy Solutions, a major East Coast refiner that filed for bankruptcy after its costs to comply with the program rose to $231 million in 2016. The EPA then began granting a number of waivers to the small refineries able to demonstrate economic harm, including one owned by Andeavor Corp. , one of the country's largest independent refiners and a company big enough to be part of the S&P 500.

The agency has rejected just one of about 30 applicants so far this year, encouraging more refiners to consider applying for the first time. It has received applications from oil giants Exxon Mobil Corp. and Chevron Corp.

Many now see an EPA waiver as a given. Some are even asking for waivers that would allow them recoup costs from years past. "If you can show economic harm—which is pretty easy to do—you have to consider it," according to one oil-industry lobbyist who has been pushing the Trump administration for a waiver for a client. "People never imagined they would be eligible."

One factor behind the change at EPA is a federal appeals-court decision last year that found the agency had been too restrictive in doling out waivers. Mr. Pruitt has since decided to accept every recommendation on a waiver from the Energy Department—which is responsible for calculations evaluating a refinery's claim of economic harm—and grant full waivers even when the Energy Department recommended only partial waivers. This is opening the floodgates for applications and approvals, analysts and refiners say.

"The criteria used to grant waivers has not changed since previous administrations," EPA spokeswoman Liz Bowman said. "EPA follows a longstanding, established process."

Many in both the refining and farming industries dispute that assertion, and see a significant change in EPA policy. There are 38 plants across the U.S. that could qualify for the exemptions, according to the agency. Based on their capacity, the number of qualifying refineries could make up as much as 10% of the nation's fuel supply, according to a Wall Street Journal analysis. More than half have already received them.

One result of the increase in waivers is a falling price for credits that many refineries need to buy to cover their obligations for ethanol blending. The cost of credits has halved in recent months as traders and companies have grown increasingly confident that the Trump administration will take action to reduce the burden oil refiners face in complying with the law.

Sen. Chuck Grassley, a Republican from Iowa, in a call with reporters Tuesday accused the EPA of abusing the waivers to cap the price of ethanol credits. EPA officials deny undermining the ethanol program.

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While Mr. Trump has received support from Mr. Icahn and frequently touts his own backing of the fossil-fuel business, he has to be mindful of Iowa's political clout and Mr. Grassley's in particular. Aside from Iowa's early primary, Mr. Grassley runs the powerful Senate Judiciary Committee, which oversees the confirmation of judges and has launched investigations into matters related to the president's campaign and businesses.

"The president has said to me both publicly and privately many times that he intends, and he is keeping his commitment to ethanol," Mr. Grassley said Tuesday. Mr. Pruitt is "undercutting the president's promises."

The New York Times

https://www.nytimes.com/2018/04/25/us/politics/trump-travel-ban-supreme-court.html

Trump's Travel Ban Faces A Supreme Court Test

By Adam Liptak and Michael Shear, 4/25/18

WASHINGTON — The Supreme Court will hear a challenge on Wednesday to President Trump's latest effort to limit travel from countries said to pose a threat to the nation's security. The case, a major test of presidential power, will require the justices to decide whether Mr. Trump's campaign promises to impose a "Muslim ban" were reflected in executive orders that restricted travel from several predominantly Muslims nations.

Just a week after he took office, President Trump issued his first travel ban, causing chaos at the nation's airports and starting a cascade of lawsuits and appeals. Fifteen months later, after two revisions of the ban and a sustained losing streak in the lower courts, the Supreme Court took up the case in its last scheduled argument of the term. A decision is expected by late June.

The case, Trump v. Hawaii, No. 17-965, concerns Mr. Trump's third and most considered bid to make good on his campaign promise to secure the nation's borders. Challengers to the latest ban, issued as a presidential proclamation in September, said it was tainted by religious animus and not adequately justified by national security concerns.

But the administration said the third order was the product of careful study by several agencies of the security and information-sharing practices of nations around the world. Mr. Trump's lawyers urged the courts to ignore Mr. Trump's statements and Twitter posts and to focus solely on the text of the proclamation and the process that produced it.

