Message

From: Mutter, Andrew [mutter.andrew@epa.gov]
Sent: 12/4/2018 9:15:44 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: FW: Compilation 12/4/18

From: Agarwal, Ilena
Sent: Tuesday, December 4, 2018 2:15:38 PM (UTC-07:00) Mountain Time (US & Canada)
To: AO OPA OMR CLIPS
Subject: Compilation 12/4/18

Climate Change
CNN: Trump's pick for EPA already rolling back climate change protections
Bloomberg Environment: Senate Democrat Seeks Basis for EPA Head's Climate Report Doubts

Bio Fuel
Norwalk Reflector: EPA Announces Biodiesel and Advanced Biofuels Volumes

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WSJ: For Trump's Deregulatory Agenda, a Reckoning Nears
CNN: Congress, reverse the EPA's assault on our environment and health
E&E News: Revamped carbon rule for new power plants could come soon
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The Hill: Green groups sue EPA for records of Wheeler meetings

Dicamba
DTN: Regulators' Dicamba Angst

Lawsuit
Center for Biological Diversity: EPA Sued for Records of Andrew Wheeler Meetings With Oil Lobbyists

Emissions
Reuters: Little lab on the prairie is a gold mine for U.S. 'clean coal' investors
Quartz: Amazon banned two deadly paint strippers while the US government dithers

CNN: Trump's pick for EPA already rolling back climate change protections

https://www.cnn.com/2018/12/03/politics/epa-wheeler-climate-protections/index.html

By Scott Bronstein, Drew Griffin and Collette Richards- Updated 10:44 PM ET, Mon December 3, 2018

(CNN)Andrew Wheeler, the former coal lobbyist who is now acting administrator of the Environmental Protection Agency, was a "driving force" behind the agenda of Sen. James Inhofe, who called climate change a "hoax," according to people familiar with Wheeler's work for the senator.

President Donald Trump has said he intends to nominate Wheeler as the head of the EPA, and in the past five months as acting administrator, Wheeler has moved aggressively to roll back key environmental regulations, prompting critics and environmentalists to say he is fast confirming their worst fears for the agency's future.

Inhofe, an Oklahoma Republican, is an outspoken climate change skeptic who was at different times chairman and ranking member of the Senate Committee on Environment and Public Works. Inhofe told CNN last year the EPA was "brainwashing our kids," and famously once brought a snowball onto the Senate floor to demonstrate his belief that global warming isn't real.

Inhofe said in a 2003 Senate speech, "I have offered compelling evidence that catastrophic global warming is a hoax," adding, "the claim that global warming is caused by man-made emissions is simply untrue and not based on sound science."

Wheeler worked for Inhofe for 14 years, and was his chief counsel and staff director. In that role, Wheeler would have overseen hearings Inhofe held and approved reports Inhofe issued claiming humans have no direct impact on climate change, according to the sources, who asked not to be identified for fear of retribution. In videos of committee hearings at the time, Wheeler is often seen whispering in Inhofe's ear and handing him paperwork. In the 2008 "Almanac of the Unelected," Wheeler's job is described as "to work on (Inhofe's) agenda for the committee."

At a Washington Post forum last week, Wheeler said, "I believe ... that man does ... have an impact on the climate. That CO2 has an impact on the climate and we do take that seriously." At the same forum, he admitted he had not read the climate change report released by his agency, which outlined dire warnings of the impact of global warming.

Elizabeth Gore, who was chief of staff for Sen. Byron Dorgan, a North Dakota Democrat, and is now a senior vice president at the Environmental Defense Fund, told CNN that Wheeler "was very high profile, he was a driving force behind Inhofe's very dangerous agenda to attack climate change and undermine the policies that would protect us from carbon pollution."

Wheeler declined CNN's request for an interview, but in a statement the EPA said in part that the activing administrator, "has made it abundantly clear on multiple occasions ... that humans have an impact on the climate." An EPA official also said, "Mr. Wheeler was deeply honored to work for Senator Inhofe in several capacities, however Mr. Wheeler did not write and was not the architect of the Senator's climate science speeches."

Wheeler is one of six top EPA officials who either worked directly for Inhofe or on the Senate's Energy and Public Works Committee. Others are Wheeler's chief of staff, his principal deputy assistant administrator, his assistant administrator for enforcement and compliance, a senior adviser for policy and an associate administrator for policy. An EPA official said the staffers started working at EPA before Wheeler arrived.

Wheeler moved to the EPA'S top slot in July after then-Administrator Scott Pruitt was forced to resign amid numerous investigations, including questions surrounding his altering of federal documents, over-spending, use of security and other numerous scandals.

Like his former boss, Wheeler is seen to be focused on reversing regulations that protect the nation's air and water and instead promoting the wishes of the industries impacted by those regulations. Critics fear that Wheeler, who works quietly behind the scenes and knows how to get things done in Washington, is more dangerous to the nation's health than the scandal-plagued Pruitt ever was.

Michael Gerrard, faculty director of Columbia Law School's Climate Deregulation Tracker, which follows government deregulation, believes Wheeler will be more successful at reversing environmental protections, "because he understands the administrative and legal process better and he does not have all the craziness of Pruitt's personal proclivities that got in the way of his effectiveness."

From 2009 until he joined the EPA last year, Wheeler was a lobbyist for energy, mining and coal companies. Bob Murray, the powerful CEO of Murray Energy, paid Wheeler's lobbying firm nearly $3 million to, among other things, help the coal baron get access to major decision makers, such as a meeting in March 2017 with Energy Secretary Rick Perry.

When Trump was elected, Murray Energy drafted an "action plan" for the Trump administration, essentially a wish list to get the Environmental Protection Agency off the coal industry's back.

"Not a whole lot has changed from Pruitt to Wheeler," said Sen. Sheldon Whitehouse, a Rhode Island Democrat who has demanded the inspector general investigate Murray's wish list and Wheeler's ties to industry. "Now more than ever, Trump's EPA takes its marching orders from fossil fuel and other polluting industries. While Wheeler may not try to finagle a fast food franchise for his wife, he's no different from Pruitt when it comes to shilling for industry and pushing whatever policies they want."

The EPA said in a statement, "Mr. Wheeler did not lobby the Trump EPA while working for Murray Energy nor did he did work on the action plan or receive a copy of the memo."

But in the five months since Wheeler has taken over, the EPA has pulled back on regulating the two largest sources of greenhouse gas emissions in the United States, coal plants and motor vehicles.

Gerrard told CNN, "Wheeler is carrying out a wish-list of the industry lobbyists who wanted to shut down the environmental regulations, as he himself was a lobbyist with exactly the same objective. But now he is in the driver's seat."

In August, the EPA published the "Affordable Clean Energy" plan, designed to replace the Clean Power Plan, which was the Obama administration's key measure to address climate change. The new rule sets far less stringent emission guidelines.

That same month, the EPA and the National Highway Traffic Safety Administration published a proposed rule to weaken car emissions and fuel economy standards. And in September, the EPA published a proposed rule weakening methane emission standards for some oil and gas production and changing requirements on leak repairs.

At the Washington Post forum, Wheeler said the Trump administration deserves credit for a decline in carbon emissions. "In the first year of the Trump administration, we've seen a 2.7% reduction in CO_2 from 2016 to 2017," he said.

Asked to name three EPA policies that are contributing to cleaner air, Wheeler struggled to answer. "I'm not sure I'm going to be able to give three off the top of my head," he said. Of the three he later listed, two are proposed regulations that would dial-back back Obama-era rules that aimed to reduce pollution.

Norwalk Reflector: EPA Announces Biodiesel and Advanced Biofuels Volumes

http://www.norwalkreflector.com/Agriculture/2018/12/04/EPA-Announces-Biodiesel-and-Advanced-Biofuels-Volumes.html?ci=stream&lp=4&p=1

• TODAY AT 8:00 AM

The U.S. Environmental Protection Agency (EPA) has announced that the biomass-based diesel and advanced biofuels volumes will be increased above previous year levels, which is good news for the soybean industry, according to farmers.

The increase, however, is mitigated by the absence of reallocation of the significant gallons that were waived under exemptions issued previously by EPA to refineries.

The final rule sets the 2020 requirement for biomass-based biodiesel (BBD) volumes at 2.43 billion gallons, a 330-million-gallon increase over the 2018 and 2019 levels. Total advanced biofuel volumes, which are largely filled by biodiesel, are increased to 4.92 billion gallons.

American Soybean Association (ASA) President John Heisdorffer, a soybean producer from Keota, Iowa, acknowledged the progress, saying: "We welcome this increase, as it helps a growing market for soybean oil. We are glad to see EPA acknowledge that biodiesel can play a larger role in our nation's fuel supply."

While ASA appreciates the increased biomass-based diesel volumes for 2020, Heisdorffer reiterated the ability and capacity for additional growth. "As ASA communicated to EPA during the rulemaking process, soybean farmers and our biodiesel industry partners can meet these targets, and we have the production capacity and feedstock to reasonably achieve even further growth."

ASA and its biodiesel industry partners also remain concerned that EPA has not reallocated the previous year volumes that have been waived through exemptions granted to refineries by EPA. The agency's data shows that the retroactive small refinery exemptions reduced demand for biodiesel by more than 300 million gallons in 2018.

"The biodiesel industry supports agriculture by creating jobs, diversifying fuel sources, and reducing America's dependence on foreign oil," Heisdorffer said. "EPA is moving in a better direction, but we urge the Administration to address the waived volumes and support the full potential of U.S. soybean farmers and biodiesel producers."

WSJ: For Trump's Deregulatory Agenda, a Reckoning Nears

A new round of rule changes and court challenges will determine whether many of Trump's policies can survive beyond his presidency

https://www.wsj.com/articles/for-trumps-deregulatory-agenda-a-reckoning-nears-1543894538

By Timothy Puko- Dec. 3, 2018 10:35 p.m. ET

The clock is ticking on President Trump's deregulatory agenda.

The Trump administration has vowed to roll back rules in industries from energy to chemicals to finance, and next year will be a make-or-break time for keeping those promises.

The year begins with several signature regulatory proposals returning from public comment for final analysis and drafting, and is likely to end with the opening of decisive court showdowns as another presidential election looms. In short, 2019 could determine whether many of Mr. Trump's policies live beyond his presidency.

Though the administration has had some success, nearly every deregulatory attempt that has faced a legal challenge has lost, raising doubts among allies and critics alike. There are signs the next wave of deregulation could fare better. But experts agree that the Trump administration will need to prove over the coming year that it has learned from its early setbacks, with better legal strategy and execution at key junctures, if its policies are to survive, especially if Mr. Trump fails to get re-elected.

"There's a learning curve for every new administration," says Kevin Book, managing director of the analysis firm ClearView Energy Partners LLC. "That was the pregame show. The real issue is what happens [next]."

The Environmental Protection Agency is central to the administration's failures, and its prospects for a turnaround. Under Scott Pruitt, a brash Oklahoma politician and Washington outsider, the agency attempted to push through many changes—often delays or reversals of Obama administration rules—that failed to clear legal hurdles. It is now pursuing several long-term overhauls.

Federal courts twice in 2017 vacated EPA and Interior Department delays of Obama-era rules to prevent methane emissions. The courts said the Trump administration failed to consider benefits of the rules and how effectively the Obama administration had heard objections.

Lessons From the Tax Overhaul, a Year In

Nearly a year after the federal government rewrote the corporate tax code, big U.S. companies are still moving warily. Despite some big changes in the wake of the legislation, much remains up in the air.

In August, a federal judge struck down the Trump administration's effort to suspend an Obama-era clean-water rule. The decision reinstated the rule in about half of the country because the Trump administration failed to take public comments on delaying implementation.

Rule reversals at other agencies have run into similar trouble. Last month a federal court in Charleston, S.C., blocked a permit from the State Department allowing the Keystone XL pipeline, a controversial effort to bring Canadian crude to refineries in the U.S., from Illinois to Texas. In blocking the permit, Judge Brian M. Morris ruled that the administration never fully explained its justification for reversing course on the pipeline and would have to update the federal government's prior analysis to move forward.

The administration has scored some big successes. The Federal Communications Commission rolled back Obama-era rules requiring internet service providers to treat all traffic on their networks equally and reversed or revised several rules that restricted ownership of local media outlets. Congress has also helped with partial changes to some of the biggest Obama-era laws. It weakened the postcrisis financial rules in the 2010 Dodd-Frank Act and repealed the Obamacare individual mandate. And despite the early stumbles, the administration is steadfast in its pursuit of further efforts to ease regulation of everything from emissions to offshore drilling.

Mr. Trump's ambitious agenda has been slowed, however, by unusually high losses in the courts. Since summer 2017, the Trump administration has lost 20 of 22 court cases challenging its deregulatory actions, according to data compiled by the Institute for Policy Integrity at New York University School of Law. That failure rate of about 90% is three times the rate of most executive-branch agencies for similar actions in the courts, the Brookings Institution says.

"They really did spend two years like no other administration on stumbling missteps that delayed everything they're doing," says John Walke, the Natural Resources Defense Council's clean-air director. "It consumed the first two years."

Even many allies say the administration might have lost too much time to set policies firmly enough in place to survive if Mr. Trump is replaced by an opponent who wants to undo his rollbacks. That is especially true with the Democratic Party now in control of the House: Mr. Trump's opponents can stretch administration resources by calling investigations and hearings and demanding documents, taking time away from crafting policy.

EPA officials claim success on 31 deregulatory actions since the start of 2017, and say 41 more are under development. "At EPA we are focused on providing clear air and water while reducing burdensome regulations so the economy can grow," a spokeswoman says in response to questions.

The Trump administration has shown signs of a more deliberate approach of late, filling agency leadership posts with its own legal experts. In the past year, the EPA has added Washington veterans to several positions crucial to the deregulatory process.

This includes Andrew Wheeler, the acting EPA director since Mr. Pruitt stepped down in July after a string of scandals. Mr. Trump has signaled he will nominate Mr. Wheeler to be the next EPA director. Mr. Wheeler has deep experience in how Washington works; he spent 14 years as a Senate staffer, most of it leading Republican staffs on environmental panels with EPA oversight, and nine years as a lobbyist. He is joined by Bill Wehrum, a longtime Washington lawyer who worked for energy interests and now leads the EPA's Office of Air and Radiation, central to the administration's climate-policy rollbacks.

In just a few months, Mr. Wheeler has moved on major proposals, including a replacement for the Obama administration's climate rules for power plants and less-stringent fuel-efficiency mandates for cars and light trucks. The latter proposal was prepared in collaboration with the Transportation Department. Mr. Wheeler has also promised new definitions of federal waters in an attempt to roll back Obama-era provisions that said some small tributaries and wetlands—headwaters of major rivers and bays—are under federal oversight.

The new power-plant and vehicle rules are signature Trump initiatives, and in 2019 both are slated to complete public-comment reviews and final analyses, steps required to justify final decisions. Both efforts face brighter prospects in court if the Trump administration gives sound legal responses to those comments and justifications for its changes, says Tom Lorenzen, an environmental lawyer at Crowell & Moring LLP.

Courts "tend to be very deferential to agencies' policy judgments," says Mr. Lorenzen, who spent 16 years at the Justice Department, most of it defending EPA rules. "The case law says they can change course as long as they can say why and the underlying law permits it."

Justice Brett Kavanaugh's confirmation has further convinced people in the administration they have good chance of making changes that survive contentious legal challenges that make it to the higher courts, according to lobbyists and administration officials speaking on background.

Steve Lehotsky, senior vice president and chief counsel for the U.S. Chamber Litigation Center, an affiliate of the U.S. Chamber of Commerce, says he thinks the administration's regulatory efforts will have more legal standing going forward. "There's still plenty of time left for the administration to finalize things and have them litigated in court," Mr. Lehotsky says.

CNN: Congress, reverse the EPA's assault on our environment and health

https://www.cnn.com/2018/12/03/opinions/congress-protect-american-health-environment-mikulka/index.html

By Michael Mikulka- Updated 2:25 PM ET, Mon December 3, 2018

Editor's Note: Michael Mikulka is president of the American Federation of Government Employees Local 704, representing workers in the Environmental Protection Agency's Region 5, and spokesman for the Save the US EPA Campaign, an effort to have a fully staffed and fully funded EPA protect public health and environment. The views expressed in this commentary are his own. View more opinion on CNN.

(CNN)When the 116th Congress is sworn in, it must immediately reverse course from the Trump administration's two-year assault on environmental and public health protections. To do so, Congress must strengthen the Environmental Protection Agency, defend scientific integrity and legislate to advance America's investments in air quality, clean water infrastructure and renewable energy.

Empowered by Congress and the White House for nearly 50 years, the EPA has set the standards for research and has become the home of world-class scientists, engineers, emergency responders, vehicle testing experts and more. A qualified, knowledgeable staff -- coupled with thoughtful enforcement -- has led to extensive air and water quality improvements.

Yet President Donald Trump, Acting EPA Administrator Andrew Wheeler and his predecessor Scott Pruitt have reversed the agency's progress through austere budget cuts, forced retirements, hostile workplaces, hiring freezes and office closures. In fact, Wheeler is preparing to reorganize the EPA by reshaping regional offices without the consent of Congress. The agency's upcoming restructuring of its regional offices appears designed to overhaul existing enforcement policies and chains of command, likely bolstering political leadership's ability to push reduced regional enforcement and more lenient compliance.

If Wheeler succeeds, he'll be better able to tamp down enforcement of public health and environmental rules that protect Americans -- wasting taxpayers' money and threatening their health. Wheeler has dismissed those claims, saying the restructuring will bolster coordination with headquarters.

But a new Congress can pose a unique challenge to Wheeler's objectives. Members of the House and Senate should stand with the career public employees of the EPA -- supporting the agency's authority to regulate pollution and replenishing its recklessly depleted workforce and budgets. America will always need an effectively staffed and fully funded EPA, so long as the agency continues to adhere to scientific principles like maintaining air quality, protecting water resources and cleaning up toxic sites.