Mr. Trump's first travel ban, issued in January 2017, was promptly blocked by courts around the nation. A second version, issued two months later, fared little better, though the Supreme Court allowed part of it go into effect in June when it agreed to hear the Trump administration's appeals from two appeals court losses. But the Supreme Court dismissed those appeals in October after the second ban expired.

The current ban initially restricted travel from eight nations — Iran, Libya, Syria, Yemen, Somalia, Chad, Venezuela and North Korea — six of which were predominantly Muslim. Chad was recently removed from the list.

The restrictions vary in their details, but, for the most part, citizens of the countries are prohibited from immigrating to the United States, and many are barred from working, studying or vacationing here.

In December, in a sign that the Supreme Court may uphold the latest order, the court allowed it to go into effect as the case moved forward. The decision effectively overturned a compromise in place since last June, when the court said travelers with connections to the United States could continue to travel here notwithstanding restrictions in an earlier version of the ban.

Justices Ruth Bader Ginsburg and Sonia Sotomayor dissented from the December ruling.

Hawaii, several individuals and a Muslim group challenged the latest ban's limits on travel from the predominantly Muslim nations; they did not object to the portions concerning North Korea and Venezuela. They prevailed before a

Federal District Court there and before a three-judge panel of the United States Court of Appeals for the Ninth Circuit, in San Francisco.

The appeals court ruled that Mr. Trump had exceeded the authority that Congress had given him over immigration and had violated a part of the immigration laws barring discrimination in the issuance of visas.

In a separate decision that is not directly before the justices, the United States Court of Appeals for the Fourth Circuit, in Richmond, Va., blocked the ban on different grounds, saying it violated the Constitution's prohibition of religious discrimination.

The Supreme Court said it would consider both the statutory and constitutional questions when it agreed to hear the case.

Lawyers for the challengers have said Mr. Trump's own statements provided powerful evidence of anti-Muslim animus. The latest order, they said, was infected by the same flaws as the previous ones.

The Washington Post

https://www.washingtonpost.com/politics/white-house-stands-by-embattled-nominee-to-lead-veterans-affairs/2018/04/24/3013860e-47a6-11e8-9072-f6d4bc32f223_story.html?utm_term=.e17d7add401d

Trump Rallies Behind VA Nominee After Suggesting He Drop Out Because Of 'Ugly' Process

By Josh Dawsey, Seung Min Kim, Lisa Rein and John Wagner, 4/24/18

The White House rallied around Ronny L. Jackson's nomination to lead the Department of Veterans Affairs late Tuesday as the president's doctor was besieged by accusations that he improperly dispensed drugs, created a hostile workplace and became intoxicated on duty.

The administration's decision to fight on in defense of the nomination came hours after President Trump publicly suggested that Jackson should consider pulling out because of the "abuse" he was facing. But by late afternoon, Trump had huddled with Jackson, and White House aides vowed to fight the charges.

"I don't want to put a man through a process like this," Trump had said earlier when asked about Jackson's nomination during a joint news conference with French President Emmanuel Macron. "It's too ugly, and it's too disgusting."

Trump added: "I said to Dr. Jackson, what do you need it for? To be abused by a bunch of politicians? . . . If I was him . . . I wouldn't do it."

Jackson's worsening problems flared into public view Tuesday when lawmakers nixed his confirmation hearing scheduled for Wednesday. The hearing was officially postponed by Sen. Johnny Isakson (Ga.), the Republican chairman of the Veterans' Affairs Committee, and Sen. Jon Tester (Mont.), the ranking Democrat.

Later Tuesday, Tester said during an interview with NPR that the committee had heard complaints from more than 20 current and former military members that Jackson had improperly dispensed drugs, become intoxicated on professional trips and belittled staff members.

"We were told stories where he was repeatedly drunk while on duty, where his main job was to take care of the most powerful man in the world," Tester said. "That's not acceptable."

Tester said concerns about the allegations were "bipartisan in nature," including from Isakson.

A spokeswoman for Isakson said the senator remained undecided about the nomination but continued to harbor serious concerns.

Hours after the president's news conference, more allegations emerged about Jackson, including a 2012 government report that said he exhibited "unprofessional behavior" and should be removed from his post.

"There is a severe and pervasive lack of trust in the leadership that has deteriorated to the point that staff walk on 'eggshells,' " the report found. It described morale under his leadership as in the doldrums and said the office was beset by fighting between Jackson and Jeffrey Kuhlman, President Barack Obama's doctor at the time.

It was another episode where a previously respected figure was lifted to prominence in Trump's orbit — only to have their sheen and reputation tarnished. Jackson had been widely hailed by three presidents and their aides as competent, charming and fiercely protective before Trump stunned Washington last month by picking the doctor to run the country's second-largest federal agency.

Jackson declined to comment on the accusations, and senior aides said he showed no willingness to drop out Tuesday afternoon as he trudged through meetings with senators on Capitol Hill. Privately, he dismissed some of the charges to senior aides, according to administration officials, and said he was being unfairly attacked.

"No, I'm looking forward to the hearing," Jackson said. "I was looking forward to doing it tomorrow, so I'm looking forward to getting it rescheduled and answering all the questions."

White House officials said they were aware of accusations that Jackson dispensed medicine to aides or others, including reporters, without rigorous scrutiny. But several senior officials said the drugs were usually nonnarcotic ones, such as Ambien. They also said that Jackson was never intoxicated or drinking while working in the White House near Trump, but may have had too much to drink on occasion while taking overseas trips.

The White House released several other reports that were laudatory regarding Jackson late Tuesday, including his performance reviews for the past four years.

"Ronny does a great job — genuine enthusiasm, poised under pressure, incredible work ethic and follow through. Ronny continues to inspire confidence with the care he provides to me, my family and my team. Continue to promote ahead of peers," a 2016 note from Obama read.

In a private meeting with Sen. Jerry Moran (R-Kan.) on Capitol Hill, Jackson denied any wrongdoing, according to the senator. During that meeting, the White House doctor also specifically denied ever drinking on duty, according to a spokesman for the senator.

"He does deny that he's done anything wrong in his service to the country and particularly his time at the White House as a physician in the medical unit," Moran said, adding that Jackson "indicated that he knows of nothing that would prohibit him from being qualified, capable and the right person to be secretary of the Department of Veterans Affairs."

Two senior officials said that Jackson's nomination had been handled "disastrously," in the words of one, who spoke on the condition of anonymity, and that it had been overshadowed by fights over secretary of state nominee Mike Pompeo and CIA director nominee Gina Haspel. In the future, one of these people said, more attention will be put on Jackson.

Senior White House officials said Trump was convinced by a coterie of aides, and Jackson, that the accusations were overblown. In the meeting Tuesday afternoon, Jackson offered to withdraw, a senior administration official said, but said he would prefer to push forward. Others present in the meeting included White House Chief of Staff John F. Kelly and press secretary Sarah Huckabee Sanders, an administration official said.

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Jackson said the accusations were unfair "and just not true," a senior administration official said, describing the meeting.

Trump later told aides he had already taken a lot of flak for an un-or-tho-dox pick — and didn't want to give in.

"The president gave us the full green light to push back hard," the official said.

Jackson's nomination also marked the shattering of another norm in Trump's Washington: VA secretaries have historically been approved unanimously, even sometimes by a voice vote. The president nominated David Shulkin, who had led VA's health system under Obama, in the tradition of having a bipartisan Cabinet. But he soured on Shulkin and removed him after an inspector's general report showed that Shulkin took exorbitantly costly trips and misled others about them.

There was uncertain congressional support for Jackson, a longtime presidential physician with little management experience, even before questions were raised about his conduct.

It was unclear why White House aides had not reviewed the allegations before Jackson was nominated last month. He was picked seemingly on a whim by Trump, who fondly calls him "the Doc" and did not formally interview him before nominating him — and ousting Shulkin — by tweet.

Concerns about Jackson were bipartisan. Senate Majority Leader Mitch McConnell (R-Ky.) remained uncommitted to supporting the nominee, and a number of senior GOP aides on Capitol Hill estimated that his chances of confirmation were slim.