Climate scientists aren't in it for the money but for the truth

But that's not enough -- Congress should also defend scientific integrity. And this starts with investigating the EPA administrator. Who is he talking to and relying upon when making critical decisions for the country? If his previous professional experience as a lobbyist for the coal industry and aide to climate-denier Senator James Inhofe is any indication, it's exactly the people he should not be consulting.

The EPA administrator has spent his tenure attacking science by appointing corporate cronies to consulting boards, relying on sham science in rolling back public health and environmental protections, and ignoring science when it gets in the way of his predetermined goals.

In mid-October, Wheeler stacked the EPA's primary air pollution advisory panel, known as Clean Air Science Advisory Committee (CASAC), with industry-disposed scientists. This panel advises the EPA on safe levels of air pollution. One of the new appointees claimed that reducing smog will not benefit public health; another said soot is not linked to lung health. (Virtually all scientists, including the EPA's own experts, disagree.)

Trump's failure to fight climate change is a crime against humanity

Wheeler has proposed rolling back clean-car standards that would have saved American drivers money at the gas pump while reducing air pollution. In doing so, he was embracing the argument that requiring cleaner, more efficient cars is less safe -- not because those cleaner cars are less safe, but because people won't buy them and will continue to drive their less-safe old cars. He ignored his own technical experts at EPA, whose analysis refuted his nonsensical claims.

In another major rollback, Wheeler proposed the Affordable Clean Energy rule, a sham replacement for the Clean Power Plan that offers no hard limits on air emissions from coal-fired power plants. By the EPA's own technical analysis, it will lead to more smog and soot pollution and up to 1,400 more deaths each year over the course of implementation, and will do little to combat climate change.

Given his record thus far, it would appear Wheeler is not listening to world class experts. So is he still taking counsel from his former friends in the coal industry? Congress and the public deserve an answer.

In addition to providing EPA oversight, the new Congress should propose and pass stronger laws to protect our air, clean water and renewable energy investments. Protecting the environment and public health is popular with Americans from all walks of life: A majority of Americans believe the federal government is doing too little to protect air and water, and over 70% want more wind and solar power, according to Pew Research Center. Indeed, investments in safe drinking water supplies, cleaner transportation and energy, and a more reliable electric grid could all be popular and bipartisan parts of an infrastructure bill.

If Trump and his allies want to deny science and further endanger human health, they must be met with the opposition of the next Congress. Should the Republican-controlled Senate obstruct, or if Trump vetoes key legislation, Americans will know who stands for our environment and children's health -- and who does not.

Boating Industry: NMMA opposes EPA's 2019 ethanol volume requirements

https://boatingindustry.com/news/2018/12/04/nmma-opposes-epas-2019-ethanol-volume-requirements/
December 4, 2018

BY THE NATIONAL MARINE MANUFACTURERS ASSOCIATION

The U.S. Environmental Protection Agency recently released its final blended fuel volume levels for 2019 – known as the Renewable Volume Obligation (RVO) – under the Renewable Fuel Standard (RFS), which requires 15 billion gallons of ethanol to be mixed into the nation's fuel supply next year.

The National Marine Manufacturers Association has conveyed its strong opposition to EPA's proposal in public comments and meetings prior to the official announcement and have pledged to continue working with stakeholders to protect consumers from fuels with higher levels of ethanol.

"Friday's announcement by the EPA reinforces what we already knew: Consumers are an afterthought under the current RFS," said NMMA President Thomas Dammrich. "The Trump Administration's 2019 RVO levels put Americans at risk and pump billions of gallons of ethanol into the U.S. fuel supply, compounding previous bad policy decisions – most notably, the recent proposal to expand the sale of E15 year-round."

Dammrich said most consumers are unaware of the dangers posed by high-ethanol fuel blends like E15. Sixty-five percent of Americans assume that any gas sold at the pump is safe for all their fuel-powered products, when in fact federal regulation prohibits the use of E15 in small engines.

These engines – including those in boats, lawn mowers, and motorcycles – suffer damage when fueled with blends exceeding 10 percent ethanol, while voiding their warrantees and saddling consumers with high repair and replacement costs. The finalized RVOs not only put more E15 into the fuel supply, but increase the risk of misfuelling and restrict consumer access to lower ethanol blend and ethanol free fuels.

"What's absent from the EPA's 2019 RVO requirements – and the larger RFS reform debate – is a commitment to protect middle-class consumers from higher-ethanol blended fuels," Dammrich said. "They deserve greater choice at their local gas station, awareness of proper fuel blends, and better safeguards and warning labels at the pump. Without these additional steps, expanding the volume of ethanol in the fuel supply is both irresponsible and dangerous. We urge the administration to protect the American consumer from misfuelling."

E&E News: Hill punts shutdown fight to right before Christmas

https://www.eenews.net/eedaily/stories/1060108641/search?keyword=epa

Geof Koss -Tuesday, December 4, 2018

Congressional leaders are aiming to extend current spending levels for two weeks, a move that pushes a possible partial government shutdown to within three days of Christmas and one that raises the stakes for year-end negotiations.

The two-week continuing resolution, unveiled last night by House appropriators as the body of President George H.W. Bush arrived at the Capitol to lie in state, is throwing a monkey wrench into the lame-duck session. The House canceled votes for the week and will return next Monday.

The Senate canceled votes for last night and today, and will vote tomorrow afternoon on whether to end debate on the nomination of Bernard McNamee to join the Federal Energy Regulatory Commission (E&E News PM, Dec. 3).

While House members will be gone all week, the chamber can pass the CR by voice vote or by unanimous consent. The Senate's plan for voting on the stopgap measure is unclear.

Top senators said yesterday that pushing Friday's deadline for funding the remaining seven unfinished spending bills will add pressure to the ongoing negotiations, which are focused on meeting President Trump's demand for $5 billion for the border wall.

"That makes the stakes a little high," said Appropriations Chairman Richard Shelby (R-Ala.) of the new Dec. 21 deadline. "It could make us all come together, or it could drive us further apart. We don't know yet."

Sen. Shelley Moore Capito (R-W.Va.), who chairs the Homeland Security Appropriations Subcommittee that is at the heart of the border wall fight, said punting the deadline for two weeks is "the smart thing to do" in light of the services honoring Bush.

"Maybe it cools down a little bit, but it will heat back up again at the end of two weeks," she told reporters.

Vermont Sen. Patrick Leahy, the top Democrat on Appropriations, lamented the delay.

"I would have liked to have finished it this week but apparently the House has taken another vacation," he told reporters. "So it's difficult."

Leahy said it will be Republicans' fault if the government partially shuts down on Dec. 21.

"If we have a shutdown, it's entirely up to them," he said. "They're the only ones who can control that."

Besides extending current funding for the unfunded agencies, which includes EPA and the Interior Department, the CR would also extend authority for the National Flood Insurance Program to Dec. 21.

Sen. Tom Udall (D-N.M.) said yesterday he has heard no talk of a longer-term CR to fund the unfunded agencies into next year should border wall talks collapse. He said he was hopeful the additional time would yield a breakthrough.

"I hope that as we get closer to Christmas there's a little bit more of a feeling of goodwill and we can get it done," he said.

Schedule disruptions

Bush's death has thrown a curveball into the closing weeks of the 115th Congress, forcing the postponement of an expected House vote on the farm bill and multiple committee hearings on both sides of the Capitol.

The Senate Energy-Water Appropriations Subcommittee postponed a Wednesday hearing on advanced nuclear technologies, although the panel said it would reschedule for another day (E&E Daily, Dec. 3).

A House Energy and Commerce Subcommittee on Environment hearing on legislation for overhauling the federal renewable fuels standard was rescheduled from tomorrow until Dec. 11 (E&E Daily, Dec. 3).

Also postponed were a number of House suspension votes, including measures related to tribal energy development and offshore wind leasing in U.S. territories (E&E Daily, Dec. 3).

E&E News: Revamped carbon rule for new power plants could come soon

https://www.eenews.net/climatewire/stories/1060108651/search?keyword=epa

Niina Heikkinen- Tuesday, December 4, 2018

EPA could soon release a new rule to cut greenhouse gas emissions from new and modified power plants.

The Trump administration first announced its intention to review the Obama administration's New Source Performance Standards for power plants in April 2017, but little news of proposed changes has emerged since.

Like the Trump EPA's proposed replacement for the Clean Power Plan, which is aimed at reducing the carbon footprints of existing power plants, the Obama-era rule relied on cutting carbon emissions through power plant efficiency improvements.

An announcement on proposed changes is overdue. EPA stated in the White House's latest deregulatory agenda that it would release a notice of proposed rulemaking last month.

Observers expect the agency will look to eliminate the rule's recommended use of carbon capture and storage (CCS) technology as a way for new power plants to cut emissions.

Critics of CCS have argued that the controversial technology for limiting carbon emissions has not been sufficiently commercially demonstrated and should not be included in rulemaking.

But Joseph Goffman, a former EPA official under the Obama administration, noted that under the Clean Air Act, the standard is not whether technology has been tested commercially but rather whether it has been "adequately demonstrated."

"That distinction is important," Goffman said.

He added that, in the past, the agency had typically used NSPS to identify the most advanced demonstrated technology, determine whether that technology was available and then require sources to adopt it.

If EPA does ditch the use of CCS, it would be doing it after four years of an "exhaustive rulemaking process," Goffman added.

"There is a tremendously deep record of data and analysis supporting where the agency landed in 2015, which was the basis for the standard on the application of CCS," Goffman said.

DTN: Regulators' Dicamba Angst

Confusion, Frustration on Display as State Regulators Confront EPA Over Dicamba Rules

https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2018/12/04/confusion-frustration-display-state

Emily Unglesbee- 12/4/2018 | 10:43 AM CST

ARLINGTON, Va. (DTN) -- State pesticide regulators confronted EPA representatives over the new dicamba registrations for XtendiMax, FeXapan and Engenia in a public regulatory meeting on Monday, Dec. 3.

Officials representing states in the Midwest and South voiced concerns about a second year of overwhelming dicamba injury complaints, as well as confusing language and requirements in the new dicamba labels, during an annual meeting of the State FIFRA Research and Evaluation Group (SFIREG) in Arlington, Virginia.

"The vagueness of some of the terminology on the labels is unfortunate," said Leo Reed, pesticide licensing manager for the Office of Indiana State Chemist. Last year, the EPA consulted with state regulators before releasing its new dicamba labels, he noted.

"It's unfortunate that did not happen this time. You put us in a bad spot in doing that," Reed said.

Dan Kenny, herbicide branch chief for EPA's Office of Pesticide Programs, painted a picture of a rushed, overwhelmed bureaucracy leading up to the Halloween night decision to extend dicamba registrations for two years.

Data and information on dicamba continued to stream into the agency through October, Kenny told the state regulators.

"By the time we actually had a decision to propose, it was well into the end of October, and unfortunately we had pretty much run out of time...we were actually running against the deadline for when the registrations expired," he said. "So unfortunately, we were not able to vet proposals with the states as we hoped we would."

The result has been widespread confusion over how to interpret and enforce parts of the new labels among state regulators, even as many still work to finish up costly backlogged dicamba investigations.

A CRUSH OF COSTLY DICAMBA CASES

Missouri state regulators have not even finished processing their 2017 dicamba complaint cases, and do not expect to start reviewing the state's 216 cases from 2018 for nine to 12 months, reported Tim Creger, manager of the Nebraska Department of Agriculture's pesticide/fertilizer program, who serves as a representative for EPA's Region 7 states of Iowa, Kansas, Missouri and Nebraska for SFIREG.

Dicamba complaint investigations have also proved extremely costly to states. Reed estimates the Office of Indiana State Chemist spent $1.2 million investigating 141 dicamba complaints in 2018. Creger said

his agency spent over half a million dollars on dicamba response this year, an amount also echoed by Tom Gere, with the South Dakota Department of Agriculture.

"I didn't have that in my budget," Creger told EPA. "... Now I'm looking at two more years of the same situation and I can't afford that -- I can't afford it financially and I can't afford it in staff time."

Nebraska's pesticide regulators are facing "a significant erosion of credibility" in the state, because they have had to abandon routine inspections in order to chase down 95 dicamba complaints in 2017 and 106 in 2018, Creger added.

"We're at a threshold where we've got to make a serious decision of whether we ignore dicamba and let people get harmed and suffer, so that we can get back to our routine inspection programs that brings our enforcement credibility up," he said.

Reed agreed. "It's untenable," he said of the 2017-18 seasons in Indiana. "We can't continue to go down that path."

The crush of investigations has caused personnel issues, as well, said Creger. "States are losing quality employees, both in the field and in the office, due to the overload of complaints and case reviews," he wrote in his pre-meeting report to SFIREG. For example, the Missouri Department of Agriculture has lost half its field inspectors, and is having trouble rehiring, Creger told the EPA at the meeting.

CERTIFICATION CRISIS

Some states, such as Illinois, are scrambling to get applicators ready for EPA's new requirement that only certified applicators be permitted to apply dicamba in 2019. EPA is standing by this new regulation, including a controversial section requiring certification even for employees who mix, load or clean dicamba from equipment, Kenny said.

In Texas, this requirement is running into language barriers, said Leslie Smith, an official with the Texas Department of Agriculture's pesticide division.

"It will have a huge impact on a lot of our farmers," she said. "... Some of their workers can't read English well enough to pass the exams, and we don't have exams in Spanish because the labels are in English."

SFIREG is setting up a working group with EPA to clarify this new requirement. But state regulators are running out of time, as many must get thousands of state applicators certified in just a few months before dicamba spraying begins again in the spring.

"I hope the working group can address those issues in a timely way, because states aren't going to have enough resources to train all those folks to have enough qualified applicators," Richard Gupton, of the Agricultural Retailers Association, told EPA.

BUFFER CONFUSION

A number of state regulators also expressed confusion over the new 57-foot buffers in place for dicamba applications in counties with certain endangered broadleaf plant species. EPA is directing all applicators to check a county's status on a website called Bulletins Live (), but some have struggled to access the website.

"We found out that it doesn't work with all web browsers," noted Nebraska's Creger, "... And when you find one that does work, it takes an enormous amount of time and broadband width to pull down one of those bulletins."

"Most of our rural areas have to use satellite internet connections," in Texas, Smith added.

Nor does the website specify which endangered species are prompting the need for the buffer, which will likely frustrate applicators, Creger added.

24-C QUESTION REMAINS

EPA continued to waffle on the question of whether or not states would be permitted to use Section 24(c) labels, to make changes to the federal dicamba labels.

Smith said northern Texas cotton producers need to be able to spray beyond the 60-day post-planting restriction. In South Dakota, Gere said, many state agricultural organizations have urged his agency to enact an earlier cutoff date.

When pressed for clarity on whether or not these types of actions would be permitted via 24(c), Kenny said, "I don't have a carte blanche answer for you right now, but I would say that if you're considering 24(c), [Office of Pesticide Programs] is recommending very strongly that you come talk to us."

Center for Biological Diversity: EPA Sued for Records of Andrew Wheeler Meetings With Oil Lobbyists

https://www.commondreams.org/newswire/2018/12/04/epa-sued-records-andrew-wheeler-meetings-oil-lobbyists
Paulo Lopes- December 4, 2018

WASHINGTON - The Center for Biological Diversity and Friends of the Earth sued the Environmental Protection Agency today for refusing to release public records concerning meetings and communications with the lobbying firm Faegre Baker Daniels, the former employer of EPA Acting Administrator Andrew Wheeler.

"Wheeler is crippling environmental protections that inconvenience his old clients," said Bill Snape, the Center's senior counsel. "The public needs to know what happened between Wheeler's former employer and the environmental agency he's now running into the ground. We seem to have another fox guarding the henhouse."

Today's lawsuit was filed in U.S. District Court in Washington, D.C. Before joining the EPA, Wheeler worked for almost a decade at Faegre Baker Daniels, where he lobbied for the fossil fuel industry against environmental protections. Wheeler promised to avoid conflicts of interests with his former clients during his Senate confirmation.

"Andrew Wheeler is continuing Scott Pruitt's toxic, polluter-friendly agenda at the Environmental Protection Agency," said Lukas Ross, a senior policy analyst at Friends of the Earth. "The public has a right to know just how much power Wheeler's lobbyist friends have over the EPA. This lawsuit will help expose the dangerous influence of corporate polluters and root out corruption at the EPA."

Under Wheeler the EPA has moved to weaken a wide range of environmental protections, including a proposal last month to gut a 2016 rule curbing methane pollution from oil and gas facilities.

The Center and FOE filed Freedom of Information Act requests with the EPA about meetings and communications with the oil industry in Spring 2018. In October 2018 the groups notified the agency that it's in violation of the Act. Seven months have passed, and the agency has failed to release detailed records.

Gizmodo: The Rare Environmental Victories of 2018

https://earther.gizmodo.com/the-rare-environmental-victories-of-2018-1830780065
Yessenia Funes- Today 11:00amFiled to: HAPPY 2018

Let's face it: 2018 sucked. Every day felt like a never-ending nightmare full of depressing reminders of how the world is going to end and how it's all our fault. I get it, believe me. This is my world 24/7.

However! Positive things—miraculous things even!—did happen this year. So before we pop our champagne and wish for a year of fewer environmental failures and heartbreaking studies, hold onto the strides we made this year. They're worth remembering, even if just to lift your sorry, drunken spirits.

Keystone XL pipeline hits pause
As one of his first major actions as president, President Donald Trump signed an executive order to advance construction of the Keystone XL Pipeline, which former President Barack Obama vetoed in 2015. But last month, a U.S. district court judge vacated Trump's presidential permit. The analysis the State Department conducted to grant the 1,179-mile long crude oil pipeline didn't get into impacts the pipeline would have on climate change, so District Court Judge Brian Morris instructed the federal government to get on that.

This was great news: Pipeline opponents, including indigenous environmental activists in the Midwest, have been fighting the energy project for 10 years now.