Isakson had called Kelly twice in recent days to express concerns about new information, spokeswoman Amanda Maddox said.

Isakson and Tester wrote to Trump on Tuesday morning, asking the White House to provide all documents related to Jackson's service in the White House medical unit as well as all communications between the Pentagon and the White House military office since 2006 that involve allegations or incidents connected to the physician. The senators also requested information the White House has about any allegations involving Jackson that were never relayed to the Pentagon.

In addition to Jackson's lack of management experience at a large organization, the physician had come under fire for his glowing appraisal of Trump's health after the president had his annual physical in January. Jackson declared that the president might live to the age of 200 with a healthier diet.

Isakson said the confirmation hearing is being delayed because the committee needs "some time to get more information."

"I'm concerned that the press is making up far too many stories that aren't true before we even get a chance to have a meeting," Isakson said after meeting privately with Tester on Tuesday morning. "So I think Mr. Jackson and myself and Senator Tester and everybody in Congress need to take a deep breath."

A leading veterans group said Tuesday that it was important for the Senate to fully vet a nominee to lead the department, which has had seven secretaries since the start of the war in Afghanistan.

"On this critical leadership position at this turbulent time, [the United States] cannot afford a misfire by the White House," said Paul Rieckhoff, the founder of Iraq and Afghanistan Veterans of America. "IAVA members nationwide are calling on the Senate to do its job at this defining time and ensure that any nominee for VA Secretary will live up to this awesome responsibility."

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Sen. Patty Murray (D-Wash.), a member of the Veterans' Affairs Committee, said Trump didn't take the time to send over a fully vetted nominee.

"It is sloppy, it is disrespectful to our veterans, and it is wrong," Murray said.

TRUMP TWEETS

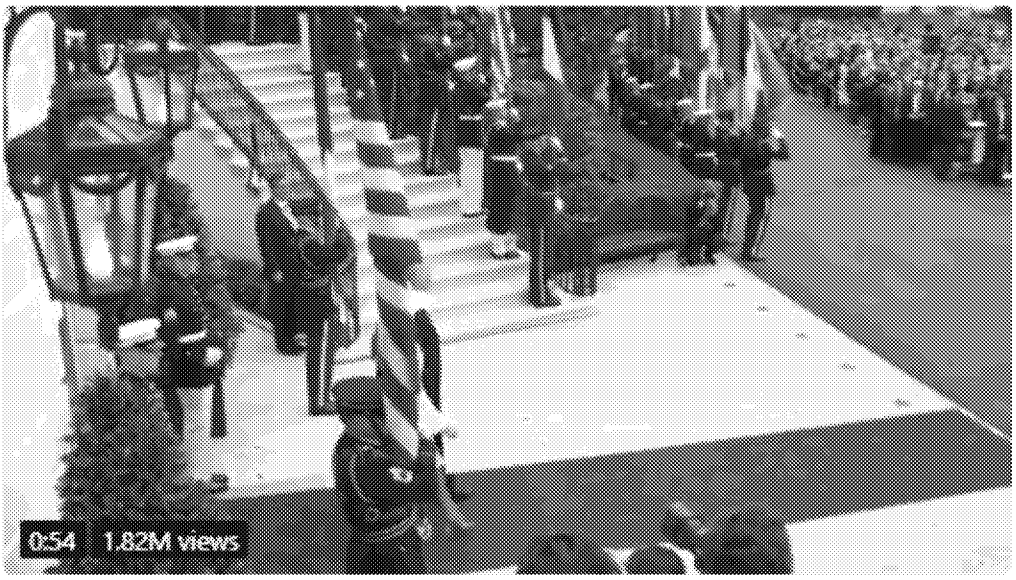
Donald J. Trump @realDonaldTrump · 1h

Congratulations to Republican Debbie Lesko on her big win in the Special Election for Arizona House seat. Debbie will do a Great Job! Press is so silent.

5.6K 6.5K 29K

Donald J. Trump @realDonaldTrump · 17h

Our two great republics are linked together by the timeless bonds of history, culture, and destiny. We are people who cherish our values, protect our civilization, and recognize the image of God in every human soul.



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