Trump has been trying really hard to take the world back to the dark ages of dirty energy, but that hasn't resulted in the death of renewables. This year set a record in the U.S. for corporate renewable energy procurements thanks to companies like Apple and Facebook investing in clean energy. In the European Union, renewables finally soared past coal as a source of electricity generation. China's on it, too. Solar and wind ain't going nowhere, Trump.

The downfall of Scott Pruitt
This was probably the most satisfying news event to watch all year. Every day, the question loomed: What will it take for the former administrator of the Environmental Protection Agency to resign? Pruitt didn't just deny climate change and repeal key environmental legislation, you see: He liked to spend exorbitant amounts of taxpayer money on his personal travel and around-the-clock security. Finally, after the scandals grew too scandalous, he peaced out in July. Toodles!

Scientists Just Rescued One of the Last Sumatran Rhinos to Save the Entire Species
New faces in Congress and a Green New Deal
Thank the stars for Alexandria Ocasio-Cortez. She's not even a sitting Congressperson yet, and she's been campaigning tirelessly for a Green New Deal that would rapidly phase down U.S. dependence on fossil fuels. Specifically, she wants House Democrats to launch a committee to craft legislation around the idea. She joined protesters at a sit-in at Nacy Pelosi's office in November, and she's only getting started. With growing support for an environmental revolution in the new Congress, her efforts may have a shot.

The ozone hole is healing
This is not a drill: The United Nations announced this year that the ozone hole could heal in our lifetimes. This felt impossible when the world first became aware of the problem in the 1980s, but it goes to show what strong environmental policy can do. Good job, world.

New protected areas in Latin America
Our world is full of beautiful and incredible natural places. And a lot of them remain unprotected, at risk of logging or poaching or whatever awful things people want to do. Luckily, both Peru and Chile stepped their game up this year by

creating new national parks. They're no little parks, either: Chile's stretch over a million acres, and Peru's covers more than two million. Hell yeah to protecting forests.

And protection for environmental defenders, too

Latin America is notorious as a dangerous place to be an outspoken steward of the planet. In fact, it's downright deadly. This year, however, 12 Latin American countries came together to sign a landmark treaty to offer better protections for environmental defenders. This humans rights agreement seeks to give local people have a louder voice when it comes to development projects and recognizes the real threats they face when they decide to speak up.

Pacific Islands leading on the environment

The Pacific Islands have the most to lose in the face of a changing climate, rising sea levels, and warming world. That's why Palau moved to ban sunscreens containing chemicals like oxybenzone, octocrylene, and parabens that harm coral in November. And Fiji Prime Minister Frank Bainimarama has called upon the rest of the world to get its shit together to avoid a worst-case scenario of the future. The president of the Marshall Islands even chaired the world's first virtual climate summit this year to avoid the conference air travel that results in a ton of greenhouse gas emissions. Talk about being the change.

Oh yeah, new weather satellite

Look, I'm no weather nerd, yet even I can get excited about what a new weather satellite means. The National Oceanic and Atmospheric Administration launched GOES-17 back in March, and this bad boy has already brought us marvelous images like these. More importantly, this satellite will help meteorologists better predict the weather, which ultimately saves lives in times of extreme events like hurricanes.

Fine, the few times Trump did good

Even I have to admit when Trump does something that isn't environmentally detrimental. There were two moments that stood out: When the president signed the Save Our Seas Act in October to help clean up marine garbage, and when the EPA announced in November a proposal to better regulate emissions from heavy-duty trucks. Neither of these balance out the rest of the destruction this guy's caused and is planning (for instance, opening up the Arctic National Wildlife Refuge to drilling) but gotta' give credit where it's due.

Here's hoping that 2019 brings less devastation to our world and more wins like these.

The Hill: Green groups sue EPA for records of Wheeler meetings

https://thehill.com/policy/energy-environment/419655-green-groups-sue-epa-over-refusal-to-release-proof-of-agency-heads

BY MIRANDA GREEN - 12/04/18 12:46 PM EST

Two environmental groups are suing the Environmental Protection Agency (EPA) for records of any meetings that new Administrator Andrew Wheeler may have held with his former employer and several other energy groups.

The Center for Biological Diversity (CBD) and Friends of the Earth brought the lawsuit on Tuesday, arguing the EPA should release records of any meetings that Wheeler may have had with the communications and lobbying firm Faegre Baker Daniels.

Wheeler worked for nearly a decade at Faegre Baker Daniels, where he lobbied for fossil fuel groups, before joining the EPA.

“Wheeler is crippling environmental protections that inconvenience his old clients,” said Bill Snape, CBD's senior counsel. “The public needs to know what happened between Wheeler’s former employer and the environmental agency he’s now running into the ground.”

Wheeler's history advocating for energy companies was highlighted in his Senate confirmation hearing for deputy administrator last April. He promised senators at the time that he would avoid conflicts of interests with his former clients.

In the lawsuit, the environmental groups challenged that EPA was in violation of the Freedom of Information Act (Act) for failing to release the sought after documents in an appropriate period of time.

"EPA is unlawfully withholding public records, which FOE and the Center requested pursuant to FOIA, by failing to conduct an adequate search for responsive records and by failing to provide FOE and the Center with responsive records, for which there are no applicable FOIA exemptions," the groups wrote in the lawsuit.

The groups first filed the FOIA request seven months ago in the spring.

The EPA said it would not comment on pending litigation.

Reuters: Little lab on the prairie is a gold mine for U.S. 'clean coal' investors

A North Dakota laboratory is one of a handful that test refined coal to ensure it reduces pollution enough to quality for lucrative U.S. environmental subsidies – but those results often don't translate into real-world improvements at power plants.

https://www.reuters.com/investigates/special-report/usa-coal-labs/

By TIM MCLAUGHLIN Filed Dec. 4, 2018, 2 p.m. GMT

"Clean" coal is a rich vein for American investors to mine, thanks to a lucrative subsidy offered by the U.S. government. For many producers of the fuel, the path to profit leads through a laboratory at the University of North Dakota.

The school's Energy and Environmental Research Center reported earning about $5 million in fiscal 2015-16 performing laboratory tests that qualify clean-coal producers for the subsidy. On any given day, EERC technicians take a sample of up to one ton of the coal from a producer and burn it in a miniature boiler to determine whether it reduces a specific pollutant enough to make the grade.

A stamp of approval from EERC, or a handful of other labs serving the industry, unlocks a tax credit worth more than $7 a ton to producers and their investors. The subsidy, enjoyed by more than 50 clean-coal operations stretching from West Virginia to Wyoming, costs U.S. taxpayers about $1 billion annually.

Technically speaking, EERC's services aren't necessary to win the credit. Producers simply need to prove that their product, also known as refined coal, is cutting their emissions of targeted pollutants – a 20 percent cut in nitrogen oxide output plus a 40 percent reduction in mercury. To do that, they can submit the comprehensive data that's measured around-the-clock at America's smokestacks – in real-world conditions, instead of a lab – and reported regularly to the Environmental Protection Agency.

But almost all investors choose instead to pay laboratories like EERC for testing that lasts one day, according to industry executives and disclosures by refined coal producers to environmental regulators.

The reason: The lab results almost always show a bigger cut in pollution than the real-world data. And the reductions demonstrated in the labs often do not translate to actual pollution reductions at power plants, according to a Reuters analysis of EPA data, interviews with utility executives, and disclosures by power plants.

The testing regimen casts doubt on whether the subsidy works as intended, said Ron Sahu, an environmental engineer who has consulted with utilities, the EPA and the U.S. Justice Department on power plant emissions.

"That's a huge leap to give a tax credit based on results from a highly idealized lab test," he said.

John Harju, the EERC's vice president of strategic partnerships, said the tests are valid and objective measures of performance.

"We do the tests, and the results are what they are," he said.

Refined coal appears effective in reducing mercury emissions at actual power plants. But it shows little sign of reducing emissions of nitrogen oxide, or NOx, a key element in creating smog and acid rain and a primary target of the subsidy program, according to a Reuters analysis of EPA data, interviews with industry officials, and regulatory disclosures.

Between 2009, before utilities began burning refined coal, and 2017, the last year for which full-year data is available, NOx pollution rates declined 19 percent among power plants burning refined coal, compared to 29 percent at plants

burning raw coal, according to the Reuters analysis of EPA emissions data. Over the same period, 22 of the 56 U.S. utilities that burned refined coal actually recorded higher NOx emissions rates. Only 18 of them recorded a cut of 20 percent or more.

"It's one of those things that should come with a label that says, 'Mileage may vary in the field,'" said Martin Hopper, general manager of the MSR Public Power Agency in Modesto, California, which co-owns New Mexico's San Juan Generating Station.

The Internal Revenue Service, which administers the tax credit program, agreed to accept lab results from subsidy applicants a decade ago. That move came after investors argued to U.S. Treasury and IRS officials in 2007 that lab-controlled tests make it easier to isolate how refined coal performs, eliminating complicating factors at play in a full-sized boiler, according to David Lowman, a partner at law firm Hunton Andrews Kurth LLP, who represented the industry in the negotiations.

The IRS declined to comment on its decision. "When issuing guidance, the IRS and Treasury invite comments concerning our requirements and, based on this, updates can be made to better administer the law," the U.S. tax agency said in a statement.

FAILING REAL-WORLD TESTS

Over the past decade, the IRS has handed out billions of dollars of refined coal subsidies to companies on the basis of test results that show they are producing a cleaner-burning form of coal.

The semi-annual lab tests often don't reflect the reality at power plants. That's because plants generally do not operate under optimal conditions for reducing NOx while burning refined coal, according utility officials and power plant disclosures to environmental regulators.

A typical power plant's NOx emission rate often fluctuates as operators adjust the flow of air to the combustion chamber and other equipment to meet demands on the facility to produce electricity. Coal that burns hot and fast during wide-open air flow, for example – a setting used when demand surges – will produce more NOx pollution than coal burning at lower temperatures with lower air flow.

In 2010, the IRS said it altered its testing requirements in a way that allowed labs to use different air control settings in the two different tests needed to compare refined coal to raw coal, according to a January 2011 article by two Ernst & Young executives in The Tax Adviser magazine. Although the agency's reasoning for the change was unclear, the article said the practical effect would be to make the tests easier to pass.

The IRS and EERC declined to comment on the policy change. The EERC said in a statement to Reuters that it has used substantially reduced airflows while burning refined coal, resulting in lower NOx emissions for the same energy output.

The price of emissions credits under the U.S. cap and trade program can also influence a power plant's rate of pollution. Coal plants that purchase the credits are allowed to emit more pollution, and in recent years it has been cheaper to buy credits than to run pollution-control equipment at peak effectiveness.

As a result, a plant burning refined coal can see its NOx levels spike if pollution controls are turned down or off, regardless of the type of coal it burns, EPA data shows.

"Refined coal is just one of many factors that influence real-time NOx levels," said Erin Culbert, a spokeswoman for Duke Energy, the largest U.S. utility.

And when utilities decide to burn refined coal, tax credit investors – often Wall Street firms – have no control over how utility owners run their coal plants.

Several utilities have told environmental regulators that they tried to demonstrate pollution reductions big enough to qualify for the subsidy at actual plants, but failed, according to their disclosures.

During a trial run using refined coal at the Stanton Energy Center in Orlando, Florida, in 2010, NOx emission rates increased by 10 percent compared to raw coal, instead of declining. Two other trial runs at Stanton that year proved inconclusive, according to a copy of the results viewed by Reuters. The plant ultimately decided not to burn refined coal, according to regulatory filings.

Stanton declined to comment for this story.

Coal plants achieve most of their reduction in smog pollution through investments in other technology, including equipment that works like the catalytic converter in a car or truck to convert NOx into benign nitrogen and water. Or they cut pollutants by simply switching from coal to cleaner natural gas, or by using a mix of both fuels.

The Brunner Island power plant in Pennsylvania, for example, reduced its NOx emission rate by 63 percent in 2017 compared to 2016, thanks to new natural gas burners and piping, said Todd Martin, a spokesman for Talen Energy, owner of the coal plant.

Some utilities have conceded that they can't replicate the lab test results they use to win the subsidy at their power plants.

St. Louis-based utility Ameren Corp told regulators in 2013 that it was not confident that a 21 percent NOx reduction achieved by refined coal at EERC could be replicated in the field if it burned the product, according to correspondence with the Missouri Department of Natural Resources related to permitting for a facility near St Louis.

Ameren has two plants in the state that have generated refined coal tax credits for Goldman Sachs and Alabama-based Coal Emissions Reduction Technologies LLC, investors in the facilities that produce clean coal ultimately burned by Ameren.

Ameren declined to comment on refined coal's ability to reduce NOx. The Alabama investment group did not return phone calls seeking comment.

The two plants burned 6.7 million tons of refined coal in 2017, according to EIA. At the 2018 tax credit amount of $7.03 per ton, using that much refined coal would yield nearly $47 million in annual tax credits.

Ameren said it uses a number of different strategies to reduce pollution at its plants, including refined coal. "Those strategies have resulted in ... significant reductions in (sulfur dioxide), NOx and mercury emissions," Ameren said in a statement.

Whelan Energy Center in Hastings, Nebraska, also burns refined coal, but mainly as a way to cut mercury emissions and to benefit from the subsidy. Plant officials never considered using clean coal for reducing smog pollution because they don't believe it's effective, said Marty Stange, environmental supervisor at Hastings Utilities, an owner of the plant.

"We never really looked at it for NOx reduction," he said.

The laboratory testing is a much safer bet for companies to qualify for the refined coal tax credit. It's unusual for a clean-coal sample to fail an emissions test in a lab setting, said Murray Abbott, president of Chem-Mod LLC, the leading

supplier of chemicals used for refined coal's emission reductions. Murray said plants usually can't reproduce the cuts his company's chemicals achieve in lab results because utilities typically run their plants with power production and costs in mind, not just emissions reductions.

"It's tough to show the same level of emission reductions at full scale," he said.

GO-TO LAB

The EERC lab in Grand Forks is a popular destination for refined coal tax-credit investors, according to contract disclosures by the school.

Utility DTE, for example, paid EERC $581,000 to conduct an undisclosed number of refined coal emissions tests at its North Dakota lab in fiscal 2015-2016, according to EERC contract disclosures. DTE's refined coal operations generated $103 million in tax credits that year, according to DTE's annual report.

DTE declined to comment on the testing of its coal at EERC labs.

EERC was well placed to become the refined coal industry's laboratory for testing after the subsidy was adopted in 2004. EERC was officially founded in 1951 as the Robertson Lignite Research Laboratory, a federal facility under the U.S. Bureau of Mines that tested the qualities of different types of coal.

The $5 million in revenue EERC generated in the 2016-16 fiscal year amounted to 14 percent of its total grants and contracts, according to University of North Dakota budget disclosures.

"It's a fair chunk of work around here," said the EERC's Harju.

Highlighting EERC's central role, Republican Senator John Hoeven of North Dakota referred to its lab testing when he introduced legislation in February to extend the refined coal tax credit after it expires in 2021.

"This would not only benefit the coal-generating power plants in North Dakota that use refined coal, it will also support the work of the EERC, which provides services to facilities around the nation to verify that the refined coal meets the standards required to claim the credit," Hoeven said in a press release.

And in April, U.S. Energy Secretary Rick Perry named Harju to the National Coal Council, a federal advisory board for formulating coal policy.

EERC's small test boilers are designed to mimic the performance of actual power plants, lab officials say. Its combustion test facility has an output capacity of less than 1 megawatt per hour, compared to at least several hundred megawatts per hour at a typical coal plant. The lab uses several devices to simulate pollution control equipment in place at a utility, such as scrubbers.

Asked whether the boiler settings are fine-tuned to improve refined coal's environmental performance, Harju said he was not an expert in such technical details. EERC declined to comment on how often its clients fail to pass its laboratory tests, but Chem-Mod's Abbott said such failures are rare.

EERC officials declined to provide further technical specifics about its testing process.

"We're just an independent validator of performance," Harju said. "It's an arm's-length effort."

E&E News: Wheeler kept up industry meetings after taking reins

https://www.eenews.net/greenwire/stories/1060108707/search?keyword=epa

Kevin Bogardus and Corbin Hiar- December 4, 2018

Andrew Wheeler met with a range of companies and trade groups with interests before EPA after he took charge at the agency.

Wheeler's official August calendar, an 85-page document obtained under the Freedom of Information Act, describes what he was doing during his first full month as acting EPA administrator. It is the first official Wheeler calendar E&E News has received that covers his tenure as acting boss.

Wheeler was scheduled to call or meet with executives for the American Fuel and Petrochemical Manufacturers, BP America, Delta Air Lines and Valero Energy Corp. during that month, according to the document. In addition, he was slated to take meetings with agricultural interests, like the American Soybean Association and CropLife America.

Wheeler was also scheduled to meet with the Heritage Foundation, a conservative think tank that has influenced Trump administration policies.

The calendar also shows that Wheeler wasn't meeting with auto industry representatives around the time the Trump administration proposed dialing back Obama-era clean car rules.

EPA and the National Highway Traffic Safety Administration unveiled their proposed rollback of the car rules on Aug. 2 (Greenwire, Aug. 2). But Wheeler's calendar for that day shows unrelated meetings with Republican Sens. Joni Ernst and Chuck Grassley of Iowa, as well as with the industrial waste firm Clean Harbors Inc.

Wheeler was scheduled to meet with the Alliance of Automobile Manufacturers, a trade group whose members include Ford Motor Co. and General Motors Co., on Aug. 15.

In late August, Wheeler was slated to meet with Raynard Jackson of Black Americans for a Better Future (BABF). According to its website, the super PAC is focused on getting blacks involved in the Republican Party. According to The Intercept, the organization got more than 90 percent of its funding from conservative megadonor Robert Mercer.

Wheeler's calendar also sheds some light on the inner workings of EPA, showing which of his staffers were included in high-level meetings, offering some information about what they planned to discuss.

When EPA Chief of Staff Ryan Jackson announced the hiring of Peter Wright and Chad McIntosh in July, he labeled them both as "special counsel" to the administrator. Wright, a lawyer for DowDuPont Inc., has been nominated to lead EPA's Office of Land and Emergency Management. McIntosh, a former Ford Motor Co. executive, has been nominated to lead the agency's international and tribal affairs office. Neither has been confirmed by the Senate.

"Neither will be performing any duties that are reserved for the position for which they have been nominated," EPA's top ethics official told E&E News, which first reported their new positions (E&E News PM, July 6).

But in August, they were listed as attending several "Weekly Meeting with AAs," the calendar said, referring to assistant administrators.

While the meetings were not limited only to assistant administrators, Wright and McIntosh were the only representatives from the solid waste and international offices who were invited to attend. Their attendance, along with other political aides, was listed as "required."

By comparison, the Office of Chemical Safety and Pollution Prevention, which also lacks a Senate-confirmed appointee, was represented by two officials: Nancy Beck and Erik Baptist, both of whom are industry veterans now serving as deputy assistant administrators.

EPA press officials didn't immediately respond to questions from E&E News for this story, including on whether Wright and McIntosh were performing duties of the EPA jobs they had been nominated for in those meetings.

Each AA meeting, like virtually all of Wheeler's meetings with EPA officials, was simply listed in his public calendar as "staff briefing."

EPA scheduled briefings with the acting EPA chief on several significant regulations, like its Lead and Copper Rule and air standards for mercury emissions. He also has frequent calls slated with Francis Brooke, the White House's top domestic energy aide.

Wheeler met in August with William Reilly, who was President George H.W. Bush's EPA chief and whom Wheeler served under as a career employee at the agency (Greenwire, Aug. 10).

In addition, Wheeler was slated that month to have a meeting with Mike Flynn, a senior career EPA official who served as acting deputy chief before retiring in April.

Time was also slotted for Wheeler to attend an ice cream social with EPA interns.

The document covers only the month of August, which was Wheeler's second month as acting EPA chief.

His predecessor, Scott Pruitt, resigned in early July while battling allegations that he had misused his public office. That was when Wheeler took over on an acting basis. E&E News has filed a FOIA request for Wheeler's official calendar for July, but it has not yet been fulfilled by the agency.

Wheeler, who had lobbied for several energy interests at Faegre Baker Daniels LLP, was confirmed as deputy EPA administrator in April. His calendar as second in command, also obtained by E&E News under FOIA, showed that he met with a range of industry groups as well as with former clients, although those meetings were in group settings (Greenwire, Sept. 12).

Trump has said he will nominate Wheeler for the top job at EPA.

Wheeler's official calendar offers more insight than its public version, often giving more details about his meetings, the topics discussed and how his time is spent. For example, the official calendar shows that 30 minutes of Wheeler's time was scheduled to "Flip Pork Chops" at the Iowa fairgrounds.

Wheeler's public calendar is posted on EPA's website and is updated on a regular basis.

E&E News: 'The first days were hectic'

https://www.eenews.net/greenwire/stories/1060108699/search?keyword=epa

Robin Bravender- Tuesday, December 4, 2018

When EPA first opened its doors — 48 years ago this week — people across the country were clamoring to get in.

The agency officially launched on Dec. 2, 1970. It was the same day EPA's first administrator was unanimously confirmed by the Senate. Bill Ruckelshaus and his tiny crew of staffers set up shop in a small suite of borrowed federal offices on 20th Street in downtown Washington, D.C.

Their charge from President Nixon was a formidable one: Build a huge new agency by patching together various environmental shops from far-flung corners of the federal bureaucracy.

For those in charge, it was a blast.

"The first days were hectic," Ruckelshaus, 86, told E&E News last week in an interview. "It was so exciting that I would literally bounce out of bed in the morning."

Staffers were thrilled to be there, and resumes were pouring in.

"They came from all over the country. We had requests for employment in 50 out of 50 states. They weren't necessarily political people — they were people who were interested in the environment," Ruckelshaus said.

The mood at EPA is different now.

Then-presidential candidate Donald Trump said in 2016 that what EPA does "is a disgrace" and suggested he'd "leave a little bit" of the agency if he were elected. As president, Trump has proposed massive budget cuts (although those have largely been rebuffed by Congress), and administration officials have jettisoned much of the work the agency completed during the Obama administration.

Bill Ruckelhshaus. Photo credit: Robin Bravender/E&E News
Former two-time EPA boss Bill Ruckelshaus. Robin Bravender/E&E News

Career staffers throughout the agency complain that morale has plummeted and that the administration doesn't support their work, although many say the general mood has improved since embattled EPA chief Scott Pruitt resigned in July and was replaced by acting Administrator Andrew Wheeler.

The Trump administration is only two years in, but some ex-EPA staffers — Ruckelshaus included — are already thinking about how to re-energize the agency in the future.

The former administrator said he's seen a dramatic shift from the agency he launched nearly 50 years ago. EPA's work has been politicized for decades, taking a toll on morale. But Ruckelshaus — who had a second stint leading EPA after a Superfund scandal in the 1980s — thinks the agency now is at its lowest point in history.

"It's bound to be, because people have joined the agency because they believed in the mission and thought they were accomplishing something clearly in the national interest and now they're being told that's not true," Ruckelshaus said.

According to one career EPA official who has worked there since 1971, the low point came when the Trump administration dismissed the findings of a national climate report the administration released the day after Thanksgiving. That report was compiled by EPA and scientists across the federal government.

"I think that when the president of the United States is handed a scientific report" and says, "'I don't believe it,'" the employee said, "We've never experienced anything like that."

EPA started off with about 5,000 employees compiled from 15 existing programs across the government. They came from the departments of the Interior; Agriculture; and Health, Education and Welfare. Staff also came from the Council on Environmental Quality, Atomic Energy Commission and Federal Radiation Council. Some of those programs had butted heads in the past.

"Nobody kind of knew what we were going to do yet, but we knew it was going to be very exciting," said Philip Angell, who worked at EPA that first day in 1970 and who still works with Ruckelshaus.

Early EPA employees describe a national mood that made it even more exciting.

"There was an energy that was started with the Kennedys ... and Ruckelshaus, who was a Republican, had that kind of energy in him as did some of the people he brought in," said the longtime EPA career staffer. "There was a lot of excitement at the beginning and a very can-do attitude, and America was still growing and problem-solving and there was a lot of bipartisan support on the EPA stuff."

'A lazy leak'

Ruckelshaus had been an Indiana attorney and state politician who helped draft the state's air pollution control law in 1961. During Nixon's first term, he served at the Justice Department as assistant U.S. attorney for the civil division.

As Ruckelshaus recalls it, he got the job after a former colleague leaked his name to Newsweek.

"I saw my name in there one day, I didn't even know there was an EPA," Ruckelshaus said, laughing. His former colleague told him he had fed his name to the magazine. "I said, 'Well, you might have called me about it first,'" Ruckelshaus told him.

Ruckelshaus told his then-boss, Attorney General John Mitchell, what had happened. "He said, 'Oh, don't worry about it,'" Ruckelshaus recalled. "I didn't hear anything for several weeks. ... And Mitchell called me up just out of the blue and said, 'Would you like that job running EPA?' He said, 'I've talked to the president and he wants you to do it.' I said, 'Well, in fact, I'd be interested in doing it.'

"So that's how it happened," he said. "It was sort of a lazy leak into the magazine."

He put his enforcement chops to use quickly.

One of his first major actions — days after taking office — was to threaten major U.S. cities with legal action if they didn't clean up their water. Speaking at the annual Congress of Cities, he put Atlanta, Detroit and Cleveland on notice that they had 180 days to stop violating water quality rules.

"The mayors got mad at us because they weren't doing anything," Ruckelshaus said. "The law was very clear, you had to get moving. So I thought it was necessary to show the public the government can be responsive to your concerns and demands, so we selected out some big visible cities and industries that were not doing very much of anything and went after them. And they got the message."

The agency got some positive press in those early days.

Walter Cronkite, the longtime anchorman of "CBS Evening News," "rolled in with his camera crew, said they wanted to do a special," Ruckelshaus said.

Cronkite "had a lot of interest in the environment," Ruckelshaus added. "He was a sailor and had a big sailboat. ... He was in favor of everything we were doing, no matter how extreme, to improve the environment."

There was one notable exception, Ruckelshaus said. Cronkite was worried about an EPA sewage rule that would require him to have a toilet on his sailboat. (Previously, sewage had been discharged into harbors).

"He was very concerned it was going to throw the balance of the boat off," Ruckelshaus said. "He called me up about it, he said this just doesn't make any sense. I said you sound like some big steel company calling me up."

Other reporters were interested in the new agency, too.

"We did TV interviews in almost every major city that housed an EPA office and invariably the first question was, 'What is EPA?'" Angell said.

EPA quickly moved from its shop on 20th Street to a K Street office. It was across from a YMCA, where employees would eat sandwiches and soup in the basement cafeteria. There was a manual elevator, which Ruckelshaus would sometimes run as a joke.

"I'd stand in the front of the elevator sort of facing the wires and the metal that was encasing the elevator, and I'd listen to what they were saying, 'Who is the guy running this place?' They'd say, 'I don't know, I never met him.' It was a lot of fun."

The agency wasn't in that building very long, either. "Shortly thereafter, the building was condemned," Ruckelshaus said. The agency quickly moved to its next headquarters in Waterside Mall.

What's next?

Nearly 50 years after the agency's launch, Ruckelshaus and other alumni are considering how to reform it.

For some, the primary objective is to revive morale hurt by the Trump administration's actions. Others are focused on systemic issues that have posed problems for the agency for decades. One big question is whether the agency can continue to operate with statutes written decades ago. Many argue that clean air and water laws ought to be dramatically overhauled, but political polarization has collapsed previous efforts to do so.

"It's not too early" to think about reform, Ruckelshaus said. "These laws ... some of them haven't been amended for 45 years, they've been the same law." He called for a new approach that ensures EPA is accomplishing its mission in a way that's consistent with good government and ensures the agency is responding to the public's concerns.

"It's not what this administration is up to," he said. "They don't really believe in the mission; they believe there's too much regulation. Well, that's too simplistic."

EPA's press office declined to comment for this story.

Ruckelshaus and other former EPA officials are working on a book about EPA's 50-year history that's due out in 2020.

"To figure out what you want to do in the future, it's important to know where you've come from and how you got to where you are," said Jim Barnes, who also worked at EPA that first day in 1970. Barnes, now a professor at Indiana University, is helping to coordinate the book.

Alumni are also preparing a large conference for next April aimed at mapping out EPA's future.

The gathering, slated to be held at American University on April 23, 2019 — the day after Earth Day — will focus on goals for the agency through 2045, when it'll turn 75.

Chuck Elkins, the head of the EPA Alumni Association, is among those organizing the event. He said that "it's not a response to today's situation" but rather a forum for taking a long-term view of the agency.

Gina McCarthy, who led the agency during the Obama administration, said she's among those talking about what a post-Trump EPA should look like, although she's not focusing on it.

"There are lots of people planning it, and folks talk about it a lot, including myself," McCarthy said. "But I'm really right now much more focused on trying to keep actions forward on critical issues like public health and climate, regardless of the federal government."

She said the agency will "absolutely" need to be revived. "There's going to be a need to rethink how we get that back, how you re-energize the staff, how you give the staff a little bit more certainty that we're in this for the long haul again, because this was, I think, an administration unlike any other," she said.

But she warned that a future administration shouldn't try to put back the rules she and her colleagues crafted.

"I worry that the plan will be to go back and reinstitute what was already done and revive that instead of looking at what the world looks like then," McCarthy said.

William Reilly, who led the agency under the George H.W. Bush administration, agreed. "One would hope and expect that in the enthusiasm to undo a lot of Trump decisions ... people consider where the country is at that point, what really needs doing," he said.

Quartz: Amazon banned two deadly paint strippers while the US government dithers

https://qz.com/1483901/amazon-banned-two-deadly-paint-strippers-while-the-us-government-dithers/

By Zoë Schlanger41 minutes ago

Two common types of paint stripper have caused dozens of deaths in the US, and the chemicals they contain are known to cause asphyxiation, heart failure, nervous system damage. They've also been linked to increased cancer risk. But the US Environmental Protection Agency still hasn't banned them.

Instead, retailers are increasingly taking matters into their own hands by pulling paint strippers containing methylene chloride and N-methylpyrrolidone from their shelves—virtual and otherwise—after health advocacy organizations mounted a campaign to rid the marketplace of the products. They're commonly sold under brand names like Klean Strip, Jasco, and Goof Off.

Amazon is the latest to join other retailers in banning the sale of paint strippers that include either of the two chemicals. Amazon's directive says that suppliers must pull those products from Amazon by March 2019. Other companies that have already taken this step include Lowe's, Home Depot, Walmart, True Value, and Sherwin-Williams.

In the last weeks of the Obama administration, the EPA concluded that the two chemicals posed "unreasonable risks" to human health and proposed a ban them for use as paint strippers. But under the Trump administration, the EPA has not moved to enact the ban. In May, the EPA said it would move forward with the ban, but as of October, with no ban finalized, advocacy groups announced they were suing the federal agency.

Brian Wynne's brother died in 2017 after using the chemicals to strip paint off the floor of his coffee company in Charleston, South Carolina. After Lowe's said in May it would pull the paint strippers by the end of 2018, Wynne told the New York Times, "Sadly the announcement is too late and I will never get my brother back. We hope that other retailers and the EPA will take swift action so that no one else is harmed or killed."

The advocacy organization Safer Chemicals Healthy Families petitioned companies like Lowe's and Amazon to pull the paint strippers, and is among the groups suing the EPA over the delayed ban.

"We applaud Amazon for prohibiting the sale of these harmful products," Mike Schade, of Safer Chemicals, said in a statement. "While Amazon, Lowe's, and other retailers have stepped up, the EPA has dragged its feet and consumers have suffered. The time for EPA inaction is over. How many more people have to die before the Trump EPA finalizes this long-delayed ban?"

Bloomberg Environment: Senate Democrat Seeks Basis for EPA Head's Climate Report Doubts

https://news.bloombergenvironment.com/environment-and-energy/senate-democrat-seeks-basis-for-epa-heads-climate-report-doubts

Abby Smith- Posted Dec. 4, 2018, 1:56 PM

- Sen. Tom Carper (D-Del.) says Wheeler seems to be undermining climate science despite commitments not to
- Calls for briefing materials to prepared for EPA on climate assessment

The Senate environment panel's top Democrat wants EPA acting chief Andrew Wheeler to explain the basis for his recent comments questioning a federal climate science report.

Wheeler, acting administrator of the Environmental Protection Agency, in Nov. 28 remarks downplayed projections in the Nov. 23 federal report that the effects of climate change could cost the U.S. tens of billions of dollars. The report's modeling froze technology development and didn't account for innovations that could reduce emissions further, Wheeler told The Washington Post in a live interview.

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, rejected Wheeler's claims about the report in a statement Dec. 4. He wants Wheeler to provide the basis for his remarks, and he is accusing the EPA head of deliberately misrepresenting climate science.

The report—the fourth installment of the National Climate Assessment—was written by scientists at 13 federal agencies, including the EPA, and nonfederal scientists. It takes a comprehensive look at the science of climate change and the impacts of global warming on the U.S.

The assessment explicitly links global warming to human-caused greenhouse gas increases, and it outlines both economic and public health damages that are more severe the less that emissions are curbed.

"We will respond to the ranking member through the proper channel," Molly Block, an EPA spokeswoman, told Bloomberg Environment in an email.

Similar to Pruitt Requests

Carper's request is similar to those Democrats made of former EPA Administrator Scott Pruitt when he cast doubt on mainstream climate science.

It could be a preview of oversight on climate science that Wheeler—whom President Donald Trump has said he will tap as the EPA's permanent chief—may face in the next Congress when Democrats will control the House. Incoming chairmen of three House committees have announced they will schedule hearings on climate change early in 2019.

"We may not all agree about what to do to address these dire warnings, but it disturbs me greatly that counter to the commitment you made to me during your confirmation hearing, you seem to be actively working to undermine and distort the scientific evidence itself," Carper wrote in a Dec. 3 letter, referring to Wheeler's Nov. 8, 2017 hearing, when he was the nominee as deputy administrator.

Climate Models

Wheeler, as well as other Trump officials such as Interior Secretary Ryan Zinke, also said the assessment looked at worst-case scenarios at the direction of the Obama administration, which started work on the report. The assessment is

required by Congress every four years by a 1990 law, and the Obama administration released the third installment in 2014.

The report considered a number of scenarios, Katharine Hayhoe, a climate scientist and political science professor at Texas Tech University who helped write the report, told reporters Nov. 26. Those scenarios varied in how much the U.S. and other countries reduced greenhouse gas emissions and the severity of climate change impacts.

"Climate models tend to be biased in the direction of underestimating instead of overestimating" impacts, Hayhoe added, noting that modelers will only include climate effects and trends they are certain of how to represent.

That means some impacts aren't included in projections, even though scientists may be observing them. For example, scientists know the Antarctic is warming faster than other areas of the globe, but they don't have exact numbers that they feel confident enough to include in models projecting sea level rise and other impacts, Hayhoe said.

Wheeler and other officials' public doubts about the economic numbers in the climate assessment echo Trump's views—though his comments even more starkly oppose the report's conclusions.

"I don't believe it," Trump told reporters Nov. 26 of the assessment's economic forecast.

EPA Briefings

Carper is asking Wheeler to provide all briefing materials prepared for EPA officials related to the National Climate Assessment by Jan. 15, saying he wanted them to "understand the basis for EPA's views and involvement in shaping the Trump Administration's response to its own report."

The materials Carper requested included briefings in May 2018 with various EPA officials, including air chief Bill Wehrum, water official Lee Forsgren, and former deputy in the EPA's research office Richard Yamada.

Wheeler said Nov. 28 he has asked EPA staff to brief him on the economic projections in the climate assessment.

The acting EPA chief also said he hasn't been briefed specifically on the agency's climate research, but has spoken with individual scientists during visits at EPA labs about the work they are doing.